

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-11-00461-CV

Zackery Phillips, Appellant

v.

Branch Banking and Trust Company, Appellee

**FROM THE COUNTY COURT AT LAW NO. 4 OF WILLIAMSON COUNTY
NO. 10-1637-CC4, HONORABLE JOHN MCMASTER, JUDGE PRESIDING**

MEMORANDUM OPINION

In this forcible-detainer action, appellee Branch Banking and Trust Company has filed a motion to dismiss the appeal as moot. Branch Banking and Trust Company states that appellant Zackery Phillips failed to supersede the judgment, a writ of possession was issued, Phillips voluntarily vacated the subject property, and Branch Banking and Trust Company has had possession of the property since March 2, 2012. *See* Tex. Prop. Code Ann. § 24.007 (West Supp. 2012).

Branch Banking and Trust Company also certifies that the motion to dismiss is unopposed. *See Marshall v. Housing Auth. of City of San Antonio*, 198 S.W.3d 782, 787 (Tex. 2006) (appeal from forcible-detainer judgment when the defendant is no longer in possession of the premises is moot unless the defendant asserts a “potentially meritorious claim of right to current,

actual possession”); *Wilhelm v. Fannie Mae*, 349 S.W.3d 766, 768 (Tex. App.—Houston [14th Dist.] 2011, no pet.) (same). Accordingly, we grant the motion and dismiss the appeal as moot.¹

Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Rose and Goodwin

Dismissed as Moot

Filed: September 20, 2012

¹ Also pending before this Court is appellee’s motion for extension of time to file response brief. We also dismiss this motion as moot.