

Dismiss Writ and Opinion Filed November 21, 2013



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-13-01348-CV

**IN RE SOUTHERN FOODS GROUP, LLC AND DEAN TRANSPORTATION, INC.,
Relators**

**On Original Proceeding from the County Court at Law No. 3
Dallas County, Texas
Trial Court Cause No. CC-12-07015-C**

MEMORANDUM OPINION

Before Justices Bridges, Francis, and Lang
Opinion by Justice Bridges

On October 31, 2013, we issued an opinion conditionally granting a writ of mandamus in this case. On October 3, 2013, we stayed the complained-of temporary restraining order before it expired by its own terms. Thereafter, the trial court orally denied real party in interest's request for a temporary injunction. However, no written order was entered and neither party notified the Court of the trial court's ruling.

A TRO's expiration usually renders its challenge moot. *In re Cornyn*, 27 S.W.3d 327, 331 n.11 (Tex. App.—Houston [1st Dist.] 2000, orig. proceeding). However, we have jurisdiction to review a challenged act that is of such short duration that review cannot be obtained before the issue becomes moot. *Id.* In such a case, there must be a reasonable expectation that the same complaining party would be subjected to the same action again. *Id.*

Here, the trial court, after issuing its first TRO, extended it by issuing a second TRO. Thus, it appeared there was a reasonable expectation that the same complaining party would be subjected to the same action again. However, because the trial court has orally denied the request for a temporary injunction, and the second TRO has expired without further extension, we conclude the issues relating to the TRO are moot. *See Hermann Hosp. v. Tran*, 730 S.W.2d 56, 57 (Tex. App.—Houston [14th Dist.] 1987, orig. proceeding). Therefore, on the Court’s own motion, we withdraw our opinion and vacate our order of October 31, 2013. We deny real party’s November 15, 2013 motion to reconsider and to vacate.

We dismiss as moot relator’s petition for writ of mandamus.

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/David L. Bridges/

DAVID L. BRIDGES
JUSTICE