DISMISS and Opinion Filed July 15, 2020

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-20-00502-CV

S&B HOT MESS ENTERPRISES, LLC D/B/A SALON A LA MODE AND SHELLEY LUTHER, Appellants
V.
CITY OF DALLAS, Appellee

On Appeal from the 14th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-20-06131

MEMORANDUM OPINION

Before Justices Bridges, Pedersen, III, and Evans
Opinion by Justice Pedersen, III

The Court questioned its jurisdiction over this appeal from the trial court's order granting appellee's motion for a temporary restraining order. We instructed the parties to file letter briefs. The parties complied.

Appellee filed a lawsuit against appellants and sought a temporary restraining order and a temporary injunction enjoining appellants from providing in-person cosmetology services in violation of state and local orders promulgated in response to the Covid-19 pandemic. The trial court signed a temporary restraining order (TRO) on April 28, 2020 and appellants filed a notice of appeal the same day. The

TRO stated that it expired on May 12th and set the hearing on the application for a temporary injunction for May 11th. Before the TRO expired on its own terms, the governor signed an executive order allowing cosmetology salons to reopen effective May 8th. As a result of this order, appellee canceled the hearing on its application for a temporary injunction.

Generally, we have jurisdiction over final orders that dispose of all parties and claims and such interlocutory orders deemed appealable by statute. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); *see also* TEX. R. APP. P. 28.1(a). While an interlocutory appeal from an order granting or denying a temporary injunction is authorized by statute, no statutory provision appears to authorize an appeal from the grant or denial of a TRO. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(4); *Nikolouzos v. St. Luke's Episcopal Hosp.*, 162 S.W.3d 678, 680-81 (Tex. App.—Houston [14th Dist.] 2005, no pet.).

Moreover, appellate courts are prohibited from deciding moot controversies. *See Camarena v. Texas Employment Comm'n*, 754 S.W.2d 149, 151 (Tex. 1988). Temporary restraining orders and temporary injunctions become moot when they become inoperative because they have expired. *See Wolf v. Starr*, 456 S.W.3d 307, 309 (Tex. App.—El Paso 2015, no pet.) (appeal of temporary injunction rendered moot once it expired); *Arvol D. Hays Constr. Co. v. R & M Agency Corp.*, 471 S.W.2d 628, 629 (Tex. Civ. App.—Fort Worth 1971, writ ref'd n.r.e.) (temporary restraining order rendered moot once it expired).

In their letter brief, appellants assert this Court has jurisdiction over this appeal because the TRO was effectively a temporary injunction because it granted appellee all the relief it sought. *See In re Tex. Natural Res. Conservation Comm'n*, 85 S.W.3d 201, 205 (Tex. 2002) (whether order is non-appealable temporary restraining order or appealable temporary injunction depends on the order's characteristics and function, not its title). Even assuming the TRO could be classified as a temporary injunction, the order has expired by its own terms. As such, the order is moot and this Court lacks jurisdiction to review it. *See Wolf*, 456 S.W.3d at 309; *Arvol D. Hays Constr. Co.*, 471 S.W.2d at 629. Accordingly, we dismiss this appeal as moot. *See* TEX. R. APP. P. 42.3(a).

/Bill Pedersen, III//
BILL PEDERSEN, III
JUSTICE

200502f.p05

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

S&B HOT MESS ENTERPRISES, LLC AND SHELLEY LUTHER, Appellants

No. 05-20-00502-CV V.

CITY OF DALLAS, Appellee

On Appeal from the 14th Judicial District Court, Dallas County, Texas Trial Court Cause No. DC-20-06131. Opinion delivered by Justice Pedersen, III. Justices Bridges and Evans participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee CITY OF DALLAS recover its costs of this appeal from appellants S&B HOT MESS ENTERPRISES, LLC AND SHELLEY LUTHER.

Judgment entered this 15th day of July, 2020.