

Dismissed and Opinion filed November 2, 2000.



In The

Fourteenth Court of Appeals

NO. 14-99-00487-CV

**ONE 1996 CHEVROLET SUBURBAN VIN #1GNEC16R7TJ301864 and ONE
RESIDENCE AND CURTILAGE AT 2230 GAULT ROAD, HOUSTON, TEXAS [ANN
CHRISTINE MILLER], Appellant**

V.

THE STATE OF TEXAS, Appellee

**On Appeal from the 180th District Court
Harris County, Texas
Trial Court Cause No. 807,813**

OPINION

This is an appeal from a judgment of forfeiture on one 1996 Chevrolet Suburban VIN #1GNEC16R7TJ301864 and property located at 2230 Gault Road, Houston, Texas, signed May 4, 1999. On May 17, 2000, appellant, Ann Christine Miller, through her trial counsel, W. Stacey Mooring, filed a motion to dismiss the appeal. *See* TEX. R. APP. P. 42.1. On May 25, 2000, the Court granted the motion and dismissed the appeal.

On June 8, 2000, appellant, through her appellate counsel, R. Scott Shearer and Jerome Godinich, Jr., filed a Motion to Reinstate the Appeal, Motion to Recall the Mandate, and Motion for Rehearing. In

the motion, which is supported by an affidavit signed by appellant, appellant asserts that she did not intend to dismiss her appeal, and that if she signed any documents purporting to consent to the dismissal of the appeal, her signature was obtained under false pretenses.

On June 12, 2000, the State filed a response to appellant's motion suggesting that the appeal has been rendered moot. Attached to the motion is a copy of an agreed final judgment in Cause No. 1999-09605, styled *Burgess Specialty Fabricating, Inc. v. Ann Christine Miller*, in the 125th District Court of Harris County. Also attached to the State's response is a copy of a General Warranty Deed purporting to convey the real property at issue in this appeal to Burgess Specialty Fabricating, Inc.

We granted appellant's motion to reinstate the appeal and ordered the trial court to conduct a hearing and make findings concerning disputed fact issues raised by the parties. The trial court conducted the hearing ordered by this Court on October 9-10, 2000, and a record of that hearing was filed in this Court on October 13, 2000. The trial court's findings were made part of a supplemental clerk's record and filed with this Court on October 17, 2000.

After hearing testimony and receiving evidence in the form of certified copies of the agreed judgment, warranty deed, and other documents relating to the subject property, the trial court made findings of fact, including the following:

Appellant was convicted of theft in cause number 806,154 in the 180th District Court on March 22, 2000.

Appellant signed an agreed judgment dated May 16, 2000, in Cause No. 1999-09605, styled *Burgess Specialty Fabricating, Inc. v. Ann Christine Miller*, in the 125th District Court of Harris County, Texas.

Appellant signed, as grantor, a general warranty deed dated April 1, 2000, conveying the property located at 2230 Gault Road, Houston, Harris County, Texas, to Burgess Specialty Fabricating, Inc.

Appellant signed a document conveying title to one 1996 Chevrolet Suburban VIN #1GNEC16R7TJ301864 to Burgess Specialty Fabricating, Inc.

Appellant was not under the influence of any intoxicating medications at the time she signed the documents and she was not pressured into signing the documents.

Appellant was not induced to sign these documents by a promise of receiving probation in her theft case.

Appellant signed the agreed final judgment in cause number 1999-09605 and the general warranty deed for the property located at 2230 Gault Road, Houston, Harris County, Texas, freely and voluntarily.

We conclude that the record supports the trial court's findings. Therefore, the appeal has been rendered moot by appellant's voluntary transfer of her ownership interest in, and title to, the property that is the subject of this appeal. *See FDIC v. Nueces County*, 886 S.W.2d 766, 767 (Tex. 1994) (court is limited by mootness doctrine to deciding cases in which an actual controversy exists). When a cause becomes moot, an appellate court must dismiss the cause, not merely the appeal. *See Speer v. Presbyterian Children's Home and Serv. Agency*, 847 S.W.2d 227, 229-30 (Tex. 1993); *City of Garland v. Louton*, 691 S.W.2d 603, 605 (Tex. 1985). Accordingly, we dismiss the cause as moot.

/s/ Don Wittig
Justice

Judgment rendered and Opinion filed November 2, 2000.

Panel consists of Chief Justice Murphy, Justices Hudson and Wittig.

Do Not Publish — TEX. R. APP. P. 47.3(b).