



NUMBER 13-18-00330-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

CITY OF EDINBURG,

Appellant,

v.

HOMER JASSO JR.,

Appellee.

**On appeal from the 332nd District Court
of Hidalgo County, Texas.**

MEMORANDUM OPINION

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

I. BACKGROUND

The City of Edinburg appeals from an order setting aside an action taken by the City to remove then-Councilmember Homer Jasso Jr., for allegedly violating a provision in the city charter. The City has filed an amended motion to dismiss its own appeal for

mootness, informing us that during the pendency of this appeal, Jasso did not seek reelection and his position has been filled by another person. Jasso is unopposed to the City's motion.

II. APPLICABLE LAW

The mootness doctrine preserves the separation of powers between our judicial and executive branches by ensuring that courts do not render advisory opinions, a power vested exclusively in the executive branch by the Texas Constitution. Tex. Const. art. 11, § 1; *Matthews v. Kountze Indep. Sch. Dist.*, 484 S.W.3d 416, 418 (Tex. 2016) (citing *Valley Baptist Med. Ctr. v. Gonzalez*, 33 S.W.3d 821, 822 (Tex. 2000) (per curiam)). Mootness arises when an event during the pendency of the case makes it impossible for the court to grant the relief requested. *State ex rel. Best v. Harper*, 562 S.W.3d 1, 6 (Tex. 2018). "Put simply, a case is moot when the court's action on the merits cannot affect the parties' rights or interest." *Heckman v. Williamson County*, 369 S.W.3d 137, 162 (citing *VE Corp. v. Ernst & Young*, 860 S.W.2d 83, 84 (Tex. 1993) (per curiam)). When a case becomes moot during the pendency of an appeal, the appellate court no longer has subject matter jurisdiction and should dismiss the appeal. *Harper*, 562 S.W.3d at 6.

"Each court of appeals may, on affidavit or otherwise, as the court may determine, ascertain the matters of fact that are necessary to the proper exercise of its jurisdiction." TEX. GOV'T CODE ANN. § 22.220(c). An appellate court may take judicial notice of certain facts outside the appellate record, *Office of Pub. Util. Counsel v. Public Util. Comm'n*, 878 S.W.2d 598, 600 (Tex. 1994), including the results of public elections. See TEX. R. EVID. 201(b); see also *Corpus Christi Hous. Auth. v. Esquivel*, No. 13-10-00145-CV, 2011 WL

2395461, at *2 (Tex. App.—Corpus Christi—Edinburg June 9, 2011, no pet.).

III. ANALYSIS

We take judicial notice that Jasso is no longer a member of the Edinburg City Council. See *Mayor & City Council Members*, CITY OF EDINBURG, TEXAS, https://cityofedinburg.com/government/mayor_and_city_council/mayor_and_city_council_members.php (last visited January 6, 2020); TEX. R. EVID. 201(b); see also *Esquivel*, 2011 WL 2395461, at *2. Therefore, without a live controversy, this appeal concerning his removal has become moot. See *Harper*, 562 S.W.3d at 6.

IV. CONCLUSION

We grant the City's amended motion and dismiss this appeal for want of jurisdiction. See TEX. R. APP. P. 43.2(f); *Tex. A & M Univ.-Kingsville v. Yarbrough*, 347 S.W.3d 289, 291(Tex. 2011). Because the motion is unopposed, no motion for rehearing will be entertained, and our mandate will issue forthwith.

GREGORY T. PERKES
Justice

Delivered and filed the 9th
day of January, 2020.