

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-22-00349-CV

LEE PEVOTEAUX, Appellant

V.

THE PINES ON LAKE CONROE RV PARK, Appellee

On Appeal from the County Court at Law No. 6
Montgomery County, Texas
Trial Cause No. 22-32885

MEMORANDUM OPINION

Lee Pevoteaux filed a notice of appeal from a judgment granting a writ of possession in a forcible detainer action. Pevoteaux did not supersede the judgment. The appellee informed the Court that Pevoteaux moved out of the RV Park and removed his recreational vehicle from the premises. The clerk's record includes an executed and returned writ of possession. On January 31, 2023, the Clerk of the Court notified the parties that we received a suggestion of mootness and that we

would dismiss the case as moot unless we received a meritorious objection within ten days. None of the parties responded to the Clerk’s notice.

“The only issue in a forcible detainer action is the right to actual possession of the premises.” *Marshall v. Hous. Auth. of City of San Antonio*, 198 S.W.3d 782, 785 (Tex. 2006). An appeal from a forcible detainer judgment becomes moot if the defendant is no longer in possession of the property, unless he holds and asserts a potentially meritorious claim of right to current, actual possession. *Id.* at 787. Although he was provided with an opportunity to identify a justiciable controversy in response to the suggestion of mootness, Pevoteaux failed to respond to the Clerk’s notice. An appellate court may dismiss the appeal when the appellant has failed to comply with a notice from the clerk requiring a response within a specified time. *See* Tex. R. App. P. 42.2(c). Accordingly, we dismiss the appeal as moot.

DISMISSED.

PER CURIAM

Submitted on March 8, 2023
Opinion Delivered March 9, 2023

Before Golemon, C.J., Horton and Johnson, JJ.