

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 93-1010  
Summary Calendar

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GOSPEL LIGHTHOUSE CHURCH, INC.,  
Plaintiff-Appellant,

VERSUS

CITY OF DALLAS,  
Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
(3:91 CV 0698 P)

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(August 6, 1993)

Before WISDOM, KING, and GARWOOD, Circuit Judges.

PER CURIAM.\*

I.

This case concerns whether a church school's claim that a zoning ordinance was unconstitutional was properly dismissed on the basis of mootness. We hold that in the particular circumstances of this case the district court did not abuse its discretion in

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\* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

finding that the mootness of the claim bars this suit. We therefore AFFIRM the judgment of the district court.

## II.

The plaintiff/appellant, Gospel Lighthouse Church, Inc. (Gospel) operates a private church school within a residential district of the city of Dallas. This district was zoned so that Gospel was required to obtain a Special Use Permit ("SUP") for the operation of its school on the property. On April 9, 1991, Gospel filed suit against the City of Dallas (City), alleging that the zoning ordinance violated the equal protection clause of the United States Constitution, and requested declaratory and injunctive relief.<sup>1</sup> On June 10, 1992, however, the City passed an ordinance, changing the zoning of the land in question from residential to agricultural. Agricultural zoning does not require Gospel to obtain a SUP for the operation of its church school.

On September 11, 1992, Gospel moved to join Montessori Village School, Inc., as a party plaintiff and to file its First Amended Original Complaint which added claims by Gospel of actual and nominal damages. The City moved on September 25, 1992, to dismiss Gospel's claims based on mootness because of the zoning change. On December 7, 1992, the court denied Gospel's motion to join additional parties and to permit an amended complaint. The court granted the City's motion to dismiss on the basis of mootness. This appeal followed.

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<sup>1</sup> The City never tried to enforce the zoning ordinance requiring Gospel to obtain a SUP for the operation of a church school.

### III.

A case is moot when the issues presented are no longer "live" or the parties lack a personal stake in the outcome.<sup>2</sup> "The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence. . . ."<sup>3</sup> Moreover, the mootness doctrine requires that the controversy posed by the plaintiff's complaint be "live" not only at the time the plaintiff files the complaint but also throughout the litigation process.<sup>4</sup>

All of Gospel's claims are based on the assumption that it was required to obtain a SUP for the church school. Because the City changed the zoning ordinance, eliminating Gospel's need to obtain a SUP to operate its school, no controversy remains between the parties. The personal stake requirement of the mootness doctrine serves an important purpose by assuring that federal courts are presented with disputes they are capable of resolving. Gospel lost its personal stake in the outcome when the zoning change resolved its dispute. Thus, the resolution of Gospel's controversy by the zoning change renders this case moot and further litigation unnecessary.

Because the controversy has been resolved and the plaintiff/appellant's claims are therefore moot, federal subject

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<sup>2</sup> United States Parole Comm'n v. Geraghty, 445 U.S. 388 (1980); see also Powell v. McCormack, 395 U.S. 486, 496 (1969); Murphy v. Hunt, 455 U.S. 478, 481 (1982).

<sup>3</sup> Geraghty at 397.

<sup>4</sup> Rocky v. King, 900 F.2d 864, 866 (5th Cir. 1990).

matter jurisdiction no longer exists. Article III of the United States Constitution limits federal courts' jurisdiction to cases or controversies.<sup>5</sup> This requirement demands that a cause of action before a federal court present a controversy, and no controversy is typically presented "when the question sought to be adjudicated has been mooted by subsequent developments. . . ." <sup>6</sup> Although jurisdiction may have been proper when the case was filed, jurisdiction may cease to exist if: (1) conditions or events change so as to eradicate the effects of the alleged violations, and (2) there is no reasonable expectation that the alleged violation will recur.<sup>7</sup> In this case, both of these conditions have been met.

As discussed above, the City has amended the zoning ordinance. There is also no reasonable expectation that the zoning on the property will change so as to require a SUP for the operation of the church school. There is no evidence that the City had ever attempted to enforce the ordinance against Gospel. At Gospel's request, the City willingly changed the ordinance. Thus, this is not a case in which the plaintiff would likely be subjected to the same treatment again.<sup>8</sup>

#### IV.

Because Gospel's claims are moot, there is no case or

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<sup>5</sup> Sannon v. United States, 631 F.2d 1247, 1250 (5th Cir. 1990).

<sup>6</sup> Id.

<sup>7</sup> County of Los Angeles v. Davis, 440 U.S. 625, 631 (1979).

<sup>8</sup> See Pembroke v. Wood County, 981 F.2d 225, 228 (5th Cir. 1993).

controversy. We AFFIRM the district court's judgment, dismissing this case for lack of jurisdiction.