

Dismissed and Opinion filed December 2, 1999.



In The

Fourteenth Court of Appeals

NO. 14-99-00929-CV

BERNARDO EURESTE, Appellant

V.

TEXAS WORKERS' COMPENSATION INSURANCE FUND, Appellee

**On Appeal from the 280th District Court
Harris County, Texas
Trial Court Cause No. 98-53086**

OPINION

This is an attempted appeal from an order denying a motion to dismiss for lack of jurisdiction, signed May 14, 1999. On June 25, 1999, the trial court signed an order granting appellee's motion for nonsuit. Appellant's notice of appeal was filed on August 11, 1999.

Appellee has filed a motion to dismiss the appeal for mootness. Appellant has not filed a response to this motion. The mootness doctrine limits courts to deciding cases in which an actual controversy exists. *See F.D.I.C. v. Nueces County*, 886 S.W.2d 766, 767 (Tex. 1994).

To be final and appealable, an order or judgment must dispose of all parties and all issues before

the court. *See Mafgrige v. Ross*, 866 S.W.2d 590, 591 (Tex. 1993). The May 14, 1999, order denying the motion to dismiss does not dispose of any parties or issues and is not a final, appealable order.

Furthermore, Rule 162 allows a trial court to grant a nonsuit as long as the dismissal of the suit does not prejudice the right of the adverse party to be heard on a pending claim for affirmative relief. *See* TEX. R. CIV. P. 162. Appellant had no pending claim for relief at the time the trial court entered the order granting nonsuit. Because the order granting appellee's motion for nonsuit dismissed all claims, there is no actual controversy and we hold that the appeal is moot.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed December 2, 1999.

Panel consists of Justices Yates, Fowler, and Frost.

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