

Opinion issued August 30, 2022



In The
Court of Appeals
For The
First District of Texas

NO. 01-22-00020-CV

NO. 01-22-00023-CV

NO. 01-22-00024-CV

NO. 01-22-00025-CV

IN THE MATTER OF B.E.S., A CHILD

**On Appeal from the County Court at Law
Waller County, Texas
Trial Court Cause Nos. JV21-014, JV21-015, JV21-016, JV21-017**

MEMORANDUM OPINION

Appellee, the State of Texas, filed four juvenile delinquency petitions against appellant, B.E.S., in September 2021, days before B.E.S.'s eighteenth birthday. After B.E.S. turned eighteen, he filed a plea to the jurisdiction in each case, arguing

that the trial court lacked jurisdiction to hear the cases because he had turned eighteen and no adjudication hearing on the delinquency petitions had occurred. The trial court denied the pleas to the jurisdiction. B.E.S. filed notices of appeal in each trial court cause number.¹

On July 27, 2022, after B.E.S. had filed his appellate briefs in these appeals, the State filed in the trial court a motion to non-suit each of the underlying delinquency petitions. *See* TEX. R. CIV. P. 162 (“At any time before the plaintiff has introduced all of his evidence other than rebuttal evidence, the plaintiff may dismiss a case, or take a non-suit, which shall be entered in the minutes.”); *see also* TEX. FAM. CODE § 51.17(a) (providing that, with certain exceptions not applicable here, Texas Rules of Civil Procedure govern juvenile delinquency proceedings); *In re R.J.H.*, 79 S.W.3d 1, 6 (Tex. 2002) (stating same); *In re S.B.C.*, 805 S.W.2d 1, 9 (Tex. App.—Tyler 1991, writ denied) (noting that State may file non-suit of juvenile delinquency petition pursuant to Rule 162). The trial court granted the motions to non-suit and dismissed each delinquency petition. *See Travelers Ins. Co. v. Joachim*, 315 S.W.3d 860, 862 (Tex. 2010) (stating that non-suit extinguishes case or controversy from moment motion is filed or made in open court; non-suit renders

¹ Trial court cause number JV21-014 corresponds to appellate cause number 01-22-00020-CV. Trial court cause number JV21-015 corresponds to appellate cause number 01-22-00023-CV. Trial court cause number JV21-016 corresponds to appellate cause number 01-22-00024-CV. Trial court cause number JV21-017 corresponds to appellate cause number 01-22-00025-CV.

merits of case moot; and trial court lacks discretion to “refuse an order dismissing a case because of a nonsuit”).

Both B.E.S. and the State have filed motions to dismiss these appeals. *See* TEX. R. APP. P. 42.1(a)(1), 42.3(a), 43.2(f); *see also Morath v. Lewis*, 601 S.W.3d 785, 788 (Tex. 2020) (per curiam) (“Because the plaintiff’s non-suit moots his case by extinguish[ing] a case or controversy, the non-suit is not merely the end of the case. It is the end of the Court’s power to decide the case, assuming there are no claims for relief against the non-suiting party.”) (internal quotations omitted); *Klein v. Hernandez*, 315 S.W.3d 1, 3 (Tex. 2010) (“Appellate courts are prohibited from deciding moot controversies because the separation-of-powers article prohibits advisory opinions on abstract questions of law.”). No opinion has issued. *See* TEX. R. APP. P. 42.1(c).

Accordingly, we grant both B.E.S.’s motion and the State’s motion and dismiss these appeals. *See* TEX. R. APP. P. 42.1(a)(1), 42.3(a), 43.2(f). We dismiss all other pending motions as moot.

PER CURIAM

Panel consists of Justices Goodman, Countiss, and Farris.