

NEW YORK COURT OF APPEALS

In the Matter of Veronica P. v. Radcliff A.

24 N.Y.3d 668, 26 N.E.3d 1143, 3 N.Y.S.3d 288 (2015) · No. No. 12 · Decided February 12, 2015

SUMMARY

The New York Court of Appeals held that an appeal from a contested Family Court order of protection is not rendered moot solely because the order expired. The court identified enduring legal, law-enforcement, reputational, and potential employment consequences associated with the order. It reversed the Appellate Division's dismissal and remitted the matter for consideration of the appeal's merits.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Abdus-Salaam, J.; Lippman, C.J.; Read, J.; Pigott, J.; Rivera, J.; Stein, J.; Fahey, J.
JURISDICTION	New York
DECIDED	February 12, 2015
DOCKET	No. 12
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Respondent appealed from a Family Court order of protection entered after a contested family-offense hearing. While the appeal was pending, the order expired. The Appellate Division dismissed the appeal as moot, and the New York Court of Appeals granted leave to appeal.
STANDARD OF REVIEW	The court applied the legal standard governing mootness, asking whether the appeal could directly affect the parties' rights or interests and whether the challenged order imposed readily ascertainable, legally significant enduring consequences.
PRECEDENTIAL VALUE	published, precedential New York Court of Appeals opinion
PARTIES	Radcliff A. v. Veronica P.

TOPICS

mootness

family law procedure

appellate procedure

domestic violence

PRACTICE AREAS

family law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether an appeal from a contested Family Court order of protection based on a finding that the respondent committed a family offense becomes moot solely because the order expires while the appeal is pending.
2. Whether the expired order's potential legal, law-enforcement, and reputational consequences permit appellate review.

HOLDINGS

1. An appeal from a contested Family Court order of protection is not rendered moot solely by expiration of the order when the order continues to impose readily ascertainable and legally significant enduring consequences on the respondent.
2. Because consideration of the merits was inappropriate under the circumstances, the matter had to be remitted to the Appellate Division for consideration of the appeal.

KEY QUOTATIONS

“In general an appeal will be considered moot unless the rights of the parties will be directly affected by the determination of the appeal and the interest of the parties is an immediate consequence of the judgment” (slip op. at 3)

“the expiration of the order of protection does not moot the appeal because the order still imposes significant enduring consequences upon respondent, who may receive relief from those consequences upon a favorable appellate decision.” (slip op. at 4)

“In sum, given the totality of the enduring legal and reputational consequences of the contested order of protection, respondent's appeal from that order is not moot.” (slip op. at 6)

FACTUAL BACKGROUND

Veronica P. filed a Family Court Act article 8 petition alleging that Radcliff A., who regularly stayed in her apartment, had assaulted and harassed her. After a contested hearing, Family Court found Radcliff guilty of harassment in the second degree and entered a two-year order of protection directing him to stay away from Veronica's home and refrain from specified offenses. The order expired while Radcliff's appeal was pending, but it remained capable of affecting future criminal or civil proceedings, credibility determinations, law-enforcement scrutiny, and his reputation.

PROCEDURAL HISTORY

Family Court found Radcliff A. guilty of harassment in the second degree as a family offense and entered a two-year order of protection against him. The Appellate Division, First Department, unanimously dismissed his appeal as moot after the order expired. The Court of Appeals reversed the dismissal and remitted the matter to

the Appellate Division for consideration of the appeal because the expired order continued to carry legally significant and reputational consequences.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Appellate Division's order, without costs, and remit the matter to the Appellate Division, First Department, for further proceedings and consideration of the appeal in accordance with the opinion.

CASES CITED

- Matter of Hearst Corp. v. Clyne, 50 N.Y.2d 707, 714 (1980)
- Matter of New York State Commission on Judicial Conduct v. Rubenstein, 23 N.Y.3d 570, 576-578 (2014)
- Coleman v. Daines, 19 N.Y.3d 1087, 1090 (2012)
- Matter of Bickwid v. Deutsch, 87 N.Y.2d 862, 863-864 (1995)
- Matter of Veronica P. v. Radcliff A., 110 A.D.3d 486, 486 (1st Dep't 2013)