

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH ROBERT KELSO,  
Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
WASHOE, AND THE HONORABLE  
PATRICK FLANAGAN, DISTRICT  
JUDGE,

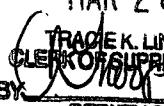
Respondents,

and

THE STATE OF NEVADA,  
Real Party in Interest.

No. 52318

**FILED**

MAR 26 2009  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER DENYING PETITION

This is an original petition for a writ of mandamus directing the district court to vacate its August 1, 2008 order remanding petitioner Joseph Kelso to the Lake's Crossing mental health facility for inpatient treatment to competency pursuant to NRS 178.425.

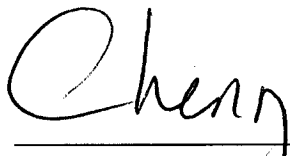
On October 24, 2004, the State filed a criminal complaint in the Incline Village Justice Court charging Kelso with one count of securities fraud. The Justice Court ordered a competency evaluation of Kelso on April 25, 2008. Following the evaluation, the district court found Kelso incompetent on May 28, 2008. The district court further determined that Kelso was not a danger to himself or to society, and ordered him to undergo outpatient treatment to competency at Lake's Crossing.

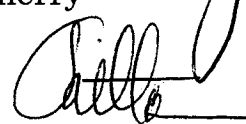
At a status hearing on August 1, 2008, several doctors at the Lake's Crossing facility testified that while they did not believe Kelso was


a danger to himself or society, inpatient treatment was necessary for Kelso to attain competency in an expedient manner. Accordingly, the district court entered an order remanding Kelso to Lake's Crossing for inpatient treatment on August 1, 2008. Following his commitment to Lake's Crossing, Kelso filed the instant petition for a writ of mandamus on September 29, 2008. Subsequently, on January 23, 2009, the district court entered an order finding Kelso competent to proceed to trial.

This court will not "give opinions upon moot questions or abstract propositions, or . . . declare principles of law which cannot affect the matter in issue before it." University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (quoting NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981)). Because Kelso has attained competency and he is no longer a patient at Lake's Crossing, his petition is moot. Although Kelso argues for review because this situation is capable of repetition yet evading review, we decline to exercise our discretion to review Kelso's petition. Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Patrick Flanagan, District Judge  
Washoe County Public Defender  
Attorney General Catherine Cortez Masto/Carson City  
Attorney General Catherine Cortez Masto/Consumer Protection  
Bureau/Las Vegas  
Washoe District Court Clerk