

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

In re Justin Lee Askew

No. 05-12-01373-CV · No. No. 05-12-01373-CV · Decided December 13, 2012

SUMMARY

The Texas Fifth District Court of Appeals dismissed a petition for a writ of mandamus as moot. The relator challenged the trial court's failure to rule on motions for judgment nunc pro tunc, but the requested relief had been granted.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Justice FitzGerald; Justice Moseley; Justice Myers
JURISDICTION	Texas
DECIDED	December 13, 2012
DOCKET	No. 05-12-01373-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original proceeding seeking a writ of mandamus compelling the trial court to rule on motions for judgment nunc pro tunc.
PRECEDENTIAL VALUE	Published opinion

TOPICS

- mootness
- appellate procedure
- remedies
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- extraordinary writs

QUESTIONS PRESENTED

- Whether the mandamus petition should be dismissed as moot after the trial court granted the requested relief.

HOLDINGS

- A mandamus petition is moot when the requested relief has been granted; the court therefore dismissed the petition.

FACTUAL BACKGROUND

Relator Justin Lee Askew asserted that the trial court had failed to rule on his motions for judgment nunc pro tunc. During the mandamus proceeding, the relief he requested was granted. Because the requested relief had been provided, no live controversy remained.

PROCEDURAL HISTORY

Relator petitioned the Court of Appeals for a writ of mandamus, contending that the trial court had failed to rule on his motions for judgment nunc pro tunc. The requested relief was granted while the mandamus proceeding was pending, rendering the issues moot. The court dismissed the petition.

DISPOSITION

dismissed

CASES CITED

- Dow Chem. Co. v. Garcia, 909 S.W.2d 503, 505 (Tex. 1995) (orig. proceeding)
- In re Gill, No. 06-04-00090-CV, 2004 WL 1884498, at *1 (Tex. App.—Texarkana Aug. 24, 2004) (orig. proceeding)

OPINION

PER CURIAM.

Writ of Mandamus Denied, Opinion issued December 13, 2012 In The Fifth District Court of Appeals for the State of Texas Cause No. 05-12-01373-CV IN RE JUSTIN LEE ASKEW, Relator Original Proceeding from the 204th Judicial District Court Dallas County, Texas Trial Court Cause No. F05-51334-Q MEMORANDUM OPINION Before Justices Moseley, Fitzgerald, and Myers Opinion by Justice Fitzgerald Relator contends the trial court failed to rule on his motions for judgment nunc pro tunc.

The facts and issues are well known to the parties. so we need not recount them herein. The relief requested by relator has been granted. Therefore, the issues presented in this petition are moot. See *Dow Chem. Co. v. Garcia*, 909 S.W.2d 503, 505 (Tex. 1995) (orig. proceeding).

In *re Gill*, No. 06-04-00090-CV, 2004 WL 1884498 at *1 (Tex. App.—Texarkana Aug. 24, 2004, orig. proceeding). Accordingly, we DISMISS relator's petition for a writ of mandamus. if.. KFRYP PUZGFR\ID JUSTICE 121373F.P05