

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALEXIS TEMPLETON, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:14-CV-2019 (CEJ)
)	
SAM DOTSON, CHIEF OF POLICE,)	
CITY OF ST. LOUIS, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the motion of defendant Sam Dotson to dismiss for lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. 12(h)(3) and the motion of defendant Jon Belmar to vacate the temporary restraining order entered on December 11, 2014 and further proceedings in this case for mootness. Plaintiffs have responded in opposition.

Rule 12(h)(3) of the Federal Rules of Civil Procedure requires a court to dismiss an action at any time the court determines it lacks subject-matter jurisdiction. Defendants Sam Dotson and Jon Belmar argue that they and defendant Ronald Johnson were sued in their capacities as directors of the Unified Command, an entity established by the governor on November 17, 2014 in an executive order declaring a state of emergency in Missouri in response to protests stemming from the death of Michael Brown. Exec. Order 14-14 [Doc. #19-1]. Because Executive Order 14-14 expired on December 17, 2014 and was not extended by the governor, defendants argue that plaintiffs' claims are moot and should be dismissed.

A federal court lacks jurisdiction to hear a case “when it no longer presents an actual, ongoing case or controversy.” Hempstead Cnty. Hunting Club, Inc. v. Sw. Elec. Power Co., 558 F.3d 763, 767 (8th Cir. 2009) (quoting Neighborhood Transp. Network, Inc. v. Pena, 42 F.3d 1169, 1172 (8th Cir. 1994)). “In general, a pending claim for injunctive relief becomes moot when the challenged conduct ceases and there is no reasonable expectation that the wrong will be repeated.” Beaulieu v. Ludeman, 690 F.3d 1017, 1024 (8th Cir. 2012) (quoting Roubideaux v. N.D. Dep’t of Corr. & Rehab., 570 F.3d 966, 976 (8th Cir. 2009)). Subsequent events must make it “absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.” Strutton v. Meade, 668 F.3d 549, 556 (8th Cir. 2012) (quoting Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 189 (2000)). The party asserting mootness bears the burden of showing that the challenged conduct is unlikely to recur. Id.


Defendants have not met their burden to establish mootness. The allegations in the complaint are brought against Sam Dotson, Jon Belmar, and Ronald Johnson in their official capacities as chief of police for the City of St. Louis, chief of police of the County of St. Louis, and as an official of the Missouri Highway Patrol, respectively, in addition to their appointment as directors of the Unified Command. Compl. ¶ 7 [Doc. #1]. Each defendant continues to oversee law enforcement operations in the organizations they represent, including policing demonstrations and the use of chemical munitions. The dissolution of the Unified Command due to the expiration of Executive Order 14-14, thus, does not affect the justiciability of the case as an actual controversy. Furthermore, since August 2014 the governor has twice instituted the Unified Command in response to protests related to the death of Michael Brown. In

the event a future state of emergency is again declared, the governor could reasonably be expected to reestablish the Unified Command.

Accordingly,

IT IS HEREBY ORDERED that the motion of defendant Jon Belmar to vacate the temporary restraining order and further proceedings as moot [Doc. #18] is **denied**.

IT IS FURTHER ORDERED that the motion of defendant Sam Dotson to dismiss for lack of jurisdiction based on mootness [Doc. #20] is **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 5th day of January, 2015.