

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

In re Marathon Oil (East Texas) LP

No. 12-13-00182-CV (Tex. App. Sept. 11, 2013) · No. No. 12-13-00182-CV · Decided September 11, 2013

SUMMARY

The Twelfth Court of Appeals of Texas dismissed as moot Marathon Oil (East Texas) L.P.'s petition for writ of mandamus. The respondent had withdrawn the challenged order denying a continuance and reset the jury trial, thereby complying with the court's prior opinion conditionally granting mandamus relief.

CASE DETAILS

COURT	Twelfth Court of Appeals District of Texas
WRITING FOR THE COURT	Worthen, C.J.; Griffith, J.; Bass, Retired J., sitting by assignment
JURISDICTION	Texas
DECIDED	September 11, 2013
DOCKET	No. 12-13-00182-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Marathon Oil filed an original proceeding seeking a writ of mandamus directing the trial judge to vacate an order denying Marathon's motion for a continuance and to continue the trial setting to allow discovery. After the trial judge withdrew the challenged order and reset the trial, the court of appeals dismissed the proceeding as moot.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Marathon Oil (East Texas) LP v. Hon. Charles R. Mitchell

TOPICS

[mootness](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

[civil procedure](#)[appellate procedure](#)

QUESTIONS PRESENTED

1. Whether the mandamus proceeding should be dismissed as moot after the respondent complied with the court of appeals' conditional mandamus order.

HOLDINGS

1. The mandamus proceeding was rendered moot when the respondent withdrew the challenged order and reset the trial in compliance with the court's prior opinion and order; therefore, the writ need not issue and the proceeding must be dismissed as moot.

KEY QUOTATIONS

“This action constitutes compliance with our opinion and order. All issues attendant to this original proceeding having been disposed of, this mandamus proceeding has now been rendered moot; therefore, the writ need not issue.”

FACTUAL BACKGROUND

Marathon Oil sought a continuance of the trial setting so that it could conduct discovery. The respondent trial judge initially denied the motion on May 17, 2013. After the court of appeals conditionally granted mandamus relief, the judge withdrew the challenged order and reset the jury trial for the January 2014 term.

PROCEDURAL HISTORY

Marathon filed its petition for writ of mandamus on May 24, 2013. The court conditionally granted relief in an August 7, 2013 opinion, directing the respondent to vacate the May 17, 2013 order and continue the trial for at least sixty days. The respondent complied by withdrawing the order and setting the case for jury trial during the January 2014 term, rendering the mandamus proceeding moot.

DISPOSITION

dismissed

OPINION

PER CURIAM.

NO. 12-13-00182-CV IN THE COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS IN RE: MARATHON OIL § (EAST TEXAS) LP, § ORIGINAL PROCEEDING RELATOR § MEMORANDUM OPINION PER CURIAM On August 7, 2013, this Court delivered an opinion conditionally granting the petition for writ of mandamus filed by Marathon Oil (East Texas) L.P. That opinion directed Respondent to vacate his order signed on May 17, 2013, denying the motion for continuance filed by Marathon.

The opinion also directed Respondent to issue an order granting Marathon's motion and continuing the trial setting for at least sixty days from the date of the order to allow Marathon to conduct discovery. Respondent has issued an order withdrawing his May 17, 2013 order and

setting the case for jury trial during the January 2014 term of court. This action constitutes compliance with our opinion and order.

All issues attendant to this original proceeding having been disposed of, this mandamus proceeding has now been rendered moot; therefore, the writ need not issue. Accordingly, this original proceeding is dismissed as moot. Opinion delivered September 11, 2013. Panel consisted of Worthen, C.J., Griffith, J., and Bass, Retired J., Twelfth Court of Appeals, sitting by assignment.

(PUBLISH) COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT OF TEXAS JUDGMENT SEPTEMBER 11, 2013 NO. 12-13-00182-CV IN RE: MARATHON OIL (EAST TEXAS) LP, Appellant V. HON. CHARLES R. MITCHELL, Appellee Appeal from the 273rd Judicial District Court of Shelby County, Texas (Tr.Ct.No. 10CV30,899) ON THIS DAY came to be heard the petition for writ of mandamus filed by MARATHON OIL (EAST TEXAS) LP, who is the relator in Cause No. 10CV30,899, pending on the docket of the 273rd Judicial District Court of Shelby County, Texas.

Said petition for writ of mandamus having been filed herein on May 24, 2013, and the same having been duly considered, because it is the opinion of this Court that a writ of mandamus should not issue, it is therefore CONSIDERED, ADJUDGED and ORDERED that the said petition for writ of mandamus be, and the same is, hereby DISMISSED. By per curiam opinion. Panel consisted of Worthen, C.J., Griffith, and J., Bass, Retired J., Twelfth Court of Appeals, sitting by assignment.