

Opinion issued December 12, 2017



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00825-CV

DARYL WATLEY D/B/A ABSOLUTE PLUMBING & MECHANICAL,
Appellant

V.

US CONSTRUCTION SERVICES, LLC, Appellee

**On Appeal from the 127th District Court
Harris County, Texas
Trial Court Case No. 2014-67390**

MEMORANDUM OPINION

Appellant, Daryl Watley, doing business as Absolute Plumbing & Mechanical (“Watley”), has appealed a final judgment signed on March 11, 2016. We dismiss the appeal.

On November 7, 2017, appellee, US Construction Services, LLC (“US Construction”), notified the Clerk of the Court that the parties had settled their dispute and Watley would be filing a motion to dismiss soon. However, no motion to dismiss has been filed. *See* TEX. R. APP. P. 42.1(a).

The existence of an actual controversy is essential to the exercise of appellate jurisdiction. *See, e.g., Valley Baptist Med. Ctr. v. Gonzalez*, 33 S.W.3d 821, 822 (Tex. 2000). “Appellate courts are prohibited from deciding moot controversies.” *Nat’l Collegiate Athletic Ass’n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999); *see City of Farmers Branch v. Ramos*, 235 S.W.3d 462, 469 (Tex. App.—Dallas 2007, no pet.) (noting court may only decide issues presenting “a ‘live’ controversy at the time of the decision”). If a controversy ceases to exist or the parties lack a legally cognizable interest in the outcome at any stage, the case becomes moot. *See Allstate Ins. Co. v. Hallman*, 159 S.W.3d 640, 642 (Tex. 2005); *Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001) (noting “a controversy must exist between the parties at every stage of the legal proceedings, including the appeal”). “[C]ourts have an obligation to take into account intervening events that may render a lawsuit moot.” *Heckman v. Williamson Cty.*, 369 S.W.3d 137, 166–67 (Tex. 2012). If a proceeding becomes moot, the court must dismiss the proceeding for want of jurisdiction. *See id.* at 162.

On November 16, 2017, the Clerk of this Court notified both Watley and US Construction that the appeal may be dismissed unless they demonstrated the

existence of a live controversy between them as to the merits of the appeal. *See Gonzales v. Lopez*, No. 01-04-01241-CV, 2007 WL 2052169, at *1 (Tex. App.—Houston [1st Dist.] July 19, 2007, no pet.) (mem. op.) (dismissing appeal after notice where counsel informed Court parties had settled, but did not file motion to dismiss); *see also Valley Baptist Med.*, 33 S.W.3d at 822 (requiring actual controversy exist between parties to appeal for appellate court to exercise jurisdiction). Neither party has responded to the November 16, 2017 notice or otherwise demonstrated the existence of a live controversy as to the merits of the appeal.

Accordingly, we dismiss the appeal and dismiss all pending motions as moot.

See TEX. R. APP. P. 42.3(a).

PER CURIAM

Panel consists of Justices Jennings, Massengale, and Caughey.