IN THE SUPREME COURT OF THE STATE OF NEVADA

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| JOSE VALDEZ-JIMENEZ,<br>Petitioner,<br>vs.<br>THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE MARK B. BAILUS, DISTRICT JUDGE,<br>Respondents,<br>and<br>THE STATE OF NEVADA,<br>Real Party in Interest. | No. 76417 ✓ |
| AARON WILLARD FRYE,<br>Petitioner,<br>vs.<br>THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE JERRY A. WIESE, DISTRICT JUDGE,<br>Respondents,<br>and<br>THE STATE OF NEVADA,<br>Real Party in Interest. | No. 76845 |

FILED

JUL 24 2019

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

*ORDER GRANTING MOTION TO DISMISS IN PART AND SCHEDULING ORAL ARGUMENT*

These are writ petitions challenging pretrial bail settings and procedures. The State has filed a motion to dismiss the writ petitions of two of the petitioners, Jose Valdez-Jimenez and Aaron Frye, as moot because they have pleaded guilty and thus cannot be granted effective relief for their pretrial confinement. Petitioners filed an opposition arguing that this court should nevertheless consider the bail issues because they are capable of repetition, yet evading review.



19-31352

We may consider a moot petition when it "involves a matter of widespread importance that is capable of repetition, yet evading review." *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010). The party seeking to invoke this mootness exception has the burden of establishing each element of it. *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. 328, 334-35, 302 P.3d 1108, 1113 (2013) (providing the elements for the capable-of-repetition-yet-evading-review exception to the mootness doctrine).

We conclude that petitioners have failed to demonstrate that the mootness exception applies to one of the issues raised in their petitions—that their bail amounts are excessive because they are higher than necessary to effectuate the purposes of bail. This issue is factually specific to petitioners and thus not capable of repetition. *See Langston v. State, Dep't of Motor Vehicles*, 110 Nev. 342, 344, 871 P.2d 362, 363 (1994). Accordingly, because the issue of excessive bail is moot, we grant in part the State's motion to dismiss as to that issue.

We defer ruling at this time on the State's motion to dismiss the other issues raised in the petitions: whether the initial bail settings were unconstitutional because they were made in the absence of the petitioners without any adversarial hearing, and whether the individualized bail hearings violated the petitioners' rights to due process and equal protection.

Furthermore, we have determined that oral argument would be of assistance in resolving these issues. Oral argument for petitioner Jose Valdez-Jimenez has been scheduled for Wednesday, September 4, 2019, at 2:30 p.m. in Carson City. Oral argument for petitioner Frye will also be held on that date at the same time and place. Both petitioners collectively

will be allotted 30 minutes for argument, and the State will be allotted 30 minutes for argument, for a total of 60 minutes.

It is so ORDERED.

_____, C.J.
Gibbons

_____, J.
Pickering

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Stiglich

_____, J.
Cadish

_____, J.
Silver

cc: Hon. Linda M. Bell, Chief District Judge
Hon. Mary Kay Holthus, District Judge
Hon. Jerry A. Wiese, District Judge
Hon. Michael Villani, District Judge
Civil Rights Corps.
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk