

Dismissed and Opinion Filed March 9, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-00193-CV

THE BOARD OF TRUSTEES OF THE DALLAS POLICE AND FIRE PENSION SYSTEM AND THE DALLAS POLICE AND FIRE PENSION SYSTEM, Appellants

V.

MICHAEL S. RAWLINGS, INDIVIDUALLY, AS A RESIDENT OF THE CITY OF DALLAS, Appellee

**On Appeal from the 116th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-16-15431**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Lang-Miers, and Justice Stoddart
Opinion by Chief Justice Wright

The underlying lawsuit was brought by appellee who sought, in part, injunctive relief against appellants. Asserting appellee lacked standing, appellants filed a plea to the jurisdiction. The trial court denied the plea, leading to this interlocutory appeal.

Five days after the appeal was filed, appellee filed a motion to dismiss this appeal. In the motion, appellee asserts he filed in the trial court a notice nonsuiting his claims against appellants with prejudice. A copy of the notice of nonsuit is attached to the motion. Appellee argues that, because he has nonsuited his claims, the appeal is moot and should be dismissed. Appellants do not oppose the motion.

Texas Rule of Civil Procedure 162 allows a plaintiff to dismiss a case or take a non-suit “[a]t any time before the plaintiff has introduced all of his evidence other than rebuttal evidence.” TEX. R. CIV. P. 162. Because appellee filed his notice of non-suit during the pendency of this appeal and a non-suit “extinguishes a case or controversy from ‘the moment [it] is filed,’” we agree the appeal is moot. *See Univ. of Tex. Med. Branch at Galveston v. Estate of Blackmon ex rel. Shultz*, 195 S.W.3d 98, 100 (Tex. 2006). Accordingly, we grant the motion and dismiss the appeal.

/Carolyn Wright/
CAROLYN WRIGHT
CHIEF JUSTICE

170193F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

THE BOARD OF TRUSTEES OF THE
DALLAS POLICE AND FIRE PENSION
SYSTEM AND THE DALLAS POLICE
AND FIRE PENSION SYSTEM, Appellants

No. 05-17-00193-CV V.

MICHAEL S. RAWLINGS,
INDIVIDUALLY, AS A RESIDENT OF
THE CITY OF DALLAS, Appellee

On Appeal from the 116th Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-16-15431.
Opinion delivered by Chief Justice Wright.
Justices Lang-Miers and Stoddart
participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** appellees Michael S. Rawlings, Individually as a Resident of The City of Dallas, recover his costs, if any, of this appeal from appellants The Board of Trustees of The Dallas Police and Fire Pension System and The Dallas Police and Fire Pension System.

Judgment entered March 9, 2017.