

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

M.H.,
Appellant-Petitioner,

v.

J.H.,
Appellee-Respondent.

October 27, 2021

Court of Appeals Case No.
21A-PO-941

Appeal from the LaPorte Superior
Court

The Honorable Richard R.
Stalbrink, Jr., Judge

Trial Court Cause No.
46D02-2101-PO-27

Pyle, Judge.

Statement of the Case

[1] M.H. (“Mother”) appeals following the trial court’s issuance of an order of protection in her favor and against her adult son, J.H. (“Son”). Mother argues that the trial court erred by denying her motion to correct error and motion for rule to show cause; in both, the relief Mother sought was to have Son removed or evicted from their shared and jointly-owned residence. During the pendency of this appeal, Mother filed, with our Court, a motion in which she indicated that Son has moved out of the residence. Because Mother has otherwise obtained the relief that she sought below in her two motions that are currently being appealed, thereby leaving this Court unable to provide effective relief upon an issue, we dismiss this appeal as moot.

[2] We dismiss.

Issue

Whether the appeal of the trial court’s denial of Mother’s motion to correct error and motion for rule to show cause has been rendered moot.

Facts

[3] Around 2018, Son moved into Mother’s LaPorte County home (“the residence”), which was divided into two apartments. At that time, Mother’s health was poor, and she needed Son to help care for her. Mother lived in the main-floor apartment while Son lived in the upstairs apartment. The residence had a shared entrance. Inside that entrance was a shared hallway, which led to

Mother's door to her apartment and the stairs to Son's upstairs apartment. In June 2018, Mother added Son's name on the deed for the residence.

[4] Years later, on January 25, 2021, Mother filed a petition for a protective order against Son. Mother alleged that Son had engaged in domestic or family violence and repeated harassment by attempting to cause physical harm to Mother, threatening to cause her physical harm, placing her in fear of physical harm, and committing repeated acts of harassment against her. As part of the relief sought under Mother's protective order petition, she sought to have Son evicted from the residence, which she acknowledged was jointly owned by her and Son.

[5] On February 18, 2021, the trial court held a hearing on Mother's protective order petition. During the hearing, Mother discussed the various allegations of domestic or family violence and harassment raised in her protective order petition. For example, Mother testified that Son had kept a video camera, like a "nanny camera[,]” in her living room so that he could see if she had fallen or needed help. (Tr. Vol. 2 at 13). Mother explained that when she had friends visit her apartment, she would unplug the camera because her guests preferred the camera to be off and because she did not want her private conversations recorded by Son. Mother testified that, on one occasion in November 2020 when she had unplugged the camera, Son had become angry with her and told her that he would fix the camera so that she could not unplug it. When Mother told Son that she could use scissors, Son told her that he would “slap [her] right in the mouth” if she did. (Tr. Vol. 2 at 15). Additionally, Mother testified that

Son had put a lockbox on her thermostat when she had not been home and that he had set it at sixty-three degrees. Mother used a hammer to remove the lockbox and then called the police, who had given her forms to file a protective order petition. Mother testified living in the same house as Son had affected her mental health and that she slept with a hammer by her bed to feel safe. She told the trial court that she sought the protective order and wanted to have Son's name off of the deed to the residence.

[6] At the end of the hearing, the trial court verified with Mother that, along with the protective order, she was seeking to have Son evicted from the residence. Mother's attorney cited to the protective order statute and stated that Mother was seeking "an order identifying that [Son] should be removed from the deed as well to prevent future violence occurring after the protective order[.]" (Tr. Vol. 2 at 53). The trial court asked, "So you think the protective order statute allows me to dispossess somebody of ownership and chain of title on a deed?", and Mother's attorney responded that she "believe[d] that the protective order statute allows for the Court [to have] wide discretion to offer any relief that is necessary in order to preserve the protection of the petitioner." (Tr. Vol. 2 at 54). The trial court disagreed and then asked Mother whether she had filed a quiet title action or a petition to set aside the deed.

[7] That same day, the trial court issued an order granting Mother's petition for a protective order ("Protective Order"). The trial court denied Mother's request to evict Son from the residence, and it "permitted [Son] to occupy the same

location[.]” (App. Vol. 2 at 17). The trial court, however, ordered Son “not to interfere with [Mother’s] care or guests on the property.” (App. Vol. 2 at 18).

[8] On March 4, 2021, Mother filed a motion to correct error, in which she argued that the trial court had erred in its Protective Order when it had declined to remove or evict Son from their shared residence. That same day, Mother also filed an affidavit for rule to show cause (“show cause motion”), arguing that Son had violated the Protective Order.

[9] On April 20, 2021, the trial court held a hearing on Mother’s motion to correct error and show cause motion. During the hearing, Mother said that she wanted the protective order to remain, but she asked the trial court to evict Son from the residence. The trial court asked Mother whether she had “pursued any type of other eviction or any type of other means to remove [Son] from the premises[,]” and Mother stated that was “currently in negotiations with [Son] through a partition case[.]” (Tr. Vol. 2 at 64). During the hearing, the trial court heard evidence on Mother’s show cause motion.

[10] At the end of the hearing, Mother’s attorney specifically stated that Mother was “not asking for [Son] to go to jail and be incarcerated for the[] violations” of the Protective Order. (Tr. Vol. 2 at 99). Instead, Mother’s counsel argued that the relief Mother sought on both her motion to correct error and her show cause motion was for the trial court to “fix the order so that the order can be enforced and have [Son] evicted from the home[.]” (Tr. Vol. 2 at 100). That same day,

the trial court issued a written order denying Mother's motion to correct error and show cause motion.

[11] Mother now appeals the trial court's denial of her motion to correct error and show cause motion. While this appeal was pending, Mother filed various motions in the trial court and with this Court. For example, on August 17, 2021, Mother filed, with the trial court, an affidavit for rule to show cause ("August 2021 show cause motion"). In Mother's August 2021 show cause motion, she informed the trial court that Son had moved out of her residence in July 2021, and she alleged various acts of harassment by Son since he had moved out of the residence.¹ On September 17, 2021, Mother filed, with this Court, a motion for writ in aid of jurisdiction ("September 2021 writ"). She attached various pleadings, including a copy of her August 2021 show cause motion in which she asserted that Son had moved out of her residence in July 2021.²

Decision

[12] On appeal, Mother argues that the trial court erred by denying her motion to correct error and show cause motion. We need not, however, address Mother's

¹ Mother alleged that Son had stolen items from the residence when he moved out of the residence, yelled at Daughter, used his car to block Mother's car and her daughters' cars in the driveway, placed cinder blocks in the driveway, unhooked Mother's washer and dryer, placed a padlock on the upstairs apartment, turned Mother's electricity on and off, removed the emergency water shutoff valve from the basement, and had had his wife call Mother about a water issue.

² This Court issued a separate order to address Mother's September 2021 writ.

challenge to the denial of these motions because her challenge is moot. “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.” *Gibson v. Hernandez*, 764 N.E.2d 253, 255 (Ind. Ct. App. 2002), *trans. denied*. See also *Sainvil v. State*, 51 N.E.3d 337, 342 (Ind. Ct. App. 2016) (explaining that “when we are unable to provide effective relief upon an issue, the issue is deemed moot, and we will not reverse the trial court’s determination where absolutely no change in the status quo will result”) (cleaned up), *trans denied*. ““When the concrete controversy at issue in a case has been ended or settled, or in some manner disposed of, so as to render it unnecessary to decide the question involved, the case will be dismissed.”” *Gibson*, 764 N.E.2d at 255 (quoting *In re Lawrance*, 579 N.E.2d 32, 37 (Ind. 1991)).

[13] Here, the trial court granted Mother’s request for the issuance of a protective order in her favor and against Son. The trial court, however, denied Mother’s request to evict or remove Son from their shared and jointly-owned residence and denied her request to remove him from the deed. Thereafter, Mother filed a motion to correct error and a show cause motion. During the hearing on these two motions, Mother indicated that the relief she sought for both these motions was to have the trial court order Son to be removed or evicted from the residence. The trial court denied both motions, and Mother appealed. During the pendency of this appeal, Mother filed with this Court a motion that indicated that Son had since moved out of the residence in July 2021.

[14] Because Mother has already received the relief sought in her motions currently being appealed, her appellate challenge to the motions has been rendered moot. *See Sainvil*, 51 N.E.3d at 342 (explaining that an issue is deemed moot when an appellate court is unable to provide effective relief upon the issue). Accordingly, we will not review Mother’s challenge to the denial of her two motions, and we dismiss this appeal as moot. *See, e.g., Sainvil*, 51 N.E.3d at 342 (declining to review a defendant’s moot challenge where no effective relief could be granted).³

[15] Dismissed.

Bailey, J., and Crone, J., concur.

³ We recognize that there is an exception to mootness and that our appellate courts may decide a moot issue on the merits where it involves a question of great public interest. *See Sainvil*, 51 N.E.3d at 342. We conclude that this case does not fall into that category and decline to review the merits of Mother’s arguments.