

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDUCATION FREEDOM PAC,
Appellant,

vs.

RORY REID, AN INDIVIDUAL;
BEVERLY ROGERS, AN
INDIVIDUAL; AND BARBARA
K. CEGAVSKE, IN HER
OFFICIAL CAPACITY AS
NEVADA SECRETARY OF
STATE,

Respondents.

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Supreme Court Case No. 84736
District Court Case No. Elizabeth A. Brown
22OC000281B Clerk of Supreme Court

OPPOSITION TO RESPONDENTS' MOTION
FOR AN ORDER TO SHOW CAUSE

This Court should deny the Motion for an Order to Show Cause because it is premature. Appellant's case is not moot and there is still a live and active controversy. A moot case is one which seeks to determine an abstract question which does not rest upon existing facts or rights. *NCAA v. University of Nevada*, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981). When evaluating whether a case is moot, a court should not be "push[ed] . . . into rank speculation." *Mille Lacs Band of Ojibew v. County of Mille Lacs, Minnesota*, 2022 WL 624661 (D. Min. 2022). So long as there is an active controversy, a case is not moot. *Id.*

Here, there is an active controversy, and the matter is not moot. Appellant has a tight deadline to acquire the necessary number of signatures. However, this deadline does not make the matter moot. It would be extraordinarily bad precedent for this Court to decide cases are moot based on speculation and conjecture as to whether or not Petitioners can do what the law requires by the published deadline. This Court should not presume the matter is moot merely because Respondent feels it is unlikely Appellant will receive enough signatures before the deadline established by law. The Supreme Court Order relied on by Respondents, *Nevada Mining Association, Inc. v. Fulkerson, et al.* Nevada Supreme Court Case No. 55732, Document No. 10-15662, is not dispositive of this matter because, there, unlike here, Respondents acknowledged there was not enough time. It was also entered 20 days ahead in the process than Appellant currently is, so the timeline was different than our current timeline.

Given that many of Respondents' claims for Appellant's mootness are not driven by Appellant's actions, this Court should look skeptically at any claims the issue is moot. There is still time to acquire signatures. However, Appellant's ability to acquire signatures hinges on this Court's discretion to grant or deny the corresponding *Motion*.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court expedite review of this appeal, and that the Court order that: opening briefs shall be due May 25, 2022; answering briefs be due June 1, 2022; and reply briefs shall be due June 7, 2022. This *Motion* has been served electronically to opposing counsel and to the Secretary of State's representative.

DATED this 26th day of May 2022.

By: /s/ Jason D. Guinasso

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this date I caused to be served a true and correct copy of OPPOSITION TO RESPONDENTS' MOTION FOR AN ORDER TO SHOW CAUSE on the following as indicated below, via electronic service through the Nevada Supreme Court's Eflex system:

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I declare under penalty of perjury that the foregoing is true and correct.
Executed on May 25, 2022, at Reno, Nevada.

/s/ Bernadette Francis-Neimeyer

Bernadette Francis-Neimeyer