IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA EX REL. STATE BOARD OF EQUALIZATION, AN AGENCY OF THE STATE OF NEVADA; NEVADA TAX COMMISSION; AND NEVADA DEPARTMENT OF TAXATION,
Appellants,
vs.
ALVIN A. BAKST; JANE BARNHART; ROBERT BENDER; ROGER LEACH; MAUREEN MORIARTY; ZOE MYERSON; JAMES NAKADA; TOOMAS REBANE; DANIEL SCHWARTZ; JERRY STEWART; LARRY WATKINS; DONALD WILSON; AGNIESZKA WINKLER; AND ESMAIL ZANJANI,
Respondents.

No. 49701

FILED

MAY 22 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order awarding costs incurred in a previous appeal under NRAP 39(e). First Judicial District Court, Carson City; William A. Maddox, Judge.

When our review of the briefs indicated that this appeal may be moot, inasmuch as it appeared that the cost award had already been paid by Washoe County, we directed appellants to show cause why the appeal should not be dismissed. Appellants filed a timely response, and respondents filed a reply.

"[T]he duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare

principles of law which cannot affect the matter in issue before it."[1] The default rule is that the non-prevailing parties are jointly and severally liable for the full amount of costs.[2]

Here, the cost award at issue did not apportion costs between the State and the County. The County has voluntarily paid the full amount of the award and is not a party to this appeal. We therefore could grant no effective relief in this case: were we to uphold the award, appellants would still not be required to pay anything to respondents, since they have received full payment from the County, and were we to conclude that the cost award was improper, appellants would not be relieved of any duty, since the County has already satisfied the obligation.

We are not persuaded that the California cases cited by appellants compel a different result. In those cases, the appellants were faced with additional collateral consequences from the adverse judgment against them.[3] No such consequences are apparent or asserted here, and

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[1]See NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981).

[2]In re Paoli R.R. Yard PCB Litigation, 221 F.3d 449, 469 (3d Cir. 2000); see also Concord Boat Corp. v. Brunswick Corp., 309 F.3d 494, 497 (8th Cir. 2002) (recognizing that "[j]oint and several liability for costs is the general rule unless equity otherwise dictates").

[3]In re Merrill's Estate, 175 P.2d 819 (Cal. 1946) (refusing to dismiss appeal as moot as to attorney who was jointly and severally liable with joint obligor who paid the full judgment amount without the attorney's consent, when attorney had been adjudged guilty of fraud and his own fee claim was impaired as a result of the judgment); Metcalf v. Drew, 171 P.2d 488 (Cal. Ct. App. 1946) (holding that appeal by real estate broker was not mooted by payment of co-obligor when broker's license was impacted by judgment).

appellants' speculation that the County could "conceivably" seek a contribution from them for a portion of the cost award is not a consequence that keeps the appeal from being moot.[4]

Consequently, the appeal is moot, and we

ORDER this appeal DISMISSED.

Parraguirre, J.

Douglas, J.

Cherry, J.

cc: Hon. William A. Maddox, District Judge
Attorney General Catherine Cortez Masto/Carson City
Norman J. Azevedo
Carson City Clerk

[4]See Langston v. State, Dep't of Mtr. Vehicles, 110 Nev. 342, 343-44, 871 P.2d 362, 363 (1994).