STATE OF MICHIGAN
IN THE SUPREME COURT

T.M.,
Petitioner/Appellee,

vs.

M.Z.,
Respondent/Appellant
_____/

Supreme Court Case No.: 155398
Court of Appeals Case No.: 329190
Circuit Court Case No.: T15-1798-PH
Hon. John D. Tomlinson

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APPELLANT ZORAN'S SUPPLEMENTAL BRIEF BY ORDER OF THE MICHIGAN SUPREME COURT

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I. Whether an appeal from a personal protection order is necessarily rendered moot by the fact of its expiration?

Appellant answers: No.

INTRODUCTION

Appellant M.Z. asserted in the trial court and the Court of Appeals that the personal protection order (PPO) requested by T.M. and issued by the trial court was done in violation of the First Amendment, binding case law, and in violation of statutory requirements not met by T.M. The trial court disagreed and explained he "sees" PPOs "as really kind of my way to help supplement the rules that we all live in society by." M.Z. appealed and challenged this blatant violation of basic freedoms and constitutional protections enshrined in the state and federal constitutions. To be clear, M.Z. never physically threatened anyone. He never undertook any violence or economic harm. In fact, he never even had any actual contact with T.M. Instead, the judge enjoined constitutionally protected speech as the 'speech police.' This is wildly improper. When argued before the Court of Appeals, one of the Court of Appeals judges even stated, at oral argument, she agreed with M.Z.'s legal assertions of error by the trial court.

However, the Court of Appeals never reached the substantive issues because the panel concluded *sua sponte* that the matter was moot for lack of any remedy. This was in error. The delays of appellate courts in processing a PPO case cannot (and should not) institutionalize erroneous or unconstitutional actions of trial court judges. If allowed to do so, judicial review—the bedrock of protection from legal errors—is thwarted.

BACKGROUND OF CASE

The background of this case is laid out in great detail in the filed *Application for Leave*. In short form, T.M. lives next door to M.Z. They are at political odds with each other. Both previously served as public officials for the Township of Cottrellville, which was rife with political problems, including a jailed supervisor who refused to resign her seat while serving a jail sentence. Jeri Packer, *Cottrellville Township Supervisor Gets 80-*

Day Jail Sentence, THE VOICE, May 1, 2015, *available at* https://goo.gl/pfL9Lw. Cottrellville is truly a bizarre political place.

Nevertheless, right after T.M. received her law license, she petitioned the St. Clair County Circuit Court for a personal protection order against M.Z. **Appendix p. 7a.** T.M. sought the broadest possible PPO despite no threat of violence, no proof or allegation of direct harm, no proof or allegation of threatened harm, and no actual or threatened contacts. Incredibly, the trial court granted the requested PPO ex parte. This was immediately reported to LEIN, and now part of the permanent record hereon absent correction by an appellate court. See MCL 600.2950a(19)(b).

Almost immediately, M.Z. challenged the PPO by counsel. **Appendix pp. 11a-20a.** The trial court disobeyed MCR 3.707(A)(2) by tardily holding the hearing on August 20, 2015.[1] **Appendix p. 11a.** At the hearing, M.Z., by counsel, pointed out that the entire basis of T.M.'s request was based on constitutionally protected speech. See **Appendix p. 30a.** If any statements were false or actionable, the law provides a civil remedy: a defamation claim in civil court. **Appendix p. 35a.** Perhaps realizing its error in issuing an overbroad PPO, the trial court dispensed with the need to continue the PPO as to stalking as T.M. failed to have any factual basis for the same. Instead, the majority of the arguments focused on the prohibitions on the future communications, i.e. posting of messages through the use of mediums of communication, including the Internet or a computer or any electronic medium, and whether the speech complained of by T.M. is

[1] The Circuit Court violated MCR 3.707(A)(2) by failing to hold the hearing within 5 or 14 days as required. However, this issue was not appealed.

protected under the First Amendment. See starting at **Appendix p. 30a.** The trial court did not believed the First Amendment applied.

> All right. See I want to tell everybody I see P.P.O.'s as really kind of my way to help supplement the rules that we all live in society by. Sometimes if people have been too far or they've pushed things past the point that they are supposed to, the P.P.O. statute permits me to try to tailor, and it is an injunction, an order that says you should not engage in this activity.
>
> I'm aware of the issues relating to the First Amendment and I've had other cases where there have been First Amendment issues. There have been postings on Facebook that were not necessarily direct communication. But the issue is does it then subject the person to communication that could be harassing, annoying, harmful to them, put them in fear, those kind of things. We got a lot of, I think we had a good conversation today. I think that I understand the parameters very clearly. I understand that this is an area of the law with First Amendment Rights that I very much respect, and that's really what it comes down to.
>
> People have a right to talk about things that they need to, but there are limitations to a certain degree on that, particularly when they're not talking about a public figure. And I know that it's dangerous for me to say, I'm going to talk about the content, but realistically that's what I have to do. And I hope I get it right, I'm certain I'm going to get it right, the Court of Appeals or whoever may take a different view of that, and that's how that goes. But realistically what I'm going to try to do is tailor a response that really tries to strike a balance for everyone, and I want everybody to understand that.
>
> The conduct that caused me the most concern when I read the petition, and what I talked about today, are the things as I've talked about that went beyond the area of contention between Ms. McGuire and Mr. Zoran. If Ms. McGuire was critical of Mr. Zoran's job as a public figure, I think that he gets to respond to that, like I said, she doesn't know what she's talking about, she's never done this job, et cetera, and here's what I was doing, if he chooses to respond to that. I get some of that. I don't respond to it, that's just how that goes. Realistically I think that where it went past the point where it is permissible comment were the statements like Ms. McGuire is a criminal, Ms. McGuire hides criminals or is harboring criminals, statements to the, about the death of her son and her involvement or her culpability in that death. I really don't think that those things, A, are factually based. **I think that they could potentially subject them to causes of action, but that's really not the only remedy that's available and that's really what it comes down to.**
>
> By posting those in a public forum or to other individuals in the community that obviously subjects Ms. McGuire to the potential of harassment or annoyance from other members of the community. If people were to believe Mr. Zoran's statements obviously hiding people who are going to kidnap children that could lead to some

> difficulty. And whether or not that actually happened, I don't think that's the standard.
>
> It is important I think that there has not been a physical confrontation. I'm not suggesting that my failure to prohibit that means that that should happen or it could happen because it should not. Obviously good fences make good neighbors, and I think sometimes respecting boundaries between people is really the best way to do this. If everybody concerns themselves to things that concern them I think life gets a lot simpler and it works a lot better for everybody.
>
> So, what I'm going to do is I'm not going to, I'm going to continue the P.P.O. I'm going to modify it to only be prohibiting Mr. Zoran from posting a message through use of any media communication, including the internet or computer or electronic media pursuant to MCL 750.411(s). And what that talks about is very specific category of communications that cannot be posted through that media. I'm not saying he can't post anything on Facebook. I'm not saying that if he thinks that he is within his rights to comment on something that Ms. McGuire has publicly commented on that I think he can do that. I think that he has to be careful of invading this private citizen's rights to privacy through the postings that he makes.
>
> ***
>
> So, that's my ruling.

Appendix pp. 53a-56a. M.Z.'s counsel then specifically requested that the Court—

> make a finding of the specifically what was violated under 750.411(s) for purposes of understanding exactly what, what exactly in her petition or the evidence presented today makes a finding, that you're making a finding that that violates that section of the statute.

Appendix p. 56a. The trial court granted the request and specifically held that:

> The, the references that I was looking at were July 6th, 2015 respondent made several comments on a post in St. Clair County, Michigan page, on Facebook, including but not limited to calling me a criminal, accusing me of harboring criminals, having illegal, didn't care about the illegal ... (inaudible) ... I'm going to leave that out. And that I meet the requirements of hurting someone, and then I'm a criminal. July 6th, 2015, Facebook message to multiple people regards to the above mentioned comments on the St. Clair County, Michigan page and repeats the same things that I was concerned about. So those are current on July 6th, 2015, which is immediately before I issued the P.P.O. Those I believe fell within the purview of the statute and that's the reason I issued the P.P.O.

Appendix pp. 56a-57a. In sum, the trial court premised the entirety of the modified PPO on constitutionally protected speech. This constitutes unconstitutional prior restraint and

is reviewed with heavy presumption of invalidity as opposed to the typical presumption of validity. *People v Sledge*, 312 Mich App 516, 528; 879 NW2d 884 (2015).

While complying with the erroneous order, M.Z. immediately appealed challenging both the statutory propriety of order, i.e. failing to terminate it, and the order's constitutionality under the First Amendment. The intermediate appeals court took more than a year to reach a final decision. See **Appendix pp. 3a-5a.** (filed Sept 10, 2015, decision issued Jan 19, 2017). Rather than take up the heady issues, the Court of Appeals' panel sua sponte[2] held—

> On appeal, respondent contends that the trial court erred in entering the amended PPO where the elements of MCL 750.411s were not met. Respondent also argues that the trial court's entry of the amended PPO is an unlawful prior restraint that chilled his First Amendment rights. Given that the issues that respondent raises are moot, we decline to address them. This Court, as a general rule, will not determine moot issues. *BP7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). "An issue is moot if an event has occurred that renders it impossible for the court to grant relief. An issue is also moot when a judgment, if entered, cannot for any reason have a practical legal effect on the existing controversy." *Gen Motors Corp v Dep't of Treasury*, 290 Mich App 355,386; 803 NW2d 698 (2010) (citations omitted).
>
> The record confirms that the amended PPO expired on January 28, 2016. There is no indication in the record that the amended PPO was renewed or extended, and therefore any judgment this Court would enter would not have any practical legal effect on the existing controversy. *Id.* at 386. Accordingly, it would be inappropriate for us to address respondent's issues on appeal.

Appendix p. 63a. M.Z. sought leave to appeal the *sua sponte* dismissal of the appeal on mootness grounds to this Court. See **App for Lv to Appeal.** On October 24, 2017, this Court ordered mini-oral argument on the application (MOAA) correctly asking "whether an appeal from a personal protection order is necessarily rendered moot by the fact of its

[2] No party argued the expiration of the PPO rendered the challenge moot.

expiration." See **Order, Oct 24, 2017**. This supplemental brief now follows in compliance with this Court's October 24, 2017 order.

MEMORANDUM OF LAW / ARGUMENT

This appeal is technically not about whether the PPO was legally correct or otherwise. Instead, this appeal, in this Court, is about whether the Court of Appeals can pass over on PPO's constitutional correctness and statutory correctness because of the delay the appeal courts took in resolving this case. PPOs are handled with differing levels of respect (sometimes with short thrift) and often involve legal issues that need to be reviewed for correction. See e.g. *Lamkin v Engram*, 295 Mich App 701; 815 NW2d 793 (2012). We know the Court of Appeals can decide cases quickly when it wants to. See *Attorney Gen v Bd of State Canvassers*, unpublished order of the Court of Appeals, issued Dec 5, 2016 (Docket No. 335947) (ordering case to be heard within four days of filing); see also *Attorney Gen v Bd of State Canvassers*, 318 Mich App 242 (2016) *lv denied* 500 Mich 907 (2016)(deciding case within four days); see also MCOA Case No. 335947 Docket Sheet, *available at* https://goo.gl/aJqrfn. Had this instant case been treated with the same speed and importance as the *Canvassers* cases, then the mootness issue would never arise. It is only because of the institutional longevity of the appellate process that causes PPO challenges to exceed the limited term of the challenged personal protection order—a challenge that is provided for by right. MCR 3.709(B)(1)(b). That lack of timely decision is not due to the culpability of the parties, but by the norms, practices, and procedures of the appellate arm of the judiciary.

But even given that ordinary delay and even when the expiration of unconstitutional or erroneous PPOs occurs, legal issues remain and the controversy is not thereby rendered moot on appeal. This Court has explained Michigan appellate courts do "not

reach moot questions or declare principles or rules of law that have no practical legal effect in the case before [the court] unless the issue is one of public significance that is likely to recur, yet evade judicial review." *Federated Publications, Inc v City of Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002). However, an issue is not initially moot where it "may have collateral legal consequences." *Mead v Batchlor*, 435 Mich 480, 486; 460 NW2d 493 (1990). The standard is one of impossibility; a case only becomes moot when an event occurs that makes it "impossible" for a reviewing court to grant some form of relief. *Crawford v Dep't of Civil Service*, 466 Mich 250, 261; 645 NW2d 6 (2002).

This begets two questions. Is there any practical legal effect (i.e. any remedy) to be had in actually reviewing an expired PPO challenged on the grounds it never should have been entered in the first place? And if not, does a challenged PPO case involve one or more issue(s) of public significance that is likely to recur, yet evade judicial review? In the context of this case, M.Z. says the answer to both is yes.

I. There are practical and legal effects in vacating an expired, yet unconstitutional or illegal, PPO.

A wrong without a remedy is unacceptable anomaly in the law. *Peck v. Jenness*, 48 US 612, 623 (1849). If there be an admitted wrong, the courts will look far to supply an adequate remedy. *Laughlin v Riddle Aviation Co*, 205 F2d 948, 949 (CA 5, 1953)(citing *DeLima v Bidwell*, 182 US 1 (1901)). Michigan law has directed that "if a plaintiff has a right but is without an effective remedy at law[,] he may resort to equity for the enforcement of such right." *Kefgen v Coates*, 365 Mich 56, 63; 111 NW2d 813 (1961).

Here, the wrong is the improper issuance of a PPO in violation of statutory requirements and constitutional prohibitions. Illegal-yet-expired PPOs still have ancillary and lasting effects. First and foremost, the mere expiration of a PPO does not remove it

from LEIN. See MCL 600.2950a; see also *Hackett-Mayer v Mayer*, unpublished decision of the Court of Appeals, issued Dec 18, 2014 (Docket No. 317744)("there is no statutory provision providing for the removal of a PPO from the LEIN after a PPO expires"). In the absence of an order vacating a PPO, the same remains permanently on a person's official record. Allowing the PPO to stand when it should not have issued will transgress a person's good name and reputation—an impingement on recognized liberty interests protected by the US Constitution. See *Bd of Regents of State Colleges v Roth*, 408 US 564 (1972). The judges in *Visser* agreed, concluding "we do not doubt that having a PPO on one's record may have some adverse consequences." *Visser v Visser*, 299 Mich App 12, 16; 829 NW2d 242 (2012) *vacated on other grounds* 495 Mich 862 (2013). Michigan courts recognize that PPOs "may have criminal implications for individuals pursuing occupations that require a criminal background check or the carrying of a weapon." *Lipscombe v. Lipscombe*, unpublished decision of the Court of Appeals, issued Feb 4, 2010 (Docket No. 287822). For example, a non-rescinded PPO restraining order appears and remains on a person's governmental records and other public records, which is regularly searched by employers to determine employability. A simple background check—which is becoming the norm for most hiring these days—will most definitely reveal the existence of a prior PPO[3] and can easily serve as a basis not to be hired or otherwise be fired.

The existence of an expired, non-overturned PPO also has lasting *legal* effects. Under current law, an expired, non-overturned PPO may subject a person to have to

[3] Unless sealed, any person may inspect pleadings and other papers in a court clerk's office and may obtain copies. See MCR 8.119.

forfeit his or her Second Amendment rights. 18 USC § 922(g)(8).[4] It can also preclude a person from being able to obtain needed firearm licenses in other states, even if a person does not have a need for a firearm license now but could need such a license in the future.[5]

Furthermore, under our state law, if a person who obtains a PPO desires to sue the person who has been found by the court to have commited stalking—a type of activity which a PPO can prohibit—the judicial finding (which never expires) can and will act against the PPO's recipient in a later lawsuit for damages under MCL 600.2954. How? The prior finding via the PPO can be used to establish, without further proofs, evidence of wrongful conduct which cannot be collaterally attacked under the doctrine of collateral estoppel.

Because of these potential collateral legal consequences, the challenge to an improperly issued PPO is not moot merely by its expiration. This Court has explained that an issue is not moot; it is merely "may" have "collateral legal consequences." *Mead*, *supra*, at 486. For all the reasons outlined above, the issue of a wrongfully decided PPO is not

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[4] Under federal law, it is unlawful for any person who is subject to a PPO-styled court order from possessing or receiving a firearm or ammunition. 18 USC § 922(g)(8). However, federal law is less than clear about what happens after the expiration of such an order (i.e. "who *is* subject to a court order"). Query: does the expiration of a Michigan PPO make a person no longer classified as being 'is subject' to a state court's PPO?

[5] While Michigan law has recently eased on the issuance of conceal-carry permits, if a Michigan resident seeks a permit for Massachusetts, their process requires disclosure if an applicant has ever been subject to a restraining order. See APPLICATION FOR NON-RESIDENT TEMPORARY LICENSE TO CARRY FIREARMS, *available at* https://www.mass.gov/files/documents/2017/11/30/Non-resident%20Application%20-%20REVISED%2011%2029%2017_0.pdf ("10. Are you now, or have you ever been the subject of a restraining order issued pursuant to M.G.L. c. 209A, or a similar order issued by another jurisdiction?"). Similar disclosures—and possible disqualifications—exist for New York City and California to name a few. See HANDGUN LICENSE APPLICATION, *available at* http://www1.nyc.gov/assets/nypd/downloads/pdf/permits/HandGunLicenseApplicationFormsComplete.pdf (Question No. 24); STANDARD INITIAL AND RENEWAL APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON, *available at* https://www.sdsheriff.net/licensing/ccw_app.pdf (Question No. 6). So, an improperly issued and non-vacated PPO can and does have extraterritorial effects.

per se moot in the face of clearly possible collateral legal consequences, especially when the issues can and will affect future events either currently known and also not yet known or existing.[6]

II. When a court has the ability to fashion any remedy, the case is not moot.

M.Z. is asserting that the order entered by the trial court judge is unconstitutional and in violation of statutory prerequisites. Because Michigan law requires the court issuing the PPO to first "make a positive finding of prohibited behavior by the respondent before issuing a PPO," *Kampf v Kampf*, 237 Mich App 377, 386; 603 NW2d 295 (1999), there necessarily has to be a standing judicial finding that M.Z. was in violation and the consequence resulting was a permanent entry into the personal governmental records that he violated the law of Michigan. This finding is transmitted to LEIN (and also kept in the judicial records of this state). MCL 600.2950a(20). By vacating a wrongfully entered PPO order, the same results in a change to M.Z.'s LEIN record and vacating of a judicial finding that he violated positive law. MCL 600.2950a(19)-(20).[7] The PPO statute, in itself, provides a known and available remedy. In *Hayford v Hayford*, 279 Mich App 324, 325; 760 NW2d 503 (2008), the Court of Appeals held that an appeal from a PPO, despite expiring on appeal, is still justiciable where retention of a respondent's record on the LEIN

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[6] And this assumes that the law does not change. If, however, Michigan changes the law for licenses for occupational, firearm, or other purposes, a prior unchallenged PPO may be automatically a disqualifying event for such a license.

[7] (19) The clerk of the court that issued a personal protection order *shall* immediately notify the law enforcement agency that received the personal protection order under subsection (15) or (16) if either or both of the following occur: (a) The clerk of the court receives proof that the individual restrained or enjoined has been served[; or] (b) The personal protection order is *rescinded*, *modified*, or extended by court order.

(20) The law enforcement agency that receives information under subsection (19) *shall* enter the information or cause the information to be entered into the L.E.I.N.

poses future negative consequences. This relief is not only absolutely possible but precisely what M.Z. seeks.

Justice Zahra (then a Court of Appeals judge) articulated the correct analysis: because a legal remedy is attainable via MCL 600.2950a(19)-(20), an appeal is not moot. *Boggs v Boggs*, unpublished decision of the Court of Appeals, issued Sept 24, 2009 (Docket No. 285040) (ZAHRA, J., concurring); see also *Hackett-Mayer v Mayer, supra* ("because a legal remedy is attainable, the issue is not automatically moot just because the PPO expired."). This Court is requested to adopt this reasoning as its own.

M.Z. was strictly enjoined from speaking and communicating online contrary to statute and constitutional limitation upon the trial judge; he immediately appealed—by right—this improper order. Under the proposed mootness standard sought by M.Z., an actual and real remedy is still attainable in form of vacation of the improper or unconstitutional order of the St. Clair County Circuit Court which results in an entry of a recession or modification into LEIN under MCL 600.2950a(19)-(20). Therefore, the matter is not moot. The Court of Appeals errored as a matter of law.

III. Even if the Court finds the issue is moot by the passage of time, there is an exception when the matter is of public significance and are likely to recur, yet may evade judicial review

As a general principle, courts do "not reach moot questions or declare rules of law that have no practical legal effect in a case." *City of Warren v City of Detroit*, 471 Mich 941, 941-942; 690 NW2d 94 (2004) (MARKMAN, J, concurring). However, there is an exception to this limitation: when the issues are of public significance and are likely to recur, yet may evade judicial review. *In re Midland Publishing*, 420 Mich 148, 152 fn2; 362 NW2d 580 (1984). Both prongs are easily met in this case.

First, issues involving the legality and constitutionality of orders which prohibit public speech and expression are among the highest levels of public significance. E.g. *In re Contempt of Dudzinksi*, 257 Mich App 96, 99 fn4; 667 NW2d 68 (2003) (First Amendment rights to express themselves is of public significance). Secondly, the United States Supreme Court has routinely found that short-lived orders of lower tribunals are capable of recurring and evading, and thusly act as an exception to mootness. The US Supreme Court found that a two-year order of a state commission, which had expired by the time it reached its courtroom, should not deprive the Court of reviewing the same because short duration orders, which are likely to be issued or reissued again, are capable of repetition yet evading review. *So Pac Terminal Co v Int Commerce Comm'n*, 219 US 498, 515 (1911). PPOs are such short-lived orders and based on this judiciary's own statistics are likely to recur as over 20,000 PPOs were issued in 2016 alone. Court Statistics (2016), *available at* https://goo.gl/SsDRhd (copy attached).

Similarly in *Carroll v President and Comm'rs of Princess Anne*, 393 US 175 (1968), the Supreme Court was called upon to answer a First Amendment challenge to an injunction preventing members of a group from rallying in front of a local courthouse. The Supreme Court held the issue was not moot because the underlying question persists and is agitated by the continuing activities and program of petitioners: whether, by what processes, and to what extent the authorities of the local governments [i.e. judges] may restrict petitioners First Amendment rights.

The same is true here. M.Z. is challenging, on First Amendment grounds and others, an injunction preventing what he believes is the exercise of his First Amendment rights. The underlying constitutional question persists beyond expiration of the order,

because the challenge is to the legality of the order itself. M.Z. is essentially challenging the process and the extent to which a Michigan trial court judge can or cannot enjoin speech, i.e. undertake prior restraint, under the guise of a PPO order which the judge claims to be his "way to help supplement the rules that we all live in society by." There is nothing in the record showing that this improper order will not issue again, and the trial court's comments suggests he continuously does so. See **Appendix, p. 53a**. ("I'm aware of the issues relating to the First Amendment *and I've had other cases where there have been First Amendment issues*."). This case is the epitome of the case type which is of public significance (i.e. the right to non-enjoined free speech) and are likely to recur, yet may evade judicial review (i.e. by the passage of time of cases pending in appellate courts). The case is not moot.[8]

RELIEF REQUESTED

WHEREFORE, Appellant-Respondent M.Z., by counsel, requests this Court, pursuant to MCR 7.305(H)(1), to peremptorily reverse the Court of Appeals' panel decision, dated January 19, 2017, dismissing the constitutional and statutory challenges to the amended PPO on mootness grounds and remand for consideration of all issues previously raised and fully briefed by M.Z. in Court of Appeals Docket No. 329190.

In the alternative, M.Z. requests this Court, pursuant to MCR 7.305(H)(1), to grant leave to fully consider the proper application of the doctrine of mootness to PPOs becoming moot while pending on appeal.

[8] Absent a correction on appeal, the only other remedy is via a federal court action under 42 USC § 1983.

RESPECTFULLY SUBMITTED:

OUTSIDE LEGAL COUNSEL PLC
BY PHILIP L. ELLISON (P74117)
Attorney for Appellant Zoran

Date: December 9, 2017

Statewide Circuit Court Summary **2016 Court Caseload Report**

	Appellate				Criminal			Civil					
	Criminal Appeals	Civil Appeals	Agency Appeals	Other Appeals	Criminal Capital	Criminal Non Capital	Felony Juvenile	General Civil	Auto Neg	Other Civil Damage	Other Civil*	Court of Claims	Total
Beginning Pending	88	243	577	84	1,293	8,939	21	9,677	17,290	5,153	279	120	**43,764**
New Filings	280	586	2,097	418	3,118	48,399	88	16,436	16,957	4,925	1,046	313	**94,663**
Reopened	10	33	53	6	375	4,391	9	892	1,037	351	38	8	**7,203**
Total Caseload	**378**	**862**	**2,727**	**508**	**4,786**	**61,729**	**118**	**27,005**	**35,284**	**10,429**	**1,363**	**441**	**145,630**
Jury Verdict	0	0	0	0	490	690	7	48	112	98	0	0	**1,445**
Bench Verdict	0	0	0	0	69	374	3	133	16	15	8	29	**647**
Order Entered	132	210	1,356	105	0	0	0	0	0	0	0	0	**1,803**
Guilty Plea	0	0	0	0	2,263	42,026	67	0	0	0	0	0	**44,356**
Uncontested/Dflt/Settled	0	0	0	0	0	0	0	9,630	8,103	1,874	412	95	**20,114**
Transferred	23	26	56	0	76	2,258	2	491	285	227	5	8	**3,457**
Dismissed by Party	0	0	0	0	149	2,535	8	4,640	6,276	1,935	489	149	**16,181**
Dismissed by Court	135	426	717	332	171	1,558	5	2,729	2,212	792	108	25	**9,210**
Inactive Status	2	8	22	0	232	2,974	1	431	191	141	17	6	**4,025**
Other Disposition	0	0	0	0	0	0	0	169	30	14	43	0	**256**
Case Type Change	0	0	1	0	1	7	0	32	3	8	0	0	**52**
Total Dispositions	**292**	**670**	**2,152**	**437**	**3,451**	**52,422**	**93**	**18,303**	**17,228**	**5,104**	**1,082**	**312**	**101,546**
Ending Pending	**86**	**192**	**575**	**71**	**1,335**	**9,307**	**25**	**8,702**	**18,056**	**5,325**	**281**	**129**	**44,084**

	Domestic Relations						
	Divorce Children	Divorce No Children	Paternity	UIFSA	Support	Other Domestic	Total
Beginning Pending	9,335	6,427	8,724	287	6,210	1,603	**32,586**
New Filings	18,271	20,052	17,319	818	19,901	4,350	**80,711**
Reopened	700	506	121	5	138	83	**1,553**
Total Caseload	**28,306**	**26,985**	**26,164**	**1,110**	**26,249**	**6,036**	**114,850**
Bench Verdict	290	157	7	0	11	53	**518**
Uncontested/Default/Settled	14,500	16,519	11,900	427	14,729	2,956	**61,031**
Transferred	37	16	21	20	30	28	**152**
Dismissed by Party	1,362	1,246	2,224	209	1,081	326	**6,448**
Dismissed by Court	3,050	2,713	5,494	149	4,257	1,000	**16,663**
Inactive Status	106	126	4	0	0	4	**240**
Case Type Change	17	20	19	0	5	11	**72**
Total Dispositions	**19,362**	**20,797**	**19,669**	**805**	**20,113**	**4,378**	**85,124**
Ending Pending	**8,944**	**6,188**	**6,495**	**305**	**6,136**	**1,658**	**29,726**

	Adult Personal Protection		
	Domestic	Non Domestic	Total
Beginning Pending	166	118	**284**
New Filings	23,886	11,442	**35,328**
Reopened	787	422	**1,209**
Total Caseload	**24,839**	**11,982**	**36,821**
Orders Issued Ex Parte	14,582	5,003	**19,585**
Orders Issued After Hrg	355	126	**481**
Transferred	0	0	**0**
Dis./Denied Ex Parte	9,155	6,382	**15,537**
Dis./Denied After Hrg	386	270	**656**
Dismissed by Party	142	91	**233**
Orders Issued After Den	160	71	**231**
Case Type Change	0	0	**0**
Total Dispositions	**24,780**	**11,943**	**36,723**
Ending Pending	**59**	**39**	**98**
Adult PPOs Issued	15,097	5,200	**20,297**
Adult PPOs Rescinded	2,058	609	**2,667**
Out of County Violators	31		

* Other Civil does not include personal protection

This is not a workload report of the courts or any of its users.

Boggs v. Boggs

Court of Appeals of Michigan

September 24, 2009, Decided

No. 285040

Reporter
2009 Mich. App. LEXIS 1969 *; 2009 WL 3049787

ALICIA BOGGS, Petitioner-Appellee, v BRIAN BOGGS, Respondent-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Prior History: **[*1]** Oakland Circuit Court. LC No. 2007-738617-PP.

Judges: Before: Saad, C.J., and Whitbeck and Zahra, JJ. ZAHRA, J. (concurring).

Opinion

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 **[*2]** 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 U.S. 95, 109; 103 S Ct 1660; 75 L Ed 2d 675 (1983); Weinstein v Bradford, 423 U.S. 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

Concur by: Brian K. Zahra

Concur

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 **[*3]** 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

Campbell v. Wolanin

Court of Appeals of Michigan

October 13, 2009, Decided

No. 286331

Reporter
2009 Mich. App. LEXIS 2103 *; 2009 WL 3287402

SHARON ***CAMPBELL***, Petitioner-Appellee, v TIMOTHY WOLANIN, Respondent-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Prior History: **[*1]** Oakland Circuit Court. LC No. 08-747233-PH.

Judges: Before: Murray, P.J., and Markey and Borrello, JJ.

Opinion

PER CURIAM.

Respondent appeals by right from a personal protection order (PPO) entered against him. We reverse and remand for further proceedings consistent with this opinion. This appeal has been decided without oral argument pursuant to *MCR 7.214(E)*.

Petitioner was leasing a house from respondent. At some point, respondent lost his landlord's license because he was behind on making necessary repairs to the rental property. According to petitioner, respondent had several months to complete the repairs but did not do so.

Petitioner testified that during the period just before the re-inspection of the house, respondent came in and out of the house without providing her notice and without her knowledge. Respondent testified that he had tried and failed to contact petitioner in an effort to complete the necessary repairs.

Petitioner was behind on rent, and respondent began the eviction process sometime before the proceedings at issue here. According to petitioner, because respondent did not have his landlord's license, she was at risk of losing her Section 8 housing. [1] Petitioner sought a PPO against **[*2]** respondent alleging that he had entered her house without notice, had screamed at and threatened her, and had left intimidating messages on her voicemail. She also stated that she was losing her Section

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[1] See *42 USC 1437f*.

8 status and needed some time to get organized and stop respondent from entering the house. The lower court granted the PPO, precluding respondent from entering petitioner's rental unit for 60 days.

We will first address respondent's argument that the circuit court lacked subject matter jurisdiction over the case because petitioner's claim centered on a landlord/tenant dispute, which should have been heard in district court. We disagree. When "determining jurisdiction, this Court will look beyond a plaintiff's choice of labels to the true nature of the plaintiff's claim." *Manning v Amerman, 229 Mich App 608, 613; 582 NW2d 589 (1998)*. When discerning the true nature of the claim, courts do not look to the "truth or falsehood of the charge, but upon its nature: it is determinable on the commencement, not at the conclusion, of the inquiry." *Altman v Nelson, 197 Mich App 467, 472; 495 NW2d 826 (1992)*. Here, petitioner's petition alleged that respondent threatened her, screamed **[*3]** at her, swore at her, entered her home without permission or notice, and left intimidating messages on her voicemail. Thus, despite the fact that the case involves on a dispute between the parties in their capacities as tenant and landlord, the nature of petitioner's claim comports with that of a personal protection claim over which the circuit court had subject matter jurisdiction. Accordingly, the case was properly before the circuit court.

But, we do agree with respondent that the court erred in granting the PPO. We review the granting of a PPO for an abuse of discretion. *Pickering v Pickering, 253 Mich App 694, 700; 659 NW2d 749 (2002)*. A trial court's factual findings are reviewed for clear error. *MCR 2.613(C)*.

MCL 600.2950a(1) makes clear that a circuit court may grant a PPO only if the "petition alleges facts that constitute stalking" as defined by *MCL 750.411h* or *750.411i*. Subsections 411h(1)(d) and 411i(1)(e) define stalking as "a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel **[*4]** terrorized, frightened, intimidated, threatened, harassed, or molested."

Looking at the evidence and making some basic assumptions about the reasoning of the trial court, we could conclude that the evidence adduced was sufficient to establish that respondent's actions constituted stalking as statutory defined. Still, we are leery about wading into such an analysis in light of the dearth of relevant findings by the court, and we are mindful of the well-established roles of the trial and appellate courts in our system of jurisprudence. Because there is a question as to whether the trial court considered all the necessary elements of stalking, we believe it prudent to remand to the trial court for further consideration consistent with this opinion.

We acknowledge that because the PPO terminated on August 10, 2008, a question arises as to whether this appeal is moot. An issue is moot when an event occurs that makes it impossible for a reviewing court to grant relief. *People v Cathey, 261 Mich App 506, 510; 681 NW2d 661 (2004)*. However, an issue is not moot if "it will continue to affect the party in some collateral way." *Id*. *MCL 600.2950a(14)* requires a law enforcement agency that is provided **[*5]** with a copy of a PPO to enter it on the Law Enforcement Information Network (LIEN). If a PPO is rescinded, that information must also be entered on the LIEN. See *MCL 600.2950a(17)*. Accordingly, respondent may be granted relief, so the issues presented here are not moot.

We reverse and remand for further proceedings consistent with this opinion. We do not retain jurisdiction. As the prevailing party, defendant may tax costs pursuant to *MCR 7.219*.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Stephen L. Borrello

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Geloneck v. Vavra

Court of Appeals of Michigan

January 27, 2011, Decided

No. 295144

Reporter
2011 Mich. App. LEXIS 193 *; 2011 WL 254520

RICHARD GELONECK, Petitioner-Appellee, v MARTIN ***VAVRA***, Respondent-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Prior History: **[*1]** Macomb Circuit Court. LC No. 2009-004107-PH.

Judges: Before: MARKEY, P.J., and ZAHRA and DONOFRIO, JJ. ZAHRA, P.J. (CONCURRING).

Opinion

PER CURIAM.

Respondent appeals as of right from a circuit court order denying his motion to terminate a personal protection order (PPO). We dismiss this appeal as moot. The appeal has been decided without oral argument pursuant to *MCR 7.214(E)*.

"As a general rule, an appellate court will not decide moot issues." B P 7 v *Bureau of State Lottery, 231 Mich App 356, 359; 586 NW2d 117 (1998)*. "An issue is deemed moot when an event occurs that renders it impossible for a reviewing court to grant relief." *Id*. Although respondent challenges the trial court's denial of his request to terminate the PPO, the PPO expired by its terms on September 4, 2010. Even if there is merit to respondent's contention that the trial court failed to correctly apply and enforce the statutory requirements for issuance of a PPO, because the PPO is now expired, remand for reconsideration of respondent's motion would serve no purpose. Respondent has not identified any collateral consequences that might arise from the entry of the PPO. See, e.g., *Hayford v Hayford, 279 Mich App 324, 325; 760 NW2d 503 (2008)*. **[*2]** Fashioning a remedy for any hardship respondent may have experienced while the PPO was in effect is impossible. Further, this appeal does not present any question of public significance that is likely to recur and yet evade judicial review that would warrant review of the merits of respondent's argument. See *Detroit v Ambassador Bridge Co, 481 Mich 29, 50; 748 NW2d 221 (2008)*. Therefore, we dismiss this appeal as moot.

Appeal dismissed.

/s/ Jane E. Markey

/s/ Pat M. Donofrio

Concur by: ZAHRA

Concur

ZAHRA, P.J. (*CONCURRING*).

Because I have concluded that mere expiration of a PPO does not render moot the question of whether the PPO was properly issued, I concur only in the result of the opinion issued by the majority.

/s/ Brian K. Zahra

Lipscombe v. Lipscombe

Court of Appeals of Michigan

February 4, 2010, Decided

No. 287822

Reporter
2010 Mich. App. LEXIS 238 *; 2010 WL 395762

HEIDI ELIZABETH LIPSCOMBE, Petitioner-Appellee, v WILLIAM C. LIPSCOMBE, SR., Respondent-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Prior History: **[*1]** Ottawa Circuit Court. LC No. 08-061386-PP.

Judges: Before: Beckering, P.J., and Markey and Borrello, JJ.

Opinion

PER CURIAM.

Following a hearing, respondent's motion to terminate the ex parte personal protection order (PPO) against him was denied and a modified PPO issued. Respondent appeals as of right, and for the reasons set forth in this opinion, we reverse the trial court's decision to grant the PPO and accordingly we vacate the issuance of the PPO. Additionally, we remand this matter to the trial court for a new order to update and remove reference to the PPO from the law enforcement information network (LEIN). This appeal has been decided without oral argument pursuant to *MCR 7.214(E)*.

While filing divorce proceedings against respondent, petitioner sought an ex parte PPO against respondent. Petitioner was granted an ex parte PPO against respondent on May 8, 2008, which provided for the couple's children as well as petitioner. Respondent was served the next day and filed a timely motion to rescind. An evidentiary hearing was held, and both parties testified. The trial court found the incidents alleged by petitioner to be normal for couples experiencing marital difficulties. It found there had been **[*2]** no assaults and that neither petitioner nor her children were in danger from respondent. The court indicated that petitioner's fears were based on her perception, rather than reality. Specifically, the trial court stated:

> I didn't hear anything that says that [petitioner] is in imminent danger, I think clearly she feels that way and that's important . . . to deal with that. I think what we need to do is a modified [PPO] that will provide the comfort [petitioner]'s looking for as far as her personal safety is concerned. And it basically isn't going to order [respondent] to not to [sic] anything he isn't supposed to not do anyway.

Despite not finding legal grounds for the issuance of a PPO, the trial court ordered a modified PPO anyway, reasoning that the order did not prohibit respondent from committing any acts not already prohibited by law.

On appeal, respondent argues that the trial court erred by failing to terminate the PPO against him. We review a trial court's denial of a motion to rescind an ex parte PPO for abuse of discretion. *Pickering v Pickering, 253 Mich App 694, 700-701; 659 NW2d 649 (2002)*. A trial court acts within its discretion when its decision results in an outcome **[*3]** within the range of principled outcomes. *Maldonado v Ford Motor Co, 476 Mich 372, 388; 719 NW2d 809 (2006)*.

A trial court is normally afforded great deference when addressing issues of witness credibility. *MCR 2.613(C)*; *In re Clark Estate, 237 Mich App 387, 395-396; 603 NW2d 290 (1999)*. Although the trial court found that petitioner believed her concerns were real, it also found that her concerns were unfounded. Therefore, the issue presented on appeal is not one of deference to the trial court on a matter of witness credibility, but rather whether the court erred when it continued the PPO despite petitioner's failure to overcome her burden of persuasion. The court's statements on the record indicate petitioner did not meet that burden, and accordingly, the trial court erred when it entered a PPO against respondent.

Initially, we note that while the PPO on which this appeal is based expired on May 8, 2009, the issue is not moot. An issue on appeal is moot when it becomes impossible for the court to grant the relief sought. *City of Warren v Detroit, 261 Mich App 165, 166 n 1; 680 NW2d 57 (2004)*. However, "a **[*4]** 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)*. This Court has held that an appeal from an expired PPO is justiciable where retention of a respondent's record on the LEIN poses future negative consequences. *Hayford v Hayford, 279 Mich App 324, 325; 760 NW2d 503 (2008)*.

In cases of wrongful criminal convictions, adverse collateral consequences are presumed. *Spencer v Kemna, 523 U.S. 1; 118 S Ct 978; 140 L Ed 2d 43 (1998)*; *Sibron v New York, 392 U.S. 40, 55-56; 88 S Ct 1889; 20 L Ed 2d 917 (1968)*. One adverse collateral consequence recognized in the criminal context is the right to engage in certain businesses. *Spencer, 523 U.S. at 8*. A PPO is not a criminal conviction, but may have criminal implications for individuals pursuing occupations that require a criminal background check or the carrying of a weapon. When a PPO issues, it is automatically entered into the LEIN, but there is no statutory provision to address removal from the LEIN upon its natural expiration. See *MCL 600.2950a(17)*. Therefore, a wrongfully issued PPO could have collateral consequences for an individual well after the PPO **[*5]** has expired.

Respondent indicated that he has been seeking federal employment since he retired from the Coast Guard. Although the modified PPO did not specifically prohibit respondent from purchasing or possessing a firearm, he could have difficulty obtaining security clearances or passing a criminal background check required for certain law enforcement positions or other government employment because it would not be unreasonable for potential employers to presume a violent tendency on the part of respondent because of the issuance of the PPO. Because respondent has sufficiently demonstrated the potential for future adverse consequences to employment in his chosen field, this Court is not without a remedy to provide the requested relief. Consequently, this appeal is not moot.

MCL 600.2950 sets forth the criteria under which a trial court may issue a PPO. Under *MCL 600.2950(4)*, the trial court is required to issue a PPO if it determines that "there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1)." The acts listed in subsection 1 include "any other specific act or conduct that imposes upon or interferes **[*6]** with personal liberty or that causes a reasonable apprehension of violence." *MCL 600.2950(1)(j)*. In

determining whether good cause exists, the trial court is required to consider "testimony, documents, or other evidence" and "whether the individual to be restrained . . . has previously committed or threatened to commit 1 or more of the acts listed in subsection (1)." *MCL 600.2950(4)(a)* and *(b)*. "The burden of proof in obtaining the PPO, as well as the burden of justifying continuance of the order, is on the applicant for the restraining order." *Pickering, 253 Mich App at 701*.

In this case, the trial court found that the alleged incidents petitioner made against respondent were "pretty commonplace" and "normal" for couples who were experiencing marital difficulties. The trial court then found that the testimony did not indicate a requirement for issuing " a whole lot of these orders," and further found there had been no assaults and that neither petitioner nor the boys were in danger. Review of the record indicates that the trial court never stated a basis under *MCL 600.2950* for the issuance of a PPO. Rather, as previously indicated, the trial court issued the PPO as a means to "provide **[*7]** the comfort [petitioner was] looking for as far as her personal safety is concerned." Absent a legally justified rationale for the issuance of a PPO, the trial court's decision to issue the PPO constituted an abuse of discretion as it was outside the range of principled outcomes. *Maldonado, 476 Mich at 388*. Having found that the trial court erred by entering the modified PPO, we vacate the PPO and remand this matter to the trial court for a new order to update and remove reference to the PPO from the LEIN. We do not retain jurisdiction.

Respondent, being the prevailing party, may tax costs pursuant to *MCR 7.219*.

/s/ Jane M. Beckering

/s/ Jane E. Markey

/s/ Stephen L. Borrello

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Hackett-Mayer v. Mayer

Court of Appeals of Michigan

December 18, 2014, Decided

No. 317744

Reporter
2014 Mich. App. LEXIS 2522 *

INGRID HACKETT-MAYER, Petitioner-Appellee, v FRANK MAYER IV, Respondent-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Prior History: **[*1]** Oakland Circuit Court. Family Division. LC No. 2013-807804-PP.

Counsel: INGRID HACKETT-MAYER, PETITIONER-APPELLEE, PRO SE.

For FRANK MAYER IV, RESPONDENT-APPELLANT: STACEY L. HEINONEN, OAK PARK, MI.

Judges: Before: O'CONNELL, P.J., and BORRELLO and GLEICHER, JJ.

Opinion

PER CURIAM.

Respondent Frank Mayer IV appeals as of right the trial court's order denying his motion to terminate a personal protection order (PPO) issued against him at the request of petitioner Ingrid Hackett-Mayer. We affirm.

Initially, we note that although the PPO on which this appeal is based expired on April 25, 2014, the issue is not moot. "As a general rule, an appellate court will not decide moot issues." *B P 7 v* Bureau of State Lottery, 231 Mich App 356, 359; 586 NW2d 117 (1998). "An issue is deemed moot when an event occurs that renders it impossible for a reviewing court to grant relief." *Id*. However, an issue is not moot where it "may have collateral legal consequences" for an individual. Mead v Batchlor, 435 Mich 480, 486; 460 NW2d 493 (1990), abrogated on other grounds Turner v Rogers, U.S. ; 131 S Ct 2507; 180 L Ed 2d 452 (2011). A PPO may be entered into the Law Enforcement Information Network (LEIN). MCL 600.2950(16) and (17). Although there is no statutory provision providing for the removal of a PPO from the LEIN after a PPO expires, MCL 600.2950(19) and (20) provide that the LIEN must be updated with information that a PPO was "rescinded, modified, or extended by court order." Accordingly, because a legal remedy is attainable, the issue is not automatically moot just **[*2]** because the PPO expired. Further, in this case, respondent testified that he is licensed to work in a heavily regulated business, that the PPO will harm his business reputation, and that he will have to disclose the PPO every year in conjunction with his work. Thus, the expired PPO continues to have adverse consequences to respondent. See Hayford v Hayford, 279 Mich App 324, 325; 760 NW2d 503 (2008) (holding that the trial

court's decision to issue and continue a PPO was not moot after the expiration of the PPO because the respondent could permanently lose his federal firearms license and livelihood).

Respondent argues that the trial court abused its discretion in denying his motion to terminate the PPO because the trial court did not have reasonable cause to believe that respondent committed one of the acts described in MCL 600.2950(1). "We review for an abuse of discretion a trial court's determination whether to issue a PPO because it is an injunctive order." Hayford, 279 Mich App at 325. "An abuse of discretion occurs when the decision resulted in an outcome falling outside the range of principled outcomes." *Id*. The trial court's findings of fact are reviewed for clear error. *Id*. Issues of statutory interpretation are reviewed de novo. *Id*.

Pursuant to MCL 600.2950(4), a circuit court must issue a **[*3]** PPO if it "determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1)." The relevant acts include "(g) [i]nterfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment." MCL 600.2950(1)(g). Further, MCL 600.2950(1)(j), the catchall provision, provides that another relevant act includes "any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence." The petitioner has the initial burden to show reasonable cause for the trial court to grant a petition for a PPO. Hayford, 279 Mich App at 326. The petitioner also has the burden to establish "a justification for the continuance of a PPO at a hearing on the respondent's motion to terminate the PPO." *Id*. In deciding whether to issue a PPO, the trial court must consider "[t]estimony, documents, or other evidence offered in support of the request" for a PPO. MCL 600.2950(4)(a). Further, pursuant to MCL 600.2950(4)(a), the trial court must consider whether the respondent has "previously committed or threatened to commit" an act listed in MCL 600.2950(1).

In this case, the parties divorced **[*4]** in 2007. They shared joint physical and legal custody of their minor children. The parties' post-divorce relationship appears to have been contentious. In April of 2013, petitioner received a number of text messages from respondent, which she generally described as referring to her as

> fat, ugly, a terrible parent, a derelict, I have no parenting skills, why don't I get a job, why don't I attend a career fair; they will go on to say such things as I date a lizard, that I have no business being a parent, I cheated on my husband with a lizard, I should get a job, I should get off drugs.

The text messages that were admitted into evidence also included numerous declarations from respondent that petitioner was a bully and that she needed to stop abusing children. The text messages were apparently sent before and after an April 23, 2013, incident at petitioner's workplace. The testimony established that on April 23, 2013, respondent called petitioner and left a voicemail on her phone before showing up at her workplace. Respondent agreed that when he arrived he "launched into an extremely hostile tirade," but he maintained that he did not threaten anyone. Petitioner testified that when respondent **[*5]** arrived he "slammed his hands" onto the sign-in counter, sending pencils flying and disrupted everything that was on the counter. She said that he started saying "let's go, come on, let's go, let's go find these bullies, Ingrid, come on, let's go." She added that he was "screaming at the top of his lungs." She said that she was very afraid and asked him to leave, but he "kept going on and on" about finding the bullies. Petitioner's coworker described respondent as "very hostile" and said he was "yelling" at petitioner. She said it was a "bit eerie" because respondent had a laser focus on petitioner. She said that she was scared and frightened by his conduct. Petitioner crouched behind her coworker and called the police, but respondent left before they arrived. Petitioner said that respondent left a second voicemail on her phone after he left. Both voicemails were played on the record, but were not transcribed. However, respondent candidly described at least one of the voicemails as a "volcanic . . . watered down

version of Alec Baldwin's infamous voice message." One of the responding police officers testified that petitioner and her coworker were upset, frightened, and emotionally **[*6]** agitated when he arrived; however, the officer said that they told him respondent did not make any verbal threats. Based on this testimony, we conclude that the trial court did not abuse its discretion in denying respondent's motion to terminate the PPO because the trial court had reasonable cause to believe that respondent interfered with petitioner at petitioner's place of employment and engaged in conduct that caused petitioner to experience a reasonable apprehension of violence. *MCL 600.2950(4)*; *MCL 600.2950(1)(g)* and *(j)*.[1]

Affirmed.

/s/ Peter D. O'Connell

/s/ Stephen L. Borrello

/s/ Elizabeth L. Gleicher

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[1] In addition, the trial court was able to consider a September 2012 incident in determining whether respondent's actions caused petitioner to experience a reasonable apprehension of violence. See *MCL 600.2950(4)(b)* (providing that a trial court may consider whether the respondent previously committed or threatened to commit an act listed in *MCL 600.2950(1)*). According to petitioner, respondent slapped her in the face in September of 2012. Respondent points out that the case against him was dismissed because the prosecutor found it improper to go forward. However, the trial court was able to consider the incident even though it did not result in a conviction. See *MCL 600.2950(4)(b)*. Therefore, to the extent that the trial court considered the September **[*7]** 2012 incident in reaching a decision, the trial court did not abuse its discretion.