

FILED

JUN 16 2023

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN DOE,

Plaintiff-Appellee,

v.

ROE 1,

Defendant-Appellant,

and

GOOGLE LLC, et al.,

Defendants.

No. 22-15757

D.C. No. 3:20-cv-06822-JD

ORDER

Before: GOULD and IKUTA, Circuit Judges, and SELNA,\* District Judge.

John Does' Motions at Docket Nos. 11 and 14 are denied as moot in view of the fact that the identity of John Doe has been made public.

John Does' request for judicial notice at Docket No. 27 is granted.

IT IS SO ORDERED.

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\*The Honorable James V. Selna, United States District Judge for the Central District of California, sitting by designation.

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MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
James Donato, District Judge, Presiding

Argued and Submitted March 31, 2023  
San Francisco, California

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Before: GOULD and IKUTA, Circuit Judges, and SELNA,\*\* District Judge.

Roe 1 (“Roe”) seeks to appeal the district court’s April 19, 2022 order “to the extent” that it denied her motion to vacate the district court’s October 5, 2020 order (“Order”), which restrains Roe from disclosing John Doe’s (“Doe”) identity. We dismiss this appeal as moot.

Because we construe the Order as a temporary restraining order, the Order expired on October 19, 2020. *See* FED. R. CIV. P. 65(b). The Order was a temporary restraining order because it was issued *ex parte* and “specifically” enjoined Roe and third parties from publishing Doe’s identity. FED. R. CIV. P. 65(d)(1). It cannot be considered a preliminary injunction because the district court did not provide notice to the adverse parties or hold an adversary hearing. FED. R. CIV. P. 65(a). *But cf. Sampson v. Murray*, 415 U.S. 61, 87 (1974). Because the district court never extended the temporary restraining order on the record, it expired within fourteen days. *See* FED. R. CIV. P. 65(b)(2). Thus, the expiration of the Order renders this appeal moot. *See, e.g., Where Do We Go Berkeley v. Cal. Dep’t of Transp.*, 32 F.4th 852, 857 (9th Cir. 2022).

**DISMISSED AS MOOT.**

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\*\* The Honorable James V. Selna, United States District Judge for the Central District of California, sitting by designation.