



NUMBER 13-19-00218-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE REBA ANN JOHNSON AND D.L. JOHNSON

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Contreras and Justices Longoria, and Perkes
Memorandum Opinion by Justice Longoria¹**

Relators Reba Ann Johnson and D.L. Johnson filed a petition for writ of mandamus in the above cause contending that the trial court abused its discretion by allowing discovery to proceed prior to the resolution of a pending motion to dismiss filed under the Texas Citizens Participation Act. See TEX. CIV. PRAC. & REM. CODE ANN. § 27.003(c) (West, Westlaw through Ch. 9, 2019 R.S.). Relators and the real party in interest,

¹ See TEX. R. APP. P. 52.8(d) (“When denying relief, the court may hand down an opinion but is not required to do so. When granting relief, the court must hand down an opinion as in any other case.”); see *also id.* R. 47.4 (distinguishing opinions and memorandum opinions).

Highway Barricades and Services, LLC, have now filed an agreed motion to dismiss this original proceeding on grounds that they have reached an agreement regarding the issue presented here. The parties request that we lift the stay previously imposed in this case and dismiss the petition for writ of mandamus.

The Court, having examined and fully considered the petition for writ of mandamus and the agreed motion to dismiss, is of the opinion that this matter has been rendered moot. See *City of Krum, Tex. v. Rice*, 543 S.W.3d 747, 749 (Tex. 2017) (per curiam) (stating that a case is moot when either no live controversy exists between the parties or the parties have no legally cognizable interest in the outcome); *Heckman v. Williamson Cty.*, 369 S.W.3d 137, 162 (Tex. 2012) (“Put simply, a case is moot when the court’s action on the merits cannot affect the parties’ rights or interests.”); *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (orig. proceeding) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings, including the appeal.”). Accordingly, we LIFT the stay previously imposed in this case, GRANT the agreed motion to dismiss, and DISMISS the petition for writ of mandamus as moot. See TEX. R. APP. P. 52.8(a), 52.10(b) (“Unless vacated or modified, an order granting temporary relief is effective until the case is finally decided.”).

NORA L. LONGORIA
Justice

Delivered and filed the
9th day of May, 2019.