

DISMISS and Opinion Filed August 18, 2022



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

No. 05-22-00048-CV

IN THE GUARDIANSHIP OF L.M., AN INCAPACITATED PERSON

**On Appeal from the Probate Court No. 1
Dallas County, Texas
Trial Court Cause No. PR-20-02447-1**

MEMORANDUM OPINION

Before Justices Myers, Carlyle, and Goldstein
Opinion by Justice Myers

Appellant Karla Murillo appeals from the trial court's December 22, 2021 order appointing appellee VetGuard USA as permanent guardian of the person over L.M. On March 4, 2022, the probate court vacated the December 22 order and replaced VetGuard USA with Christian F. Clausen as guardian. In light of the March 4 order, we questioned whether the appeal was moot and directed the parties to file letter briefs. The parties complied.

A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings. *See In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005). Appellate courts lack jurisdiction over moot

controversies. *See Olley v. HCM, LLC*, 449 S.W.3d 572, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied).

In her letter brief, Murillo asserts the probate court lacked jurisdiction to render the March 4 order because its plenary power expired thirty days after the December 22 order was signed. *See* TEX. R. CIV. P. 329b(d). In a probate matter, however, the trial court retains authority to remove a guardian and appoint a successor guardian. *See* TEX. EST. CODE §§ 1203.051 (removal without notice), 1203.052 (removal with notice), § 1203.102 (appointment of successor guardian). Murillo also asserts the trial court erred in rendering the March 4 order. Because Murillo did not appeal this order and the time to do so has passed, we do not address this merits-based argument.

Because the probate court had the authority to vacate the appealed order appointing VetGuard USA as guardian and did so, this appeal is now moot. We dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a).

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/Lana Myers//

LANA MYERS
JUSTICE



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

JUDGMENT

IN THE GUARDIANSHIP OF L.M.,
AN INCAPACITATED PERSON

No. 05-22-00048-CV

On Appeal from the Probate Court
No. 1, Dallas County, Texas
Trial Court Cause No. PR-20-02447-
1.

Opinion delivered by Justice Myers.
Justices Carlyle and Goldstein
participating.

In accordance with this Court's opinion of this date, the appeal is
DISMISSED.

It is **ORDERED** that appellee VetGuard USA recover its costs of this appeal
from appellant Karla Murillo.

Judgment entered this 18th day of August, 2022.