

VACATE and DISMISS; and Opinion Filed August 27, 2019.



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

No. 05-19-00665-CV

DEMETRA GREEN, Appellant

V.

**THE HOUSING AUTHORITY OF THE CITY OF DALLAS, TEXAS-ROSELAND
TOWNHOMES, Appellee**

**On Appeal from the County Court at Law No. 3
Dallas County, Texas
Trial Court Cause No. CC-19-01573-C**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Molberg, and Justice Nowell
Opinion by Justice Molberg

This is an appeal from the county court at law's order evicting Demetra Green from the apartment she occupied. The Housing Authority of the City of Dallas, Texas-Roseland Townhomes filed the forcible detainer action in justice court and, after the justice court granted judgment of possession in favor of the Housing Authority, Green appealed to the county court at law. The county court found in favor of the Housing Authority and awarded costs; a writ of possession was served on Green on June 10, 2019. This appeal followed.

After the clerk's record was filed, we questioned our jurisdiction. Specifically, we noted that if Green was no longer in possession of the premises, the appeal could be moot. *See Olley v. HVM, LLC*, 449 S.W.3d 572, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (appellate courts lack jurisdiction over moot controversies). We directed Green to file a letter brief

addressing our concern no later than July 29, 2019 and cautioned that failure to comply could result in dismissal of the cause without further notice. *See* TEX. R. APP. P. 42.3(a),(c); *Funds Recovery*, 887 S.W.2d at 468. To date, Green has not responded.

The record shows Green is no longer in possession of the premises. Although the county court judgment awarded the Housing Authority costs, that alone does not present a controversy preventing dismissal of this case. *See Marshall v. Hous. Auth. of City of San Antonio*, 198 S.W.3d 782, 790 (Tex. 2006) (assessment of costs in judgment will be set aside with rest of judgment, leaving each party responsible for its own costs under civil procedure rule 127). Under these circumstances, we conclude this appeal is moot. As such, we have jurisdiction only to set aside the judgment and dismiss the cause. *See id*; *Dallas County Appraisal Dist. v. Funds Recovery, Inc.*, 887 S.W.2d 465, 468 (Tex. App.—Dallas 1994, writ denied).

Accordingly, we vacate the county court’s May 31, 2019 judgment and dismiss the cause. *See Funds Recovery*, 887 S.W.2d at 468.

/Ken Molberg/
KEN MOLBERG
JUSTICE

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

JUDGMENT

DEMETRA GREEN, Appellant

No. 05-19-00665-CV V.

THE HOUSING AUTHORITY OF THE
CITY OF DALLAS, TEXAS-ROSELAND
TOWNHOMES, Appellee

On Appeal from the County Court at Law
No. 3, Dallas County, Texas
Trial Court Cause No. CC-19-01573-C.
Opinion delivered by Justice Molberg,
Chief Justice Burns and Justice Nowell
participating.

In accordance with this Court's opinion of this date, we **VACATE** the county court's May 31, 2019 judgment and **DISMISS** the cause.

Judgment entered this 27th day of August, 2019.