

Vacate and Dismiss and Opinion Filed September 12, 2018



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

No. 05-18-00419-CV

**ORLANDO KING, Appellant
V.
CHAPARRAL ASSETS, LLC, Appellee**

**On Appeal from the County Court at Law No. 5
Dallas County, Texas
Trial Court Cause No. CC-18-01129-E**

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Evans, and Justice Brown
Opinion by Chief Justice Wright

This is an appeal from an order of possession in a forcible detainer suit. After reviewing the clerk's record, we questioned our jurisdiction as it appeared appellant was no longer in possession of the premises, and the appeal had become moot. *See Olley v. HVM, LLC*, 449 S.W.3d 572, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied). We directed appellant to file a letter brief addressing our concern and gave appellee an opportunity to respond. Although more than ten days have passed and we cautioned appellant the appeal could be dismissed without further notice if he failed to comply, appellant has not complied. Appellee, however, has filed a motion to dismiss and confirmed appellant is no longer in possession of the premises.

The only issue in a forcible detainer suit is the right to possession of the premises. *Id.* Unless an appellant has a potentially meritorious claim of right to current, actual

possession, the issue of possession and case become moot when the appellant no longer has actual possession of the premises. *See Marshall v. Hous. Auth. of City of San Antonio*, 198 S.W.3d 782, 787, 790 (Tex. 2006). When a case becomes moot, an appellate court must vacate the trial court's judgment and dismiss the case. *See City of Dallas v. Woodfield*, 305 S.W.3d 412, 416 (Tex. App.—Dallas 2010, no pet.); *see also Marshall*, 198 S.W.3d at 790.

We gave appellant an opportunity to demonstrate our jurisdiction over this appeal, but he failed to do so. Because nothing in the record before us shows appellant has a potentially meritorious claim of right to current, actual possession, we grant appellee's motion, vacate the trial court's judgment, and dismiss the case. *See* TEX. R. APP. P. 42.3(a),(c); *Marshall*, 198 S.W.3d at 790.

/Carolyn Wright/

CAROLYN WRIGHT
CHIEF JUSTICE

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

JUDGMENT

ORLANDO KING, Appellant

No. 05-18-00419-CV V.

CHAPARRAL ASSETS, LLC, Appellee

On Appeal from the County Court at Law
No. 5, Dallas County, Texas

Trial Court Cause No. CC-18-01129-E.

Opinion delivered by Chief Justice Wright,
Justices Evans and Brown participating.

In accordance with this Court's opinion of this date, we **VACATE** the trial court's judgment and **DISMISS** the case.

Judgment entered September 12, 2018