

Dismissed and Opinion Filed August 26, 2021



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

No. 05-21-00403-CV

IN THE INTEREST OF S.K., H.K., AND K.K., CHILDREN

**On Appeal from the 469th Judicial District Court
Collin County, Texas
Trial Court Cause No. 469-50118-2021**

MEMORANDUM OPINION

Before Justices Molberg, Goldstein, and Smith
Opinion by Justice Molberg

We questioned our jurisdiction over this appeal from a default divorce decree as it appeared to be moot. *See Nat'l Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999) (noting appellate courts are prohibited from deciding moot controversies). Specifically, no justiciable controversy appeared to exist as the clerk's record reflected the trial court had granted a new trial and vacated the decree. *See In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (case becomes moot if controversy ceases to exist); *R.M.O. v. Tex. Dep't of Family and Protective Servs.*, No. 08-14-00067-CV, 2014 WL 2180167 (Tex. App.—El Paso May 23, 2014, no pet.) (mem. op.) (granting of new trial mooted appeal). Although

we directed appellant to file a letter brief addressing our concern and cautioned him that failure to do so by August 16, 2021 could result in dismissal of the appeal without further notice, appellant has not responded. *See* TEX. R. APP. P. 42.3(a), (c). Accordingly, because the record before us reflects the appeal is moot, it is dismissed. *See id.* 42.3(a).

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/Ken Molberg//
KEN MOLBERG
JUSTICE



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

JUDGMENT

IN THE INTEREST OF S.K., H.K.,
AND K.K., CHILDREN

No. 05-21-00403-CV

On Appeal from the 469th Judicial
District Court, Collin County, Texas
Trial Court Cause No. 469-50118-
2021.

Opinion delivered by Justice
Molberg, Justices Goldstein and
Smith participating.

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

Judgment entered this 26th day of August, 2021.