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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

DANIELLE LOUISE BRYAN,

Plaintiff and Respondent,

v.

VICTORIA VERONICA POLANCO,

Defendant and Appellant.

G046325

(Super. Ct. No. 30-2011-00519832)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Gay Sandoval, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Dismissed as moot; requests for attorney fees and sanctions denied.

Victoria Polanco, in pro. per., for Defendant and Appellant.

Law Offices of Milo F. DeArmey, Milo F. DeArmey and Matthew S. DeArmey for Plaintiff and Respondent.

* * *

Defendant Victoria Polanco appeals from the court's December 9, 2011 restraining order against her.¹ Because the order expired on September 9, 2012, we dismiss her appeal as moot. She also requests attorney fees, a request we deny due to her failure to provide adequate briefing and an adequate record.

We deny plaintiff's and defendant's respective requests for appellate sanctions because the parties failed to comply with California Rules of Court, rule 8.276.

FACTS

On November 2, plaintiff filed a request for a restraining order against defendant. Plaintiff sought no contact, no harassment, and stay away orders protecting herself and her family from defendant. In her written request, plaintiff alleged that defendant constantly tried to engage plaintiff's family and other neighbors into confrontations and would escalate her harassment when they did not react. Plaintiff further alleged that defendant screamed racial threats at her, such as, "I'm going to kick you're a**, you white scum bit**."² Plaintiff asserted that defendant made a reference to plaintiff's place of employment (even though plaintiff had never disclosed that information to defendant) and threatened to get plaintiff fired. Plaintiff alleged defendant constantly stalked plaintiff's family, watched them from her window, videotaped them, and stared them down. Plaintiff asserted her 11-year-old daughter was emotionally traumatized and terrified to go outside.

¹ The order is appealable as an order granting an injunction under Code of Civil Procedure section 904.1, subdivision (a)(6). (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1502, fn. 9.)

All dates refer to the year 2011 unless otherwise stated.

² Plaintiff's petition described defendant as Hispanic.

On November 2, the court issued a temporary restraining order against defendant and scheduled a hearing for November 17. On November 17, the court continued the matter to December 8 and reissued the temporary restraining order.

On December 8, plaintiff requested “one concurrent hearing for [three] related cases.” The court granted plaintiff’s request over defendant’s objection. All parties to the related cases testified, as did two additional witnesses.

On December 9, the court issued an order restraining defendant from harassing, contacting, or taking any action to obtain the location of plaintiff and her family and ordering her to stay 10 yards away from plaintiff, her family, and their vehicles. The order’s expiration date was September 9, 2012.

DISCUSSION

On appeal defendant challenges the court’s issuance of the restraining order. She contends the court erred by consolidating three cases before issuing the order and by wrongly finding that she did not act in self-defense when plaintiff threatened her.

We invited the parties to file simultaneous letter briefs on whether this appeal is moot since the restraining order expired on September 9, 2012. Plaintiff’s letter brief argued the appeal “is now moot and would have no effect if any further civil harassment case were filed between the parties.”³ Defendant contended that even though the restraining order has expired, her request for attorney fees remains unsettled.⁴

³ According to defendant, plaintiff has vacated her house and the neighborhood is now quieter.

⁴ Defendant further asserts her request for sanctions remains unsettled by this court and is therefore not moot. Defendant, however, failed to comply with the requirements of California Rules of Court, rule 8.276, which governs motions for appellate sanctions. We note, too, that defendant raised this issue for the first time in her reply brief. (*Savient Pharmaceuticals, Inc. v. Department of Health Services* (2007) 146

Because the restraining order has expired, any ruling by this court “can have no practical effect [nor can it] provide the parties with effective relief.” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 454.) “It is well settled that an appellate court will decide only actual controversies and that a live appeal may be rendered moot by events occurring after the notice of appeal was filed. We will not render opinions on moot questions” (*Building a Better Redondo, Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852, 866 (*Building*)). A court has discretionary authority to decide moot issues when “an action involves a matter of continuing public interest that is likely to recur” or “when, despite the happening of a subsequent event, material questions remain for the court’s determination.” (*Id.* at p. 867.) This case does not fall within these discretionary exceptions. We therefore dismiss defendant’s appeal from the now expired restraining order.

Defendant’s request for attorney fees, on the other hand, is not necessarily moot. In *Building, supra*, 203 Cal.App.4th at page 855, the court dismissed the appeal from the judgment as moot, but affirmed the trial court’s award of attorney fees.

But defendant’s failure to provide us with an adequate record or legal argument on the issue of attorney fees is fatal to her request. The record before us, which consists only of a clerk’s transcript, contains no evidence that defendant ever requested attorney fees below. On appeal, she provides no legal support or basis for her attorney fees request. An appellant “has the burden of showing reversible error by an adequate record.” (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) Furthermore, an appellant who fails to provide legal argument and citation of legal authorities waives the issue.

(*McComber v. Wells* (1999) 72 Cal.App.4th 512, 522.) Although defendant is proceeding in propria persona, she must “be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.” (*First American Title*

Cal.App.4th 1457, 1472.)

Co. v. Mirzaian (2003) 108 Cal.App.4th 956, 958, fn. 1.) Her request for attorney fees is denied.

On appeal plaintiff requests appellate sanctions of \$2,000 on the ground defendant's appeal is meritless and was filed out of spite and with an intent to retaliate. But plaintiff failed to comply with the requirement under California Rules of Court, rule 8.276(b)(1), that a party's motion to an appellate court for an award of sanctions must include a declaration (1) supporting the monetary amount requested and (2) served and filed within the time period specified in the rule.

DISPOSITION

Defendant's appeal from the restraining order is dismissed. Defendant's request for attorney fees and sanctions is denied. Plaintiff's request for sanctions is denied. Plaintiff shall recover her costs on appeal.

IKOLA, J.

WE CONCUR:

O'LEARY, P. J.

FYBEL, J.