In The

Court of Appeals

Ninth District of Texas at Beaumont

NO. 09-11-00273-CV

DONALD C. JACKSON, Appellant

V.

TED BLANCHARD AND LAUREL DANIELS, Appellees

On Appeal from the 58th District Court
Jefferson County, Texas
Trial Cause No. A-188,748

MEMORANDUM OPINION

Appellant, Donald C. Jackson, filed a notice of appeal from a final summary judgment in favor of Ted Blanchard and Laurel Daniels.[1] Jackson, a parolee, sought to enjoin employees of the halfway house where he was being housed from limiting his visits to the county law library to one day per week.

[1] Jackson also sued for injunctive relief against Chris Champagne and Gina Juarez. Jackson's notice of appeal and his subsequent filing with this Court refer only to Blanchard and Daniels. It appears Jackson voluntarily discontinued his claims against Champagne and Juarez.

On August 25, 2011, Blanchard and Daniels filed a motion to dismiss the appeal. Appellees contend the appeal is moot because Jackson is no longer a resident of the halfway house where appellees work. Jackson contends the issues raised in his petition for writ of injunction are "capable of repetition, yet evading review." *See Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). To invoke that exception to the mootness doctrine, Jackson must show that the challenged action was too short in duration to be litigated fully before the action ceased or expired, and that a reasonable expectation exists that he will be subjected to the same action again. *See id.* Jackson argues that he will be on parole for life and could find himself being housed at the same facility at some point in the future. Such a speculative contingency does not constitute an imminent danger of irreparable harm that would support a claim for injunctive relief. *See Preiser v. Newkirk*, 422 U.S. 395, 402-03, 95 S.Ct. 2330, 45 L.Ed.2d 272 (1975) (Following transfer to another facility, inmate's claims lacked sufficient immediacy and reality to warrant declaratory judgment.).

Jackson argues that the public interest exception allows review of a question of considerable public importance if that question is capable of repetition between either the same parties or other members of the public. *See Tex. Dep't of Public Safety v. LaFleur*, 32 S.W.3d 911, 914 (Tex. App.—Texarkana 2000, no pet.). The viability of the public interest exception to the mootness doctrine is an open question. *See F.D.I.C. v. Nueces Cnty.*, 886 S.W.2d 766, 767 (Tex. 1994). Jackson has previously obtained appellate

review of the issue of his access to the county law library. *See Jackson v. Champagne*, No. 09-11-00081-CV, 2011 WL 2732159, at *1 (Tex. App.—Beaumont Jul. 14, 2011, pet. filed) (mem. op.). An issue does not evade review if an appellate court has addressed the issue on its merits. *Meeker v. Tarrant Cnty. College Dist.*, 317 S.W.3d 754, 762 (Tex. App.—Fort Worth 2010, pet. denied). Accordingly, without reference to the merits, we dismiss this cause as moot. *See Gen. Land Office of State of Texas v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 572 (Tex. 1990).

DISMISSED.

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STEVE McKEITHEN
Chief Justice

Opinion Delivered October 20, 2011

Before McKeithen, C.J., Gaultney and Horton, JJ.