

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE

**ROBERT GLEN COE v. DON SUNDQUIST, ET AL.**

**Circuit Court for Davidson County  
No. 00C-1089**

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**No. M2000-00898-COA-R9-CV**

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**ORDER**

This cause came to be heard upon the application for an interlocutory appeal pursuant to Tenn. R. App. P. 9 filed by Don Sundquist, Donal Campbell, Ricky Bell, Virginia Lewis, and John Doe 1-100 (“State”) seeking review of an order entered by the Sixth Circuit Court for Davidson County on April 18, 2000 enjoining and restraining them from carrying out the execution of Robert Glen Coe scheduled for April 19, 2000 by order of the Tennessee Supreme Court. Mr. Coe has filed a memorandum of law in opposition to the application and has requested oral argument.

In addition to the Tenn. R. App. P. 9 application filed in this court, the State also filed an application for an interlocutory appeal on the same grounds with the Tennessee Supreme Court along with a motion to assume jurisdiction in accordance with Tenn. Code Ann. § 16-3-201(d) (1994) or in the alternative to vacate the trial court’s order staying Mr. Coe’s execution. While this court was deliberating concerning the State’s Tenn. R. App. P. 9 application, the Tennessee Supreme Court entered an order granting the State’s motion to vacate the stay and denying the State’s motion to assume jurisdiction over the Tenn. R. App. P. 9 application pending in this court. Acting pursuant to the Tennessee Supreme Court’s April 11, 2000 order, the State executed Mr. Coe by lethal injection, and he was pronounced dead at 1:37 A.M. on April 19, 2000.

Courts do not render advisory opinions when the legal questions before them do not involve genuine and existing controversies requiring the adjudication of present rights. *See State ex rel. Lewis v. State*, 208 Tenn. 534, 537, 347 S.W.2d 47, 48 (1961). A case that no longer serves as a means to provide relief to the prevailing party is moot because it has lost its character as a present controversy. *See McIntyre v. Traughber*, 884 S.W.2d 134, 137 (Tenn. Ct. App. 1994). Thus, a suit brought to enjoin a particular act becomes moot once the act sought to be enjoined takes place. *See Badgett v. Broome*, 219 Tenn. 264, 268, 409 S.W.2d 354, 356 (1966); *Malone v. Peay*, 157 Tenn. 429, 433, 7 S.W.2d 40, 41 (1928). Cases must remain justiciable throughout the entire course of their litigation, *see McIntyre v. Traughber*, 884 S.W.2d at 137, and when a case becomes moot on appeal, the ordinary practice is to vacate the judgment and remand the case to the trial court with directions that it be dismissed. *See Ford Consumer Fin. Co. v. Clay*, 984 S.W.2d 615, 616 (Tenn. Ct. App. 1998).

The Tennessee Supreme Court has already vacated the trial court's restraining order, and Mr. Coe has been executed. Thus, the case for which Tenn. R. App. P. 9 relief has been sought is moot because it no longer provides a means to provide relief to him even if his legal arguments were to prevail. Accordingly, no oral argument being necessary, this court grants the State's Tenn. R. App. P. 9 application and remands the case to the trial court with directions that it be dismissed. The costs of this interlocutory appeal are taxed against the State of Tennessee.

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BEN H. CANTRELL, PRESIDING JUDGE, M.S.

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WILLIAM C. KOCH, JR., JUDGE

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PATRICIA J. COTTRELL, JUDGE