



**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

T.C.T.,)
)
Respondent,)
) **WD72336**
v.)
) **OPINION FILED:**
) **September 20, 2011**
KEVIN SHAFINIA,)
)
Appellant.)

**Appeal from the Circuit Court of Platte County, Missouri
The Honorable Daniel M. Czamanske, Judge**

Before Division One: Victor C. Howard, Presiding Judge, and
Alok Ahuja and Karen King Mitchell, Judges

This is a protection order case. The dispositive issue is whether this case is moot, given that the protection order has expired. We hold that it is moot and therefore dismiss the case.

Facts and Procedural Background¹

Appellant Kevin Shafinia was involved in two incidents with Respondent T.C.T. The trial court entered a full order of protection against Shafinia on March 30, 2010. The order prohibited Shafinia from having any contact with T.C.T. for one year. The order of protection

¹ On appeal from a judgment in a court-tried case, we view the facts in the light most favorable to the judgment. *White v. Dir. of Revenue*, 321 S.W.3d 298, 302 (Mo. banc 2010).

was never renewed. Shafinia appeals, arguing only that the evidence was insufficient to support the order of protection.

The remaining facts of the case are not relevant to the disposition of this appeal, and therefore we omit them.

Standard of Review

Whether a case is moot is a legal issue that we raise *sua sponte* on appeal. *Inman v. Mo. Dep't of Corr.*, 139 S.W.3d 180, 185 (Mo. App. W.D. 2004).

Legal Analysis

The dispositive issue is whether this case is moot. It is.

A moot issue is one upon which, if we resolved it in the appellant's favor, our holding would have no practical effect. *Lamar Co., LLC v. City of Kansas City*, 330 S.W.3d 767, 771 (Mo. App. W.D. 2010); *In re Sw. Bell Tel. Co.'s Proposed Revision to Gen. Exch. Tariff, P.S.C.*, 18 S.W.3d 575, 577 (Mo. App. W.D. 2000). We generally dismiss cases that are moot because appellate jurisdiction depends on the existence of a live controversy. *Royster v. Rizzo*, 326 S.W.3d 104, 108 (Mo. App. W.D. 2010); *Sw. Bell*, 18 S.W.3d at 577. When a full order of protection has expired, any appeal of that order is moot, because there is no practical effect in vacating an order that has expired. *K.D. v. Alosi*, 292 S.W.3d 616, 616 (Mo. App. W.D. 2009); *Stiers v. Bernicky*, 174 S.W.3d 551, 553 (Mo. App. W.D. 2005).

We may, within our discretion, address a moot issue when the public interest demands it.² *See Stiers*, 174 S.W.3d at 553. However, “[c]hallenges to the sufficiency of the evidence to support lapsed protective orders under the Adult Abuse Act are generally not of sufficient public interest to fall within the public interest exception.” *M.W. v. Mabry*, 282 S.W.3d 33, 36 (Mo. App. E.D. 2009). Furthermore, when the case is moot and the appellant does not raise a valid

² Another way of saying this is that, when the public interest is impacted, the issue is live.

exception to the mootness doctrine, we will generally not exercise our discretion to address the merits but will instead dismiss the case. *K.D.*, 292 S.W.3d at 616.

Here, the order of protection has expired, Shafinia challenges only the sufficiency of the evidence, and Shafinia “does not argue that the order’s mere existence subjects him to significant collateral consequences that might justify us in exercising our discretion to consider his claims.” *Cf. id.*; § 455.007(2), 2011 Mo. Legis. Serv. 523 (West). Under these circumstances, his appeal is moot, and the public interest exception is not implicated. Accordingly, we dismiss the appeal.

Conclusion

For the reasons stated above, the appeal is dismissed.

Karen King Mitchell, Judge

Victor C. Howard, Presiding Judge,
and Alok Ahuja, Judge, concur.