

Winston BRYANT, Attorney General v.
ARKANSAS PUBLIC SERVICE COMMISSION

CA 93-210

870 S.W.2d 775

Court of Appeals of Arkansas
Opinion delivered February 23, 1994

1. COURTS — DUTY OF THE COURT TO DECIDE ACTUAL CONTROVERSIES — WHEN AN ISSUE IS MOOT. — It is the duty of the court to decide actual controversies by a judgment which can be carried into effect and not give opinions upon abstract propositions or declare principles of law which cannot affect the matter in issue; an issue is moot when it has no legal effect on an existing controversy; it is one in which a decision of the court on appeal could not afford the appellant any relief.
2. APPEAL & ERROR — APPELLANT'S OWN PLEADINGS MADE THE ISSUE MOOT — APPELLANT BOUND BY HIS PLEADINGS. — Where, in earlier pleadings filed in the appeal, the appellant stated that his appeal would be moot at the end of the trial period and the trial period had ended, the appellant was bound by his own pleadings and could not maintain a position inconsistent therewith.
3. APPEAL & ERROR — ISSUE MOOT — APPEAL DISMISSED. — Where the one-year trial period for caller-ID service had expired, and therefore, any rulings by the court would have no effect, the joint motion of the appellees was granted, and the appeal dismissed.

Appeal from the Arkansas Public Service Commission; dismissed.

Winston Bryant, Att'y Gen., by: *Suzanne Autley*, Asst. Att'y Gen., for appellant.

George Vena, for appellee PSC.

Gary Wann, for appellee Southwestern Bell.

PER CURIAM. The Arkansas Public Service Commission (Commission) and Southwestern Bell Telephone Company (Southwestern Bell) filed a joint motion with this court to dismiss the Attorney General's appeal of Order No. 4 of the Arkansas Public Service Commission. In Order No. 4, the Commission held that it was in the public interest to allow Southwestern Bell to offer Caller-ID service in the Arkadelphia and West Memphis

areas for a one-year trial period. The Commission also ordered Southwestern Bell to take affirmative action prior to the expiration of the trial period to either continue or discontinue the Caller-ID service. The Attorney General appealed from this order, contending the Commission's establishment of a one-year trial period for Caller-ID service was not supported by substantial evidence. Subsequent to the filing of the Attorney General's appeal, the Commission by an order in another docket approved permanent Caller-ID service, and the one-year trial period expired. As a result of these occurrences, the Commission and Southwestern Bell have moved to dismiss the Attorney General's appeal of Order No. 4, contending that his appeal is now moot. We agree.

[1] The only action the Commission took in Order No. 4 was to establish a one-year trial period for Caller-ID service. That trial period has now expired, and therefore, any rulings this Court might make in regard to Order No. 4 would have no effect. It is the duty of the court to decide actual controversies by a judgment which can be carried into effect and not give opinions upon abstract propositions or declare principles of law which cannot affect the matter in issue. *Netherton v. Baldor Electric Co.*, 232 Ark. 940, 942, 341 S.W.2d 57 (1960). An issue is moot when it has no legal effect on an existing controversy; *Killam v. Texas Oil and Gas Corp.*, 303 Ark. 547, 556-57, 798 S.W.2d 419 (1990); it is one in which a decision of the court on appeal could not afford the appellant any relief. *Dotson v. Ritchie*, 211 Ark. 789, 795, 202 S.W.2d 603 (1947).

[2] We also note that, in earlier pleadings filed in this appeal, the Attorney General stated that his appeal would be moot at the end of the trial period. A party litigant is bound by his own pleadings and cannot maintain a position inconsistent therewith. *International Harvester Co. v. Burks Motor, Inc.*, 252 Ark. 816, 821, 481 S.W.2d 351 (1972).

[3] Accordingly, the joint motion of the Commission and Southwestern Bell is granted, and the appeal of the Attorney General is dismissed.