

STATE OF MICHIGAN  
COURT OF APPEALS

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ALICIA BOGGS,

Petitioner-Appellee,

v

BRIAN BOGGS,

Respondent-Appellant.

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UNPUBLISHED

September 24, 2009

No. 285040

Oakland Circuit Court

LC No. 2007-738617-PP

Before: Saad, C.J., and Whitbeck and Zahra, JJ.

PER CURIAM.

Respondent appeals from a circuit court order denying his motion to set aside an ex parte personal protection order (PPO) issued against him. We dismiss the appeal as moot. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Petitioner obtained a PPO against respondent on September 27, 2007. The order contained an expiration date of September 27, 2008, and the order denying respondent's motion indicated that the PPO would expire on that date. The parties do not assert, nor does the record indicate, that the PPO was extended before it expired. See MCR 3.707(B). Because the PPO is no longer in effect, it is impossible for this Court to grant relief and respondent's issues challenging the PPO are moot. *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). While this Court may review a moot issue if it is deemed to be of public significance and is likely to recur while simultaneously likely to evade judicial review, *City of Warren v Detroit*, 261 Mich App 165, 166 n 1; 680 NW2d 57 (2004), this exception is generally limited to exceptional circumstances where it is reasonably likely that the appellant will be subjected to the same action again. *Los Angeles v Lyons*, 461 US 95, 109; 103 S Ct 1660; 75 L Ed 2d 675 (1983); *Weinstein v Bradford*, 423 US 147, 149; 96 S Ct 347; 46 L Ed 2d 350 (1975). Respondent has not shown a likelihood that additional PPOs will be issued against him. Further, the record is devoid of any evidence to indicate that the issuance of the PPO resulted in any collateral consequences that continue to affect respondent. *Hayford v Hayford*, 279 Mich App 324, 325; 760 NW2d 503 (2008); *People v Cathey*, 261 Mich App 506, 510; 681 NW2d 661 (2004).

Accordingly, we dismiss this appeal as moot.

/s/ Henry William Saad

/s/ William C. Whitbeck

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ZAHRA, J. (*concurring*).

I concur in the result reached in the majority opinion. I write separately because I conclude the issue presented in this case is not moot. Once issued, a PPO is entered in the Law Enforcement Information Network (LEIN). Significantly, there is no statutory provision for the removal of an expired PPO. See MCL 600.2950a(12), (14), and (16). If this Court vacated the PPO, the LEIN must be updated to reflect that the order has been rescinded, terminated, or modified. See MCL 600.2950a(16). Other panels of this Court have adopted this reasoning. See *Dooley v Hartsell*, unpublished per curiam opinion of the Court of Appeals, entered December 23, 2008 (Docket No. 280833); *Londo v Jay*, unpublished per curiam opinion of the Court of Appeals, entered March 22, 2002 (Docket No. 227691). A question may not be moot if it will continue to have collateral legal consequences. *Mead v Batchlor*, 435 Mich 480, 486; 460 NW2d 493 (1990). Because a legal remedy is attainable, the issue is not moot.

Although the matter is not moot, I concur in the result reached by the majority because I conclude the lower court did not abuse its discretion in the issuance or continuance of the PPO. I further conclude the lower court did not err when it limited the presentation of proofs in the evidentiary hearing. I would affirm the lower court's judgment on the merits.

/s/ Brian K. Zahra