

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

M.H. and R.H.,
Appellants,

v.

S.B.,
Appellee.

June 29, 2022

Court of Appeals Case No.
21A-PO-2906

Appeal from the Howard Superior
Court

The Honorable Brant J. Parry,
Judge

The Honorable Cheyenne
Shepherd, Magistrate

Trial Court Cause Nos.
34D02-2007-PO-1535
34D02-2007-PO-1536

Brown, Judge.

[1] M.H. and R.H. appeal the trial court’s orders extending prior protective orders. We dismiss as moot.

Facts and Procedural History

[2] On July 16, 2020, S.B. filed a petition for a protective order against M.H. and a request for a hearing under cause number 34D02-2007-PO-1535 (“Cause No. 35”). She alleged she had been a victim of stalking and repeated acts of harassment. That same day, S.B. filed a similar petition against M.H.’s wife, R.H., under cause number 34D02-2007-PO-1536 (“Cause No. 36”).

[3] On September 23, 2020, the court entered a protective order under Cause No. 35 enjoining M.H. from threatening to commit or committing acts of harassment against S.B. The order indicated that it expired on September 23, 2021. That same day, the court entered a similar order with respect to R.H. which also expired on September 23, 2021, under Cause No. 36.

[4] In October 2020, M.H. and R.H. filed motions to correct error and motions for stay under their respective cause numbers. On January 11, 2021, the court entered similar orders under Cause No. 35 and 36 correcting its previous orders. In each order, the court acknowledged the other cause number and referred to M.H. and R.H. as Respondents “[b]ecause the issues are identical in both cases.” Appellant’s Appendix Volume II at 47.¹ The court included additional

¹ The record contains the orders issued under Cause No. 35. Indiana’s Odyssey Case Management System contains the orders issued under Cause No. 36.

findings of fact including that S.B. as well as M.H. and R.H. were involved in an ongoing dispute regarding the boundary lines of their respective properties, M.H. and R.H. placed six surveillance cameras on their property pointed at S.B.'s property, M.H. and R.H. directed spotlights onto S.B.'s property and specifically into her bedroom and family room, "Respondent" drove by S.B.'s home to take photographs of it, and the behavior of M.H. and R.H. would cause a reasonable person to suffer emotional distress and actually caused S.B. emotional distress. *Id.* at 49. The court stated that, "[e]xcept as corrected herein, the terms of the order entered September 25, 2020,^[2] remain in full force and effect." *Id.* The court denied the motions to stay.

[5] On September 8, 2021, S.B. filed verified petitions under Cause Nos. 35 and 36 to extend the protective orders. On December 1, 2021, the court held a hearing on the petitions. On December 14, 2021, the court entered a protective order under Cause No. 35 enjoining M.H. from threatening to commit or committing acts of harassment against S.B. The order provided that it would expire on June 1, 2022. On the same date, the court entered a similar order with respect to R.H. which also expired on June 1, 2022, under Cause No. 36.

² It appears that the court was referring to the protective orders signed on September 23, 2020. An entry in the chronological case summary dated September 25, 2020, states "Order Issued" and indicates that the order was signed on September 23, 2020. Appellant's Appendix Volume II at 4.

Discussion

[6] M.H. and R.H. argue that the trial court failed to enter special findings of fact and conclusions of law when it extended the protective orders. They also assert their conduct did not rise to the level necessary to constitute harassment.

[7] We find the threshold issue to be whether this appeal is moot. In *T.W. v. St. Vincent Hosp. & Health Care Ctr., Inc.*, the Indiana Supreme Court consolidated two appeals for purposes of its opinion and held:

A threshold issue in these appeals is mootness. “The long-standing rule in Indiana courts has been that a case is deemed moot when no effective relief can be rendered to the parties before the court.” *Matter of Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991). When the controversy at issue has been ended or settled, or somehow disposed of so as to render it unnecessary to decide the question involved, the case will be dismissed. *Id.* But “Indiana recognizes a public interest exception to the mootness doctrine, which may be invoked when the issue involves a question of great public importance which is likely to recur.” *Matter of Tina T.*, 579 N.E.2d 48, 54 (Ind. 1991). When this Court elects to address an issue under the public interest exception, it need not “address all of the issues in the case as presented by the parties.” *Lawrance*, 579 N.E.2d at 37.

The records show these appeals of the temporary commitment orders are moot. Statutes governing temporary commitment provide that “[i]f, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to: (1) be committed to an appropriate facility; or (2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.” Ind.

Code § 12-26-6-8(a); *see* Ind. Code § 12-26-6-1. The period specified in each appealed order has passed.

121 N.E.3d 1039, 1042 (Ind. 2019), *reh'g denied*. The Court stated, “[d]espite the appeals’ mootness, we address an issue of great public importance likely to recur: Did the Commissioner lack authority to enter orders of civil commitment?” *Id.* After concluding the Commissioner lacked authority to enter the commitment orders, the Court held, “[u]nder these circumstances, though, where the orders concern periods that have expired, remanding those orders to the trial court for its review serves no apparent purpose” and dismissed the appeals as moot.³ *Id.* at 1044.

[8] The record reveals that the December 14, 2021 protective orders expired on June 1, 2022. According to Indiana’s Odyssey Case Management System, no petition to extend the December 14, 2021 order was filed in either Cause No. 35 or Cause No. 36. Odyssey indicates that neither M.H. nor R.H. are facing pending criminal charges related to any alleged violations of the protective orders. Further, we cannot say that this issue involves a question of great public importance. Under these circumstances, we conclude this appeal is moot.

[9] For the foregoing reasons, we dismiss.

³ In the recent decision of *E.F. v. St. Vincent Hospital and Health Care Center, Inc.* (filed June 13, 2022), Ind. No. 22S-MH-194, slip op. at 2, the Indiana Supreme Court granted transfer to clarify *T.W.*’s effect and affirm the appellate courts’ broad discretion to decide when the public interest exception to mootness applies.

[10] Dismissed.

Mathias, J., and Molter, J., concur.