

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCISCO V. AGUILAR, IN HIS
OFFICIAL CAPACITY AS NEVADA
SECRETARY OF STATE,

Petitioner,

vs.

WASHOE COUNTY BOARD OF
COUNTY COMMISSIONERS; CLARA
ANDRIOLA, IN HER OFFICIAL
CAPACITY AS WASHOE COUNTY
COMMISSIONER; MICHAEL CLARK,
IN HIS OFFICIAL CAPACITY AS
WASHOE COUNTY COMMISSIONER;
AND JEANNE HERMAN, IN HER
OFFICIAL CAPACITY AS WASHOE
COUNTY COMMISSIONER,

Respondents.

No. 88965

FILED

AUG 19 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus seeks to compel respondents to canvass Washoe County's primary election recount results as soon as possible, but no later than August 22, 2024.

After the petition was filed, respondents certified the canvass of Washoe County's primary election recount results in a nonunanimous 4-to-1 vote. Accordingly, this court entered an order to show cause why the petition should not be dismissed as moot, since it appeared that this court could grant no effective relief. *See Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (recognizing that "cases presenting live controversies at the time of their inception may become moot by the occurrence of subsequent events").


"The question of mootness is one of justiciability. This court's duty is not to render advisory opinions but, rather, to resolve actual


controversies by an enforceable judgment.” *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). “A moot case is one which seeks to determine an abstract question which does not rest upon existing facts or rights.” *Nat’l Collegiate Athletic Ass’n v. Univ. of Nev., Reno*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981). Having considered petitioner’s response to this court’s order to show cause, as well as respondents’ reply, we conclude that this matter is moot. *Id.*

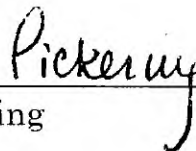
However, as petitioner argues, even when an issue becomes moot, we may still consider the issue if it constitutes “a matter of widespread importance capable of repetition” yet evading review. *State v. Second Jud. Dist. Ct. (Ayden A.)*, 132 Nev. 352, 354, 373 P.3d 63, 65 (2016). In determining whether a party has demonstrated that an issue is capable of repetition yet evading review, we consider whether “(1) the duration of the challenged action is relatively short, (2) there is a likelihood that a similar issue will arise in the future, and (3) the matter is important.” *Id.* at 355, 373 P.3d at 65 (quoting *Bisch v. Las Vegas Metro. Police Dep’t*, 129 Nev. 328, 335, 302 P.3d 1108, 1113 (2013)). Here, petitioner asserts that there is a high likelihood that respondents will refuse to certify election results in the future—in particular, during the 2024 general election. Petitioner urges this court to address the merits of the petition now to avoid having to resolve the issues set forth in the petition during the November 2024 general election, with the concomitant time restraints involved in election canvassing and certification. While we agree the issue is important and perhaps capable of repetition, petitioner’s argument that the issue is evading review falls flat. Should the Washoe County Board of County Commissioners refuse to canvass election results again in the future, petitioner may seek relief on an expedited basis. *Personhood*, 126 Nev. at

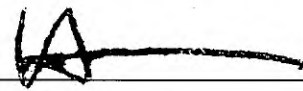
603, 245 P.3d at 575 (noting that this court often resolves election and ballot cases on an expedited basis, especially when requested to do so). We therefore decline petitioner's request for extraordinary writ relief. *D.R. Horton, Inc. v. Eighth Jud. Dist. Ct.*, 123 Nev. 468, 474-75, 168 P.3d 731, 736-37 (2007) (noting that such relief rests within this court's sound discretion). Accordingly, we

ORDER the petition DENIED.¹



_____, C.J.
Cadish


_____, J.
Stiglich



_____, J.
Pickering


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

¹Amici Curiae American Civil Liberties Union of Nevada and Democratic National Committee both sought permission to file an amicus brief in support of the petition. We deny both motions as moot, given our dismissal here.


_____, J.
Bell

cc: Attorney General/Carson City
Washoe County District Attorney
Washoe County District Attorney/Civil Division
Bravo Schragar, LLP
American Civil Liberties Union of Nevada/Las Vegas

RETRIEVED FROM DEMOCRACYDOCKET.COM