

STATE OF MICHIGAN
COURT OF APPEALS

SANDRA ZELKOWSKI, as Next Friend for
JACOB STARK, a Minor,

UNPUBLISHED
January 12, 2010

Petitioner-Appellee,

v

MARY MAGDELINE STARK,

No. 287018
Oakland Circuit Court
LC No. 2008-748037-PP

Respondent-Appellant.

Before: Meter, P.J., and Borrello and Shapiro, JJ

PER CURIAM.

Respondent appeals as of right from the trial court's order denying her motion to terminate a personal protection order ("PPO"). We dismiss this appeal as moot.

As a general rule, an appellate court will not decide moot issues. *Detroit v Ambassador Bridge Co*, 481 Mich 29, 50; 748 NW2d 221 (2008). An issue is moot when an event occurs that renders it impossible for the reviewing court to grant relief. *Tenneco, Inc v Amerisure Mut Ins Co*, 281 Mich App 429, 472; 761 NW2d 846 (2008). Although respondent challenges the trial court's denial of her request to terminate the PPO, the PPO expired by its terms on June 23, 2009.¹ Thus, even if respondent's arguments have merit, it is impossible or unnecessary to fashion any remedy.² A remand to the trial court for a new hearing would serve no purpose. Furthermore, respondent has not set forth any collateral consequences arising from the continued

¹ Respondent incorrectly asserts that the trial court was required to transfer the case to the Macomb Circuit Court, which had jurisdiction over custody and parenting time matters involving the minor child. No transfer was required because the PPO did not modify any custody or parenting time order. See *Hayford v Hayford*, 279 Mich App 324, 328-329; 760 NW2d 503 (2008), and *Brandt v Brandt*, 250 Mich App 68, 70-71; 645 NW2d 327 (2002).

² In addition, respondent's argument that petitioner filed a misleading and deceitful PPO petition for which she should have been held in contempt of court is not properly before this Court because respondent never raised this issue below and it was never considered or addressed by the trial court. *Michigan Ed Ass'n v Secretary of State*, 280 Mich App 477, 488; 761 NW2d 234 (2008).

existence of the now-expired PPO, or any question of public significance that is likely to recur and yet evade judicial review, to compel this Court to review the merits of this appeal. See *Ambassador Bridge Co, supra* at 50, and *Hayford v Hayford*, 279 Mich App 324, 325; 760 NW2d 503 (2008).

Dismissed. No costs are to be assessed in this matter.

/s/ Patrick M. Meter

/s/ Stephen L. Borrello

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SHAPIRO, J. (*concurring*).

I concur with the majority's conclusion that this appeal is moot as the PPO obtained by plaintiff's next friend, Sandra Zelkowski, has expired and an extension has not been sought. I write separately, however, to note that were the issue not moot, reversal would be required given the trial court's unwillingness to hear testimony or receive documents relevant to defendant's response to the allegations in the PPO petition. This is particularly so as the record before us strongly supports the conclusion that Zelkowski intentionally misled the Oakland County Circuit Court as to the existence of previous litigation between the parties and previous court orders related to that litigation, that she filed the PPO petition in Oakland County rather than Macomb County in order to avoid having the matter heard by a judge with an understanding of the lengthy and ongoing custody dispute and that the PPO was sought not due to a real danger of harm to the parties' child, but to gain a tactical advantage in the ongoing custody battle.

/s/ Douglas B. Shapiro