

FILED

12/08/2020

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 3, 2020 Session

IN RE CHANTZ B. ET AL.

Appeal from the Circuit Court for DeKalb County
No. 2019 CV 16 Ronald Thurman, Chancellor¹

No. M2019-02139-COA-R3-JV

The trial court entered an order permitting the use of sealed court records from a dependency and neglect matter in a subsequent federal civil rights lawsuit challenging the dependency and neglect proceedings. The respondent mother, who is also the plaintiff in the related federal action, has appealed. Inasmuch as the collateral federal lawsuit has now been dismissed, we determine that this appeal is moot and nonjusticiable. We therefore dismiss the mother's appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which D. MICHAEL SWINEY, C.J., and FRANK G. CLEMENT, JR., P.J., M.S., joined.

Connie Reguli, Brentwood, Tennessee, for the appellant, Wendy H.

Daniel H. Rader, IV; Daniel H. Rader, III; and Randall A. York, Cookeville, Tennessee, for the appellees, City of Smithville, James Cornelius, and Matthew Holmes.

OPINION

I. Factual and Procedural Background

This appeal arises from a dependency and neglect action filed by the Tennessee Department of Children's Services ("DCS") in the DeKalb County Juvenile Court ("juvenile court"), concerning the two minor children ("the Children") of Wendy H. ("Mother") and Kevin B. ("Father"), respondents.² On December 14, 2018, the juvenile court entered a protective order in the matter, stating that all of the DCS records "entered

¹ Sitting by interchange.

² Father is not participating in this appeal.

into the record as exhibits or otherwise, shall be placed under seal, including any transcript of any testimony relating to such records, and will not be released or opened for any reason except upon order of this Honorable Court after proper notice to counsel for [DCS].” On March 20, 2019, the juvenile court entered an order adjudicating the Children to be dependent and neglected, which resulted in their placement in the temporary care of DCS. Mother filed a timely appeal to the DeKalb County Circuit Court (“trial court”). Prior to the *de novo* appeal hearing, the trial court entered an agreed order on June 7, 2019, stating that the parties had agreed that the circumstances leading to removal no longer existed and that the Children should be returned to Mother’s custody. The matter was therefore remanded to juvenile court, which returned custody of the Children to Mother.

On August 27, 2019, in response to the dependency and neglect proceedings, Mother filed a collateral civil rights lawsuit in the United States District Court for the Middle District of Tennessee (“federal court”) against seventeen defendants, including the City of Smithville (“the City”), Detective James Cornelius, Lieutenant Matthew Holmes, certain judicial officers, and various DCS staff members (collectively, “the Federal Defendants”). On October 29, 2019, Detective Cornelius, Lieutenant Holmes, and the City (collectively, “the City Defendants”) filed a motion with the trial court requesting permission to access and utilize the juvenile court and trial court records in their defense concerning the federal lawsuit.³

In their motion, the City Defendants stated that following Mother’s institution of the federal lawsuit, “the Circuit Court Clerk provided all parties with certified copies of the Circuit Court proceedings, which included the Juvenile Court file.” The City Defendants further stated that they had filed a motion seeking dismissal of Mother’s claims in federal court and had attached, under seal, copies of portions of the juvenile court and trial court records. The City Defendants asserted that the records had been kept strictly confidential and would be maintained under seal. Mother filed a response in opposition to the City Defendants’ motion, wherein she stated that she had asked the federal court to exclude exhibits filed by the Federal Defendants that came from the juvenile court and trial court records.

On November 6, 2019, the trial court entered an order permitting the City Defendants access to and use of the trial court records for filing under seal in the federal action despite Mother’s objection. The court determined that the documents were relevant to the issues raised in the federal lawsuit and that the parties and the federal court had taken steps to maintain the confidentiality of the records. The trial court certified the order as final pursuant to Tennessee Rule of Civil Procedure 54. Mother timely appealed to this Court.

³ The City Defendants filed a similar motion with the juvenile court.

On March 27, 2020, the federal court denied Mother's motion to exclude juvenile court and trial court records filed as exhibits in that matter and ultimately dismissed her civil rights lawsuit. *See Hancock v. Miller*, No. 2:19-CV-00060, 2020 WL 1493609, at *22 (M.D. Tenn. Mar. 27, 2020).

II. Issues Presented

Mother presents the following issues for our review, which we have restated slightly:

1. Whether the trial court erred by providing a blanket release of the juvenile court records to a third party.
2. Whether the trial court had jurisdiction over the juvenile court records.
3. Whether the trial court erred by allowing third parties without standing to obtain a complete copy of the juvenile court records.
4. Whether the juvenile court orders were of no force and effect because Mother filed a *de novo* appeal to the trial court, during which DCS dismissed the petition in its entirety.
5. Whether the trial court ignored the orders of the juvenile court concerning the court records and DCS records filed with the juvenile court.

The City Defendants present two additional issues for our review, which we have similarly restated slightly:

6. Whether this appeal is moot and non-justiciable because the related federal lawsuit has been dismissed.
7. Whether Mother's appeal is barred by the doctrines of collateral estoppel and/or res judicata.

III. Justiciability and Mootness

We first address the issue raised by the City Defendants concerning justiciability, determining it to be dispositive in this action. As our Supreme Court has elucidated:

This Court must first consider questions pertaining to justiciability before proceeding to the merits of any remaining claims. *See UT Med. Grp., Inc. v. Vogt*, 235 S.W.3d 110, 119 (Tenn. 2007) (noting that justiciability is a threshold inquiry). The role of our courts is limited to deciding issues that qualify as justiciable, meaning issues that place some real interest in dispute, *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 838 (Tenn. 2008), and are not merely “theoretical or abstract,” *Norma Faye Pyles Lynch Family Purpose LLC v. Putnam Cnty.*, 301 S.W.3d 196, 203 (Tenn. 2009). A justiciable issue is one that gives rise to “a genuine, existing controversy requiring the adjudication of presently existing rights.” *Vogt*, 235 S.W.3d at 119.

City of Memphis v. Hargett, 414 S.W.3d 88, 96 (Tenn. 2013). Moreover, this Court has previously explained:

The doctrine of justiciability prompts courts to stay their hand in cases that do not involve a genuine and existing controversy requiring the present adjudication of present rights. *State ex rel. Lewis v. State*, 208 Tenn. 534, 537, 347 S.W.2d 47, 48 (1961); *Dockery v. Dockery*, 559 S.W.2d 952, 954 (Tenn. Ct. App. 1977). Thus, our courts will not render advisory opinions, *Super Flea Mkt. v. Olsen*, 677 S.W.2d 449, 451 (Tenn. 1984); *Parks v. Alexander*, 608 S.W.2d 881, 892 (Tenn. Ct. App. 1980), or decide abstract legal questions. *State ex rel. Lewis v. State*, 208 Tenn. at 538, 347 S.W.2d at 49.

Cases must be justiciable not only when they are first filed but must also remain justiciable throughout the entire course of the litigation, including the appeal. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477, 110 S. Ct. 1249, 1253, 108 L. Ed. 2d 400 (1990); *Kremens v. Bartley*, 431 U.S. 119, 128-29, 97 S. Ct. 1709, 1715 (1977). The concept of mootness deals with the circumstances that render a case no longer justiciable.

A moot case is one that has lost its character as a present, live controversy. *McCanless v. Klein*, 182 Tenn. 631, 637, 188 S.W.2d 745, 747 (1945); *Krug v. Krug*, 838 S.W.2d 197, 204 (Tenn. Ct. App. 1992); *LaRouche v. Crowell*, 709 S.W.2d 585, 587 (Tenn. Ct. App. 1985). The central question in a mootness inquiry is whether changes in the circumstances existing at the beginning of the litigation have forestalled the need for meaningful relief. A case will generally be considered moot if it no longer serves as a means to provide relief to the prevailing party.

McIntyre v. Traugher, 884 S.W.2d 134, 137 (Tenn. Ct. App. 1994) (internal citations omitted).

Examples of appeals that this Court previously has found to be moot and therefore nonjusticiable include: (1) a debtor’s appeal from a judgment rendered moot due to its subsequent discharge in bankruptcy, *see Ford Consumer Fin. Co., Inc. v. Clay*, 984 S.W.2d 615, 617 (Tenn. Ct. App. 1998); (2) an appeal from a trial court’s grant of one parent’s petition for a one-week extension of vacation co-parenting time when the vacation had already ended before the appeal was heard, *see Mohammad v. Meri*, No. W2011-01593-COA-R3-CV, 2012 WL 1657096, at *3 (Tenn. Ct. App. May 11, 2012); and (3) an appeal from a trial court’s order determining a statute to be unconstitutional following the subsequent amendment of the statute, *see Shealy v. Policy Studies, Inc.*, No. E2005-01124-COA-R3-CV, 2006 WL 2482984, at *10 (Tenn. Ct. App. Aug. 29, 2006).

Similarly, in the case at bar, we determine that this appeal has become nonjusticiable due to mootness. Mother has appealed the trial court’s decision to allow the City Defendants to access and utilize records from the dependency and neglect proceedings in their defense of Mother’s federal claims. However, Mother’s federal claims have now been dismissed. *See Hancock*, 2020 WL 1493609, at *22.⁴ Ergo, no live controversy exists, and this case “no longer serves as a means to provide relief to the prevailing party.” *See McIntyre*, 884 S.W.2d at 137. Because this Court cannot preclude the use of records in defense of claims that have been dismissed, any opinion entered by this Court would be merely “theoretical or abstract,” *see City of Memphis*, 414 S.W.3d at 96, and would be in the nature of an improper advisory opinion, *see McIntyre*, 884 S.W.2d at 137. As such, we conclude that Mother’s appeal must be dismissed due to mootness and lack of justiciability.

IV. Conclusion

For the foregoing reasons, we dismiss Mother’s appeal as moot and nonjusticiable. This matter is remanded to the trial court, pursuant to applicable law, for collection of costs assessed below. Costs on appeal are assessed to the appellant, Wendy H.

THOMAS R. FRIERSON, II, JUDGE

⁴ Despite Mother’s argument that her federal action remains a live controversy because she has filed an appeal to the Sixth Circuit Court of Appeals, we note that the district court’s order dismissing Mother’s claims is nevertheless considered a final order. *See, e.g., Robert N. Clemens Tr. v. Morgan Stanley DW, Inc.*, 485 F.3d 840, 846 (6th Cir. 2007) (“Under 28 U.S.C. § 1291, [federal appellate courts] have jurisdiction over ‘final decisions of the district courts of the United States.’”).