

1 Case No. 11 OC 00394 1B

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR CARSON CITY

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WILLIAM POJUNIS,

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Plaintiff,

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vs.

**ORDER GRANTING  
MOTIONS TO DISMISS  
COMPLAINT**

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MOISES DENIS; THE PUBLIC  
UTILITIES COMMISSION OF NEVADA;  
and THE STATE OF NEVADA ex rel. the  
Public Utilities Commission of Nevada,

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Defendant.

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This matter is before this Court on Defendant Moises Denis' Motion to Dismiss Pursuant to NRCPC 12(b)(1) and 12(b)(5) or, in the Alternative, for a More Definite Statement Pursuant to NRCPC 12(e) and Motion to Strike Prayer for Relief filed on December 20, 2011. The Plaintiff, William Pojunis, filed an Opposition thereto on January 9, 2012. A Reply to the Opposition was filed on January 20, 2012. A Request for Submission was filed in regards to Defendant Moises Denis' Motion on January 23, 2012.

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On January 27, 2012, a Motion to Dismiss was filed by the Defendant, The Public Utilities Commission of Nevada. On January 30, 2012, the Defendant, the State of Nevada, filed a Motion to Dismiss. Plaintiff's Opposition to these Motions was filed on February 15, 2012. (The Court notes that Plaintiff filed a Motion to Stay any action by the Court until Plaintiff had an opportunity to file his Opposition to these Motions to Dismiss).

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1 The Complaint filed in this matter asserts that because Defendant Moises Denis holds the  
2 Nevada Executive Branch position of Computer Technician at The Public Utilities Commission  
3 of Nevada while currently sitting as a State Senator in the Nevada Legislature, that there is a  
4 violation of Article 3, Section 1(1) of the Nevada Constitution.

5 The Motions to Dismiss filed by the Defendants reflect that Defendant, Moises Denis,  
6 resigned from employment with the Defendant, the Public Utilities Commission of Nevada as a  
7 Computer Technician effective December 28, 2011. Based on this fact, the Motions assert that  
8 this Court does not have jurisdiction pursuant to NRCP 12(b)(1) and that the Complaint now  
9 fails to state a claim upon which relief can be granted pursuant to NRCP 12(b)(5).

10 The Nevada Supreme Court has clearly held that it is, "Of course, the duty of every  
11 judicial tribunal is to decide actual controversies by a judgment which can be carried into effect,  
12 and not to give opinions upon moot questions or abstract propositions or to declare principles of  
13 law which cannot affect the matter in issue before it." *NCAA v. University of Nevada*, 97 Nev.  
14 56, 57, 624 P.2d 10 (1981). Additionally, a controversy must be present through all stages of the  
15 proceeding, and even though a case may present a live controversy at its inception, subsequent  
16 events may render the case moot and non-justiciable. *University Sys. v. Nevadans for Sound*  
17 *Gov't*, 120 Nev. 712, 720, 100 P. 3d 179 (2004).

18 In response to this, the Plaintiff requests this Court to consider the issue raised in the case  
19 based on an assertion that even if the case is moot, it may be considered by the Court when it  
20 involves "... a matter of widespread importance that is capable of repetition, yet evading review,"  
21 and citing to *Personhood Nevada v. Bristol*, 126 Nev. Ad. Op. \_\_\_, 245 P. 3d 572, 574 (2010);  
22 and *University Sys., supra* 722.

23 A review of *Personhood Nevada, supra*, reflects that this is a limited exception. Given  
24 the unique allegations set forth in the Complaint that give rise to Plaintiff's Claim for Relief  
25 based on him being duly qualified, holds the job requirements, and seeking the job held by the  
26 Defendant Moises Denis and the fact the Defendant has now vacated the very position sought by  
27 the Plaintiff, this Court believes that this case is moot. Thus, the facts of this case are unique to

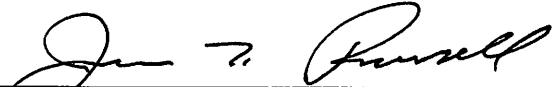
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1 the Plaintiff as asserted; and as such, an exception to the mootness doctrine does not apply.  
2 *Langston v. State Dep't of Mtr. Vehicles*, 110 Nev. 342, 344, 871 P.2d 362 (1994).

3 Therefore, good cause appearing,

4 IT IS HEREBY ORDERED that the Motion to Dismiss is GRANTED.

5 Dated this 24<sup>th</sup> day of February, 2012.

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9 JAMES T. RUSSELL  
10 District Judge  
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CERTIFICATE OF SERVICE

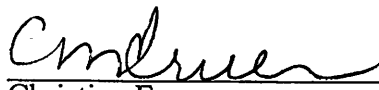
I hereby certify that on the 24<sup>th</sup> day of February, 2012, I emailed a copy of the foregoing Order addressed as follows:

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