2017 IL App (2d) 160218
No. 2-16-0218
Order filed June 14, 2017

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

LAURIE B. FULL,	)	Appeal from the Circuit Court
	)	of Du Page County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 15-OP-638
	)	
STACEY A. SLAUGHTER,	)	Honorable
	)	John J. Kinsella,
Respondent-Appellant.	)	Judge, Presiding

JUSTICE SPENCE delivered the judgment of the court.
Presiding Justice Hudson and Justice McLaren concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's order imposing a peace bond against respondent expired before resolution of this appeal, and no exception to mootness applied. Therefore, we dismissed the appeal as moot.

¶ 2 Respondent, Stacey A. Slaughter, appeals from the trial court's *sua sponte* entry of a peace bond against her. This case began as a civil petition by petitioner, Laurie B. Full, for a stalking no contact order pursuant to the Stalking No Contact Order Act (740 ILCS 21/1 *et seq.* (West 2014)). The petition sought an order prohibiting Stacey from having any contact with Laurie and her family, based on allegations of stalking and other inappropriate contact that caused her and her family emotional distress. After a several day hearing on Laurie's petition,

the court deferred its ruling on the petition and instead entered a peace bond. The peace bond prohibited Stacey from direct or indirect contact with Laurie and her family and ordered that Stacey remain at least 300 feet away from Laurie at all times. The order also provided that the peace bond would expire on February 24, 2017.

¶ 3 For the reasons herein, we dismiss this appeal because the peace bond issue is moot.

¶ 4 I. BACKGROUND

¶ 5 Laurie filed a "Verified Petition Stalking No Contact Order" against Stacey on June 8, 2015, seeking protection for herself and her family. She filed an amended petition on January 22, 2016, pursuant to the Stalking No Contact Order Act (740 ILCS 21/1 *et seq.* (West 2014)) and section 2-616 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-616 (West 2014)). The allegations provided that Laurie lived in Wheaton with her husband, Christopher, and their four children. Stacey was Laurie's neighbor, residing approximately one block away. She lived with her husband, Mathew, and her two sons.

¶ 6 The impetus for Laurie's petition began in July 2012, when her 6 year-old son, D.F., was diagnosed with brain cancer. At the time, Laurie alleged that Stacey was "an acquaintance only," and Stacey "unilaterally" began organizing fundraisers for Laurie's family. Laurie and her family were grateful for the assistance, but Stacey "began to almost immediately overstep social bounds." The allegations described a series of events over several years, including that Stacey would stare at Laurie's children at the bus stop and that she made inappropriate comments to and contact with Laurie's daughter, K.F., on a school trip to Wisconsin in 2014. Specifically, Laurie alleged that Stacey videotaped her daughter and several other girls changing

clothes[1] and that Stacey touched her daughter's chest from behind.[2] Other allegations included that Stacey's continuous stalking of Laurie and her family caused them emotional distress.

¶ 7 Following a several day hearing, the court orally announced its ruling on February 22, 2016. The court began that, "[i]n terms of the application for an order of protection, stalking order of protection, the Court is going to continue to take that under advisement and not enter a final ruling on that." Rather, the court stated that pursuant to section 110A-80 of the Code of Criminal Procedure of 1963 (Criminal Code) (725 ILCS 5/110A-80 (West 2014)), it would require Stacey to sign a recognizance bond in the amount of $5,000 "based upon just reason to fear the commission of an offense" for a period of one year. Stacey was to stay 300 feet away from Laurie, her home, and her family, and she was to have no direct or indirect contact with Laurie. The court's order would be enforced by the court's contempt powers and by the potential forfeiture of the bond. The court clarified that its order was "not an order of protection at this point, it is a peace bond."

¶ 8 The court entered its written order on February 26, 2016. The order provided that the court's ruling on the petition for a stalking no contact order was deferred and taken under advisement until February 24, 2017. The court amended the petition pursuant to section 110A-80 of the Code "to conform to the proofs and finds that there is just reason to fear the

[1] Testimony at the hearing provided that Stacey's camera had a green light on and was pointed at K.F. and several other girls while they put on extra clothes to go for a walk at night. The girls were clothed to begin with. Stacey was not holding the camera at the time; it was resting on a table.

[2] The court heard testimony that Stacey hugged K.F. from behind for a few seconds, moving her arms up and down her chest about five times and saying to give her "some sugar."

commission of an offense" and required Stacey to give a recognizance bond in the amount of $5,000 to keep the peace with respect to Laurie. Stacey was to have no contact, direct or indirect, with Laurie and would remain at all times more than 300 feet from her. The order would remain in effect until February 24, 2017, or until further order of the court, and the order was enforceable at law as a bail bond and through the court's contempt powers.

¶ 9 On February 29, 2016, Stacey filed a motion to modify the court's February 26 order, arguing that the order was unreasonable, unduly burdensome, and would prevent Stacey from participating in her own children's lives. The court denied Stacey's motion on March 4, 2016.

¶ 10 Stacey timely appealed.

¶ 11 II. ANALYSIS

¶ 12 A. Jurisdiction

¶ 13 Stacey asserts that we have jurisdiction of her appeal pursuant to Illinois Supreme Court Rule 604(c) (Ill. S. Ct. R. 604(c) (eff. March 8, 2016)). Laurie argues that we do not have jurisdiction of this appeal because the basis for this appeal, the peace bond, expired on February 24, 2017. We first address whether the entry of a peace bond, as a non-final order, is appealable under Rule 604(c). We then address Laurie's mootness argument, *infra*.

¶ 14 Rule 604(c) governs the appealability of a bail order, and in its written order, the trial court provided that the peace bond was "enforceable at law as a bail bond." Generally, Rule 604(d) allows "a defendant" to appeal an order regarding bail "before conviction." Here, Stacey is not a defendant facing a possible conviction; she is the respondent to a civil stalking no contact petition. This proceeding, including the several day hearing, was in the nature of a civil proceeding. Only thereafter did the trial court impose a peace bond pursuant to the Criminal Code, while continuing to take the civil petition under advisement. Therefore, it is at best

unclear that Rule 604(c) applies, despite the trial court's insistence that its peace bond is in effect a bail bond. To complicate matters, there is a dearth of Illinois case law on peace bonds and their appealability under Rule 604(c).

¶ 15 Nevertheless, we have jurisdiction to review the entry of a peace bond in the course of a civil proceeding pursuant to Rule 307(a)(1) (Ill. S. Ct. R. 307(a)(1) (eff. October 6, 2016)). Rule 307(a)(1) permits the interlocutory appeal of an injunction. Here, the peace bond is, in effect, injunctive relief that the court granted in Laurie's favor during the course of a civil proceeding, while it took her petition under advisement. The injunctive relief was the conditions of the peace bond, namely, that Stacey was to avoid direct or indirect contact with Laurie and remain at least 300 feet away from her at all times. Accordingly, we have jurisdiction to review the entry of the peace bond.

¶ 16 B. Mootness

¶ 17 While we have jurisdiction pursuant to Rule 307(a)(1) to hear an appeal from the entry of the peace bond, Laurie argues that because the peace bond expired in February 2017, we no longer have any order to review. In other words, Laurie argues that this appeal is moot.

¶ 18 We agree that, unless an exception to mootness applies, this appeal is moot. As a general rule, we do not decide moot questions, render advisory opinions, or consider issues where a ruling will not affect the result. *Commonwealth Edison Co. v. Illinois Commerce Comm'n*, 2016 IL 118129, ¶ 10; *In re Jonathan P.*, 399 Ill. App. 3d 396, 400 (2010). "When a decision on the merits would not result in appropriate relief, such a decision would essentially be an advisory opinion." *Commonwealth Edison Co.*, 2016 IL 118129, ¶ 10. "Even if a case is pending on appeal when the events that render an issue moot occur, we generally will not issue an advisory opinion." *In re Marriage of Donald B. & Roberta B.*, 2014 IL 115463, ¶ 23. In other words, a

case on appeal becomes moot where events subsequent to the filing of the appeal render it impossible for the appellate court to grant the complaining party effectual relief. *Davis v. City of Country Club Hills*, 2013 IL App (1st) 123634, ¶ 10. Here, the peace bond expired in February 2017, and it is therefore impossible for us to grant her effectual relief, regardless of the propriety of the peace bond order.

¶ 19 Stacey responds that even if the issue is moot, we should review the peace bond order because (1) she was "frustrated by the vagaries of circumstance" and Laurie unilaterally caused the delay of a resolution on appeal, and (2) exceptions to mootness apply. For her first argument, she cites *Alvarez v. Smith*, 558 U.S. 87, 98 (2009) (Stephens, J., concurring in part and dissenting in part). However, that case concerned the United States Supreme Court's vacation of a lower court's judgment pursuant to a federal statute, 28 U.S.C. § 2106 (2006), that specifically authorized it to vacate a moot judgment under certain circumstances. *Alvarez*, 558 U.S. at 94. Stacey does not cite any corresponding Illinois statute applicable here. Moreover, the record does not support frustrating circumstances or unilateral delay. Stacey filed this appeal in March 2016. On appeal, she first filed a motion for relief pursuant to Rule 604(c) in August 18, 2016, after this court granted her several extensions of time. After Laurie failed to respond to the motion, we ordered that the motion be taken with the case and set a briefing schedule, ordering that Stacey's brief be submitted by December 1, 2016. We then granted Stacey an extension of time to file her brief, which she submitted on December 22. While Laurie also requested an extension of time for her brief, we note (1) that the briefs were due only shortly before the peace bond was set to expire in February 2017 and (2) that both parties bear some responsibility extending the timeframe of this appeal. Accordingly, we do not find that mootness is excused by "vagaries of circumstance" or unilateral delay.

¶ 20 Stacey argues that three different exceptions to mootness apply. First, she invokes the "public interest" exception, arguing that the question before the court is public in nature, there is a need for authoritative guidance, and that the issue is likely to recur. Second, she argues that the peace bond order is an issue "capable of repetition yet evading review." And finally, she argues that the "collateral consequences" exception applies, because she suffered actual injury traceable to Laurie's actions and that no other redress is available. We address each exception in turn.

¶ 21 The public interest exception to mootness "permits review of an otherwise moot question where the 'magnitude or immediacy of the interests involved warrant[s] action by the court.' " *In re Shelby R.*, 2013 IL 114994, ¶ 16. The public interest exception applies when: (1) the question presented is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) the question is likely to recur. *In re Alfred H.H.*, 233 Ill. 2d 345, 355 (2009). The exception is narrowly construed and requires a clear showing of each criterion. *Id.* at 356. The first criterion is satisfied only when it is clearly established that the issue has sufficient breadth or a significant effect on the public as a whole. *Gruby v. Department of Public Health*, 2015 IL App (2d) 140790, ¶ 52 (citing *In re Marriage of Eckersall*, 2015 IL 117922, ¶ 15). For the third criterion, we consider the potential recurrence to any person, not only the complaining party. *In re Shelby R.*, 2012 IL App (4th) 110191, ¶ 18.

¶ 22 Stacey argues that the peace bond order presents an issue that is public in nature because the basis for the order had to have been the criminal stalking statute, which was declared unconstitutionally vague in *People v. Relerford*, 2016 IL App (1st) 132531. She does not explain with any particularity why authoritative guidance is needed or whether the issue is likely to recur.

¶ 23 We disagree that the public interest exception applies. First, it is unclear what the basis for the peace bond order was—the trial court inexplicably failed to specify which offense it feared was likely to occur. Moreover, the issue before us does not directly turn on any particular crime or statutory violation that affects the public interest. *Cf. Gruby*, 2015 IL App (2d) 140790, ¶ 52 (compliance with Nursing Home Care Act (210 ILCS 45/1-101 *et seq.* (West 2012)) was of sufficient public significance where legislature deemed violations of the act to be "a public nuisance inimical to the public welfare"). Rather, this appeal challenges the propriety of a peace bond as a valid *remedy*, and, if a peace bond is a valid remedy in this case, whether the facts supported such an entry. We do not believe that the entry of a peace bond generally, without more, is of sufficient public importance to invoke the public interest exception to mootness. *Cf. Whitten v. Whitten*, 292 Ill. App. 3d 780, 784-85 (1997) (applying the public interest exception to an expired order of protection under the Illinois Domestic Violence Act; the Act addressed a grave societal problem and identified a public interest in protecting victims of domestic violence).

¶ 24 Moreover, this question is unlikely to recur. This was a civil suit between neighbors for a stalking no contact order. After a hearing on Laurie's petition, the court *sua sponte* amended the complaint pursuant to the Criminal Code to provide relief to Laurie, while deferring a ruling on the stalking no contact petition. Stacey correctly notes that the stalking no contact petition is supposed to proceed in an expedited fashion. See 740 ILCS 21/70 (West 2014) ("A petition for a stalking no contact order shall be treated as an expedited proceeding, and no court may transfer or decline to decide all or part of such petition."). Given this clear statutory mandate, we do not expect a trial court to hold a hearing on the petition and then delay a ruling for over a year with the entry of a peace bond. We certainly do not expect further delay here.

¶ 25 Stacey also argues that this issue fits the "capable of repetition yet avoiding review" exception to mootness. This exception has two elements: (1) the challenged action must be of a duration too short to be fully litigated prior to its cessation, and (2) there must be a reasonable expectation that the same complaining party would be subjected to the same action again. *In re Donald L.*, 2014 IL App (2d) 130044, ¶ 29. Stacey argues that because the civil petition is still pending in the trial court, she could be subject to the same action once again. We disagree. The propriety of the peace bond remedy is the central issue on this appeal, and it is unlikely that the court will enter another peace bond. Further, any ruling on the propriety of an entry of a peace bond will not have a substantial relation to the future resolution, if any, of the stalking no contact petition. See *In re Alfred H.H.*, 233 Ill. 2d at 359-60 (declining to apply the "capable of repetition" exception because resolution of the issue would not help the specific respondent in future litigation). There is simply no reasonable expectation that Stacey will be subject to a peace bond once again.

¶ 26 Finally, Stacey argues that the "collateral consequences" exception to mootness applies. The collateral consequences exception to mootness permits appellate review, even though a court order or incarceration has ceased, because the appellant has suffered or is threatened with actual injury traceable to the appellee and is likely to be redressed by a favorable judicial decision. *Id.* at 361. Stacey argues that she suffered actual injury traceable to Laurie's actions and that no other redress is available. She does not specify or define her actual injury in her brief. The peace bond, with its conditions of a recognizance bond and an order to refrain from contact, has already expired. A reversal of the peace bond would not provide any redress beyond what the expiration has already provided, and Stacey does not identify any injury that persists past the

expiration of the peace bond. Accordingly, we find the collateral consequences exception inapplicable.

¶ 27 As no exceptions apply, this appeal is moot. Stacey's "Motion for Relief Pursuant to Rule 604(c)," which we took with the case, also sought relief from the court's entry of the peace bond against her and is likewise moot.

¶ 28 III. CONCLUSION

¶ 29 The peace bond issue is moot, and we therefore we deny Stacey's motion for relief pursuant to Rule 604(c) and dismiss this appeal from the circuit court of Du Page County.

¶ 30 Appeal dismissed.