STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1033

Marion O'Neill, et al.,
Appellants,

vs.

Jim Schowalter, et al.,
Respondents.

Filed January 24, 2022
Affirmed
Connolly, Judge

Ramsey County District Court
File No. 62-CV-20-5865

James V.F. Dickey, Douglas P. Seaton, Upper Midwest Law Center, Golden Valley, Minnesota (for appellants)

Keith Ellison, Attorney General, Joseph Weiner, Jason Marisam, Assistant Attorneys General, St. Paul, Minnesota (for respondents)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Smith, John, Judge.*

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellants-state-legislators challenge the dismissal of their petition for a writ of quo warranto. In their petition, appellants argued that respondents Minnesota Management and

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

Budget (MMB) and its commissioner lack authority to implement certain public-sector collective-bargaining agreements (CBAs) because the agreements were not properly ratified by both houses of the legislature. Because we conclude that the case is moot, we affirm.

FACTS

In 2020, the former commissioner of MMB, Myron Frans, presented to the legislature for ratification 11 CBAs which had been negotiated between the state and numerous public-sector labor unions.[1] The CBAs generally provided for a cost-of-living increase of 2.5% for all covered employees for the second year of the contract term (2020-2021), to take effect in July 2020. While 2.5% was the baseline increase, approximately half of the covered employees were entitled to pay increases other than 2.5%.

On May 11, 2020, the Minnesota House of Representatives ratified the CBAs by passing a bill, H.F. 2768. Appellant Marion O'Neill, a member of the house, voted against ratification but was outvoted by the majority. The Minnesota Senate then received H.F. 2768 but tabled the bill. Instead, the senate amended a different bill, H.F. 2796, to address the CBAs. On May 16, 2020, appellant-senator Mark Koran moved to amend

[1] The CBAs reflected negotiated agreements with the following unions: American Federation of State, County, and Municipal Employees, Council 5; Minnesota Association of Professional Employees; American Federation of State, County, and Municipal Employees, Unit 225, Radio Communications Operators; Middle Management Association; Minnesota State University Association of Administrative and Service Faculty; Inter Faculty Organization; American Federation of State, County, and Municipal Employees, Unit 8, Corrections Officers; State Residential Schools Education Association; Minnesota State College Faculty; Minnesota Government Engineers Council; and Minnesota Nurses Association.

H.F. 2796 to make the second year of pay increases for the covered employees contingent on a positive budget forecast of the state's general-fund revenues. The senate subsequently passed H.F. 2796 with the Koran amendment. Koran voted in favor of the bill. Section 1 of the final version of H.F. 2796 expressly "ratified" each of the 11 CBAs "[e]xcept as provided in section 2." State of Minnesota, *Journal of the Senate*, 91st Sess. 7068-70 (May 15, 2020); State of Minnesota, *Journal of the Senate*, 91st Sess. 7243-45 (May 16, 2020). Section 2, in turn, contained the Koran amendment and read as follows, in relevant part:

> Sec. 2. Contingency.
>
> The general increases, enhancements to salary schedules, and the supplement to the MnSCU Personnel Plan for Administrators in section 1 *are not ratified until* the commissioner of management and budget determines, based on a forecast of general fund revenues and expenditures issued before July 1, 2021, that there will be a positive unrestricted general fund balance at the close of the biennium ending June 30, 2021 . . . .

State of Minnesota, *Journal of the Senate*, 91st Sess. 7246 (May 16, 2020) (emphasis added).

On May 17, 2020, the legislature formally adjourned. The house never voted on H.F. 2796, and the senate never voted on H.F. 2768. The legislature has not addressed the CBAs in any subsequent special session.

Following ratification of H.F. 2768 by the house and H.F. 2796 by the senate, Commissioner Frans announced that MMB would implement the terms of the CBAs in the form in which they were submitted to the legislature. According to his statement, MMB had determined, following a legal review, that "the Legislature does not have the authority

to unilaterally modify the agreements or plans" and that "the Senate chose a path that is not outlined in law." The statement expressed the commissioner's position that "the legal effect of the Legislature's action is to ratify the agreements."

Nearly seven months later, on December 30, 2020, O'Neill and Koran filed a petition for a writ of quo warranto or, in the alternative, a declaratory judgment. They argued that respondents lacked authority to implement the CBAs because the CBAs were not properly ratified by both houses of the legislature. Specifically, they asserted that the house and senate were required by law to pass one unified bill to ratify the CBAs. Because the house and senate passed separate bills that contained different language, appellants argued that the legislature did not approve the CBAs in the manner required by state law.

Respondents moved to dismiss the petition on the grounds that the district court lacked subject-matter jurisdiction and appellants failed to state a claim upon which relief can be granted. In an accompanying memorandum, respondents argued that appellants lack standing and that the petition was moot, barred by the doctrine of laches, and failed on its merits. Appellants later moved for a temporary injunction, requesting that the district court enjoin present Commissioner Jim Schowalter from implementing the CBAs. Respondents opposed that motion as well.

In July 2021, the district court issued a written order dismissing appellants' petition based on a determination that appellants lack standing. After dismissing appellants' petition with prejudice, the district court determined that appellants' temporary-injunction motion was moot.

This appeal follows.

DECISION

A writ of quo warranto is a remedy designed to correct official actions that are not authorized by law. *Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 174 (Minn. 2020). The writ requires an official to show before a court the authority by which the official exercised the challenged action. *State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 318 (Minn. App. 2007). When reviewing a district court's decision to grant a motion to dismiss, we apply a de novo standard. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). We accept all facts contained in the complaint as true and grant all reasonable inferences to the nonmoving party. *Id.* Under our de novo review, we may affirm dismissal on any ground. *See Katz v. Katz*, 408 N.W.2d 835, 839 (Minn. 1987) ("[W]e will not reverse a correct decision simply because it is based on incorrect reasons.").

Appellants contend that the district court erred by dismissing their quo warranto petition, and they request that we reverse the district court's denial of their temporary-injunction motion. Respondents, in turn, argue that the district court properly dismissed appellants' petition for lack of standing, and they assert three additional bases for affirming dismissal of the petition: the doctrine of laches, mootness, and failure to state a claim on the merits. For the reasons set forth below, we agree with respondents that this case is moot.

The doctrine of mootness "demands appellate courts hear only live controversies, and they may not issue advisory opinions." *Farm Bureau Mut. Ins. Co. v. Schwan*, 687 N.W.2d 388, 391 (Minn. App. 2004). A case is moot if "a decision on the merits is no

longer necessary or an award of effective relief is no longer possible." *Dean v. City of Winona*, 868 N.W.2d 1, 5 (Minn. 2015). We conduct a mootness inquiry de novo. *Id.* at 4.

Appellants ask us to determine whether the legislature and respondents followed the proper procedure for ratifying and implementing the CBAs. But a decision on the merits in this case is no longer necessary because it is now clear that both the house and the senate intended to approve the CBAs in the form in which they were submitted to the legislature and later implemented by respondents. It is undisputed that the house voted to approve the CBAs without condition. Determining whether the senate also intended to fully approve the CBAs was initially complicated by its inclusion of the Koran amendment in H.F. 2796. Specifically, the text of the senate's bill "ratified" each of the 11 CBAs but included a contingency (in the Koran amendment) that the pay raises for 2020-2021 "are not ratified until" the commissioner determines that there is a positive budget forecast of general-fund revenues. State of Minnesota, *Journal of the Senate*, 91st Sess. 7243-46 (May 16, 2020). But that positive-budget contingency was satisfied before appellants filed their petition for a writ of quo warranto in district court on December 30, 2020. Earlier that month, on December 3, 2020, MMB issued a press release showing a projected $636 million surplus in the general fund for 2020-2021. Press Release, Minnesota Management & Budget, State of Minnesota Releases November 2020 Budget & Economic Forecast (Dec. 3, 2020), https://mn.gov/mmb/media/newsroom.jsp#/detail/appId/1/id/456903. Following the determination that there was a positive budget forecast for 2020-2021, there was no longer any doubt that the senate, along with the house, intended to fully ratify the CBAs and effect the implementation of their terms, including the 2020-2021 pay raises. Accordingly, a

decision on the merits was no longer necessary by the time appellants filed their petition. This case is therefore moot.

Appellants do not address the mootness doctrine in their appellate brief and did not file a reply brief. During oral argument, counsel for appellants conceded that the commissioner had projected a positive general-fund budget for 2020-2021 and that the contingency contained in the Koran amendment had therefore been met. Counsel nonetheless argued that the satisfaction of the positive-budget contingency does not render this case moot because the Koran amendment was not approved by both houses of the legislature and accordingly never became effective and binding. But that argument concerns the *merits* of appellants' quo warranto petition—that is, whether the legislature followed the proper procedure for approving the CBAs—not whether the case is moot. Reaching the merits of that petition is unnecessary given that the intent of the house and senate to ratify all aspects of the CBAs is now clear and the contingency has been met.

Accordingly, we conclude that this case is moot, and we therefore need not reach the parties' additional arguments on appeal. We affirm the district court's decision to dismiss appellants' petition for a writ of quo warranto and to deny appellants' motion for a temporary injunction.

Affirmed.