

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA HOLISTIC MEDICINE, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; AND AZG LIMITED
PARTNERSHIP, A NEVADA LIMITED
PARTNERSHIP,

Appellants,

vs.

MMJ AMERICA JS LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondent.

No. 86760

FILED

FEB 09 2024

ELIZABETH A. BROWN
CLERK OF THE SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting respondent's motion for a preliminary injunction. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.

The Clark County Sheriff, pursuant to a writ of execution, seized the Chose in Action in the underlying district court case between respondent and appellant Nevada Holistic Medicine LLC, and issued a notice of sale. The district court granted respondent's subsequent motion for a preliminary injunction on June 6, 2023, prohibiting the Sheriff from selling the Chose in Action. Appellants appealed that decision. Appellant AZG Limited Partnership has now filed a motion to substitute itself in place of respondent, respondent has filed a response, and appellant has filed a reply.

AZG argues that it should be substituted in place of respondent because respondent allowed the preliminary injunction challenged in this appeal to expire on September 26, 2023, the Chose in Action was auctioned

off on September 27, 2023, and AZG was the winning bidder at the auction. AZG has provided a copy of the Sheriff's Certificate of Sale, stating that all of respondent's rights in the Chose in Action as they existed at the time of seizure were now the property of AZG.¹ AZG argues that because no injunction remains to prevent AZG from exercising its rights over the Chose in Action that it should be substituted as the true party in interest in lieu of respondent so that it may stipulate with the remaining parties to dismiss this appeal.

Respondent argues that this court should dismiss the appeal. It argues, in relevant part, that the appeal is moot because the injunction challenged on appeal expired, and the district court denied the request for an additional injunction.

In AZG's reply, it argues that this court should decline to consider the request for dismissal, as there are exceptions to the mootness doctrine and because the matter is not moot since the duration of the preliminary injunction was relatively short and controlled by respondent, and because the underlying dispute remains.²

Mootness concerns a question of justiciability. *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). A case on appeal is moot when the court can no longer grant relief with respect to the challenged order. *Id.* This court does not render advisory opinions but

¹The district court denied a subsequent request for a preliminary injunction, although it granted a request for a temporary restraining order.

²While AZG raises the capable of repetition yet evading review exception to the mootness doctrine, appellant does not argue that these factors apply to the issue challenged in this appeal, namely the preliminary injunction.

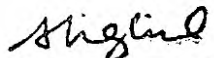
resolves actual controversies by an enforceable judgment. *NCAA v. University of Nev.*, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981). The scope of review of an interlocutory appeal from a preliminary injunction order is generally limited to “whether the District Court had abused its discretion in issuing a preliminary injunction.” *University of Texas v. Camenisch*, 451 U.S. 390, 393 (1981); *see also University and Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004) (“Determining whether to grant or deny an injunction is within the district court’s sound discretion.”). If post-appeal events make a preliminary injunction moot, then the interlocutory appeal is moot and should be dismissed, absent an exception to the mootness doctrine. *See Personhood Nev.*, at 602, 245 P.3d at 574. This court may consider an issue that “involves a matter of widespread importance that is capable of repetition, yet evading review.” *Id.* However, the party seeking to overcome mootness must prove “that (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.” *Bisch v. Las Vegas Metro. Police Dep’t*, 129 Nev. 328, 334-35, 302 P.3d 1108, 1113 (2013).

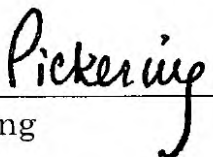
Here, it appears that this appeal is moot, as the preliminary injunction was granted to prevent the Sheriff’s sale of the Chose in Action, and the sale has now proceeded, with AZG placing the winning bid and receiving a bill of sale for the Chose in Action. *See Id.* (finding that an appeal from a preliminary injunction which prohibited a ballot initiative from being placed on the ballot was moot after the deadline for submitting proposed initiatives passed without appellants obtaining the necessary number of signatures or submitting the initiative to the Secretary of State); *see also Spanish Heights Acquisition Co., LLC v. CBC Partners I, LLC*, 2022

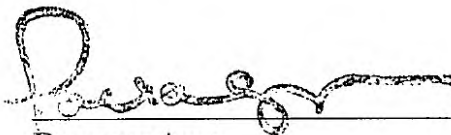
WL 2033074 (Nev. June 6, 2022) (Order Dismissing Appeal) (granting a motion to dismiss on the basis that an order challenging a preliminary injunction precluding a foreclosure was moot after the property was foreclosed upon).

While AZG argues that exceptions to the mootness doctrine apply, it only argues that the underlying dispute remains, and that the duration of the challenged action was relatively short. It does not raise any argument that there is a likelihood that a similar issue will arise in the future or that the issue challenged on appeal is important. *Bisch*, 129 Nev. at 334-35, 302 P.3d at 1113. Additionally, AZG argues in its initial motion that it should be substituted as a party so that this appeal can be dismissed pursuant to stipulation. Therefore, AZG has failed to demonstrate that the exception to the mootness doctrine should apply here. Accordingly, it appears that this appeal is moot, and we

ORDER this appeal DISMISSED.³


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

³Given our disposition of this appeal, AZG's motion for substitution is denied as moot, and we need not consider the parties' arguments over whether the motion was properly before this court.

cc: Hon. Gloria Sturman, District Judge
Janet Trost, Settlement Judge
HOA Lawyers Group, LLC
Dickinson Wright PLLC
Eighth District Court Clerk