IN THE SUPREME COURT OF THE STATE OF NEVADA

FRED KRAUS, AN INDIVIDUAL REGISTERED TO VOTE IN CLARK COUNTY, NEVADA; DONALD J. TRUMP FOR PRESIDENT, INC.; AND NEVADA REPUBLICAN PARTY,
Appellants,
vs.
BARBARA K. CEGAVSKE, IN HER OFFICIAL CAPACITY AS NEVADA SECRETARY OF STATE; JOSEPH P. GLORIA, IN HIS OFFICIAL CAPACITY AS REGISTRAR OF VOTERS FOR CLARK COUNTY, NEVADA; DEMOCRATIC NATIONAL COMMITTEE; AND NEVADA STATE DEMOCRATIC PARTY,
Respondents.

No. 82018

FILED

NOV 03 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR STAY AND TO EXPEDITE APPEAL

This appeal challenges a district court order denying a petition for a writ of mandamus or prohibition in an election matter.

Appellants have filed an emergency motion seeking immediate relief under NRAP 8, pending appeal, prohibiting the Clark County Registrar from continuing to duplicate mail ballots unless observers are granted an opportunity to meaningfully observe the process and from using artificial intelligence to authenticate ballot signatures. Appellants also seek to expedite this appeal.

As this matter involves the election process currently underway, we conclude that it should be expedited. Therefore, we grant the motion as to the request to expedite. Appellants shall have until tomorrow

at 4 p.m. to file and serve their transcript request form or certificate that no transcript will be requested. NRAP 9(a). Appellants shall have until 4 p.m. on Thursday, November 5, 2020, to file and serve the docketing statement, opening brief, and appendices. Respondents' answering brief shall be due on or before 4 p.m. on Monday, November 9, 2020. No extensions of time will be granted.[1]

We have also considered appellants' request that we enjoin the registrar from duplicating ballots and using artificial intelligence to authenticate ballots. Under NRAP 8(c), in determining whether to grant a stay or injunction pending appeal, we look to whether the object of the appeal will be defeated absent a stay or injunction, whether the granting or denying of a stay or injunction will result in irreparable or serious injury to appellants and respondents, and whether appellants have demonstrated a likelihood of success on the merits.

Although some portions of the appeal may be defeated absent immediate relief, appellants have not demonstrated that the entire appeal will be defeated, and due to the urgent nature of the matter, we have granted their request to expedite. Moreover, appellants have not demonstrated a sufficient likelihood of success to merit a stay or injunction. The district court concluded that appellants' allegations lacked evidentiary support, and their request for relief to this court is not supported by

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[1]For purposes of this order, we suspend the provisions of NRAP 25(a)(2)(B)(ii), (iii), and (iv), which provide that a document is timely filed if, on or before its due date, it is mailed to this court, dispatched for delivery by a third party commercial carrier, or deposited in the Supreme Court drop box. *See* NRAP 2. Accordingly, all documents shall be filed personally or by facsimile or electronic transmission with the clerk of this court in Carson City.

affidavit or record materials supporting many of the factual statements made therein. *See* NRAP 8(2)(B)(ii), (iii). It is unclear from the motion how appellants are being prevented from observing the process or that the use of the Agilis machine is prohibited under AB 4. As the district court's order points out, mandamus relief is warranted only to compel performance of a mandatory statutory duty or to remedy a manifest abuse of discretion. *Round Hill General Improvement Dist. v. Newman*, 97 Nev. 601, 603-04, 637 P.2d 534, 536 (1981). Appellants' motion, on its face, does not identify any mandatory statutory duty that respondents appear to have ignored. Further, appellants fail to address the district court's conclusion that they lack standing to pursue this relief. Thus, appellants have not shown that the NRAP 8(c) factors militate in favor of a stay or injunction, and the request for immediate relief is denied.

It is so ORDERED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. James E. Wilson, District Judge
Hon. James E. Wilson, District Judge
Marquis Aurbach Coffing
O'Mara Law Firm, P.C.
Harvey & Binnall, PLLC
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP/Las Vegas
Attorney General/Carson City
Perkins Coie, LLP/Washington DC
Clark County District Attorney/Civil Division
Carson City Clerk