

Petition for Writ of Mandamus Dismissed and Memorandum Opinion filed May 6, 2010.



In The

Fourteenth Court of Appeals

NO. 14-10-00270-CV

IN RE HEB GROCERY CO., L.P., Relator

**ORIGINAL PROCEEDING
WRIT OF MANDAMUS**

MEMORANDUM OPINION

This proceeding arises from a suit filed by Donald Kirksey against his employer, HEB Grocery Co., L.P. for work-related injuries. The parties agreed to arbitration before the American Arbitration Association. They also agreed that the Federal Arbitration Act applies to their dispute and that proceedings are to be conducted under AAA rules. After the arbitrator selected by the parties declined to serve, AAA appointed Joe Lea, Jr. to serve, in accordance with its rules. AAA overruled Kirksey's objections to Lea. Kirksey then filed a motion in the trial court to recuse Lea. The Honorable Kyle Carter, presiding judge of the 125th District Court, signed an order on February 23, 2010, granting Kirksey's motion to recuse the arbitrator and appointing the Honorable Katie Kennedy as substitute arbitrator. On March 29, 2010, HEB filed this petition for writ of mandamus seeking

relief from that order. *See* Tex. Gov't Code Ann §22.221 (Vernon 2004); *see also* Tex. R. App. P. 52.1.

Kirksey filed a motion to dismiss this proceeding as moot because on March 12, 2010, AAA reconsidered the parties' positions concerning the appointment of an arbitrator and appointed the Honorable Katie Kennedy as the arbitrator. HEB objected to the appointment. On March 18, 2010, AAA informed the parties that it had considered the parties' positions, and it would proceed with Judge Kennedy as the arbitrator in accordance with the trial court's February 23 order.

An issue may become moot when a party seeks a ruling on some matter which, when rendered, would not have any practical legal effect on a then-existing controversy. *See City of Farmers Branch v. Ramos*, 235 S.W.3d 462, 469 (Tex. App.—Dallas 2007, no pet.). Stated differently, an issue may be moot if it becomes impossible for the court to grant effectual relief for any reason. *See Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). Mandamus will not issue to compel a meaningless action. *See Hospital Corp. of Am. v. Farrar*, 733 S.W.2d 393, 394 (Tex. App.—Fort Worth 1987, orig. proceeding).

In its petition, HEB asked that we vacate the trial court's order appointing Judge Kennedy. That order has effectively been superseded by the AAA appointment, and we have no authority to direct the AAA to set aside its appointment. Therefore, the relief sought in this petition has been rendered moot.

Accordingly, we grant Kirksey's motion and order the petition for writ of mandamus is dismissed.

PER CURIAM

Panel consists of Chief Justice Hedges and Justices Anderson and Christopher.