

STATE OF MICHIGAN
COURT OF APPEALS

SONTONIA MARIA GUPTON,

Petitioner-Appellee,

v

STEVEN JOHNSTON,

Respondent-Appellant.

UNPUBLISHED

January 28, 2010

No. 288847

Oakland Circuit Court

LC No. 2008-749296-PH

Before: Donofrio, P.J., and Meter and Murray, JJ.

PER CURIAM.

Respondent Steven Johnston appeals as of right from a circuit court order denying his motion to terminate a personal protection order. We conclude that the court erred in failing to grant respondent a hearing on his motion to terminate, but because the PPO has expired and therefore no remedy is available, we declare this issue moot. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that he was entitled to a hearing on his motion to terminate the PPO pursuant to MCR 3.707(A). The record reflects, however, that the PPO expired by its own terms on August 22, 2009. “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.* This Court may nevertheless choose to address a moot issue if it involves an issue of public significance. *Id.* We address the issue here because of the importance of enforcing our court rules, but can offer no relief to respondent because the PPO expired.

In interpreting a court rule, this Court applies the principles of statutory interpretation. *Henry v Dow Chem Co*, 484 Mich 483, 495; 772 NW2d 301 (2009). This Court must look to the plain language of the court rule and accord every word and phrase its plain and ordinary meaning. *Id.*; *Spires v Bergman*, 276 Mich App 432, 439; 741 NW2d 523 (2007). “If the language poses no ambiguity, this Court need not look outside the rule or construe it, but need only enforce the rule as written.” *Kloian v Domino’s Pizza, LLC*, 273 Mich App 449, 458; 733 NW2d 766 (2006).

MCR 3.707(A) provides, in pertinent part:

(1) *Time for Filing and Service.*

* * *

(b) The respondent may file a motion to modify or terminate the personal protection order and request a hearing within 14 days after being served with, or receiving actual notice of, the order unless good cause is shown for filing the motion after the 14 days have elapsed.

* * *

(2) *Hearing on the Motion.* The court *must* schedule and hold a hearing on a motion to modify or terminate a personal protection order within 14 days of the filing of the motion, except that if the respondent is a person described in MCL 600.2950(2) or 600.2950a(2), the court shall schedule the hearing on the motion within 5 days after the filing of the motion. [Third italics added.]

Thus, MCR 3.707(A)(1)(b) authorized respondent to file a motion to terminate the PPO, and he filed his motion on August 29, 2008, well within the 14-day time limit set forth in the court rule. Under MCR 3.707(A)(2), the trial court was required to hold a hearing on the motion, as use of the term “must” in this provision rendered a hearing mandatory. See *Allard v State Farm Ins Co*, 271 Mich App 394, 398; 722 NW2d 268 (2006). The trial court erred by determining that respondent was not entitled to a hearing because it had already held a hearing *before* it granted the PPO. The trial court erred by essentially considering respondent’s motion to terminate the PPO as a motion for reconsideration of the order granting the PPO. Thus, respondent was entitled to a hearing pursuant to MCR 3.707(A)(2).

However, the PPO has expired and therefore cannot be vacated. And, even if respondent had obtained a hearing and succeeded, the only relief would have been a law enforcement agency inputting the relevant information (modification, termination, etc.) into the LEIN, not the actual removal of the PPO from the system. See MCL 600.2950(19)(b).

Appeal dismissed.

/s/ Pat M. Donofrio
/s/ Patrick M. Meter
/s/ Christopher M. Murray