

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA
DEPARTMENT OF CORRECTIONS;
AND JAMES DZURENDA, IN HIS
OFFICIAL CAPACITY AS DIRECTOR,
Appellants,
vs.
THE AMERICAN CIVIL LIBERTIES
UNION OF NEVADA FOUNDATION, A
NON-PROFIT ORGANIZATION,
Respondent.

No. 76739

FILED

JAN 08 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting, in part, a petition for a writ of mandamus requiring appellants to produce certain execution protocol-related information in response to a public records request. Because it appeared that appellants had released the information in accordance with the district court's order, we ordered appellants to show cause why this appeal should not be dismissed as moot. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (noting that a case may be dismissed as moot when this court is not able to afford appellants any relief, even if successful on appeal). Appellants timely filed a response, and respondent timely filed a reply.

Appellants and respondent agree that the district court's order has been satisfied. Therefore, this appeal is moot, and we conclude that the capable-of-repetition-yet-evading-review exception does not apply here, as public records cases do not typically evade review. *Id.* (explaining that the exception applies when an important issue pertaining to challenged action that takes place within a relatively short timeframe, not unique to the parties, is likely to arise again in the future). Nor does respondent's district

court motion for attorney fees render the controversy before this court live. See generally *Dahlem by Dahlem v. Bd. of Educ. of Denver Pub. Sch.*, 901 F.2d 1508, 1511 (10th Cir. 1990) (noting that “a claim of entitlement to attorney’s fees does not preserve a moot cause of action”). Accordingly, as we can provide no effective relief, we

ORDER this appeal DISMISSED.¹

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Silver, J.
Silver

cc: Hon. James E. Wilson, District Judge
Attorney General/Carson City
Attorney General/Las Vegas
American Civil Liberties Union of Nevada/Las Vegas
Carson City Clerk

¹In light of this order, we deny as moot appellants’ motion to stay the briefing schedule.