

NO. 12-22-00248-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

*MCBRIDE OPERATING, LLC,*  
*APPELLANT*

§ *APPEAL FROM THE 273RD*

*V.*

§ *JUDICIAL DISTRICT COURT*

*TERRY ALLEN, JAN ALLEN AND*  
*CYPRESS CREEK MEATS, LLC,*  
*APPELLEES*

§ *SHELBY COUNTY, TEXAS*

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**MEMORANDUM OPINION**

McBride Operating, LLC appeals the denial of its Rule 91a motion to dismiss and to dissolve a temporary injunction. McBride also filed a petition for writ of mandamus regarding the same trial court order and issues that are the subject of this interlocutory appeal. The Court issued its opinion conditionally granting the mandamus on December 7, 2022. *See In re McBride Operating, LLC*, No. 12-22-00279-CV, 2022 WL 17828401, at \*9 (Tex. App.—Tyler Dec. 7, 2022, orig. proceeding) (mem. op.). In response to our mandamus opinion, the trial court vacated its order denying the Rule 91a motion to dismiss and issued an order granting the motion, dissolving the temporary injunction, and dismissing the case. As a result, the issues raised in this interlocutory appeal are moot. *See Matthews v. Kountze Ind. Sch. Dist.*, 484 S.W.3d 416, 418 (Tex. 2016) (defining mootness as a case in which a justiciable controversy exists between the parties at the time the case arose, but the live controversy ceases because of subsequent events); *Reule v. RLZ Inv.*, 411 S.W.3d 31, 32 (Tex. App.—Houston [14th Dist] 2013, no pet.) (case becomes moot when issues presented are no longer “live” or parties lack cognizable interest in the outcome). Accordingly, on the Court’s own motion, we *dismiss* this interlocutory appeal *as moot*. *See In re Smith County*, 521 S.W.3d 447, 454 (Tex. App.—Tyler 2017, orig. proceeding) (court has duty to dismiss case as moot); *Sonic-Carrollton V, L.P. v.*

*Millenium Jaguar of Tex., Inc.*, No. 05-07-00567-CV, 2007 WL 2703139, at \*1 (Tex. App.—  
Dallas Sept. 18, 2007, no pet.) (mem. op.).

**GREG NEELEY**  
Justice

Opinion delivered December 22, 2022.  
*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*



## COURT OF APPEALS

### TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

#### JUDGMENT

DECEMBER 22, 2022

NO. 12-22-00248-CV

**MCBRIDE OPERATING, LLC,**

Appellant

V.

**TERRY ALLEN, JAN ALLEN AND CYPRESS CREEK MEATS, LLC,**

Appellees

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Appeal from the 273rd District Court  
of Shelby County, Texas (Tr.Ct.No. 21-CV-35791)

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THIS CAUSE came to be heard on the appellate record and briefs filed herein; and the same being considered, it is the opinion of this Court that this appeal should be dismissed.

It is therefore ORDERED, ADJUDGED and DECREED by this Court that this appeal be, and the same is, hereby **dismissed as moot**; and that this decision be certified to the court below for observance.

Greg Neeley, Justice.

*Panel consisted of Worthen, C.J., Hoyle, J., and Neeley, J.*

# THE STATE OF TEXAS M A N D A T E

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**TO THE 273RD DISTRICT COURT OF SHELBY COUNTY, GREETING:**

Before our Court of Appeals for the 12th Court of Appeals District of Texas, on the 21st day of December, 2022, the cause upon appeal to revise or reverse your judgment between

**MCBRIDE OPERATING, LLC, Appellant**

**NO. 12-22-00248-CV; Trial Court No. 21-CV-35791**

Opinion by Greg Neeley, Justice.

**TERRY ALLEN, JAN ALLEN AND CYPRESS CREEK MEATS, LLC, Appellee**

was determined; and therein our said Court made its order in these words:

“Text goes here.”

**WHEREAS, WE COMMAND YOU** to observe the order of our said Court of Appeals for the Twelfth Court of Appeals District of Texas in this behalf, and in all things have it duly recognized, obeyed, and executed.

**WITNESS, THE HONORABLE JAMES T. WORTHEN**, Chief Justice of our Court of Appeals for the Twelfth Court of Appeals District, with the Seal thereof affixed, at the City of Tyler, this the xx day of December, 2022.



By: Katrina McClenney  
KATRINA MCCLENNY, CLERK