

Decision filed 02/23/18. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

NO. 5-15-0288

APPELLATE COURT OF ILLINOIS

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

Honorable
Allen F. Bennett,
Judge, presiding.

¶ 1 *Held*: The appeal of an order granting petition for “Stalking No Contact Order” dismissed as moot where order expired by its own terms and subsequent orders extending that order had no legal basis. In consolidated appeal of the circuit court’s order dismissing a separate petition for “Stalking No

Contact Order,” order is affirmed where the appellant directed no argument in its brief towards that order.

¶ 2 This is a consolidated appeal of two cases from the circuit court of Shelby County. The first case pertains to a “Stalking No Contact Order” (740 ILCS 21/5 (West 2014)), entered by the circuit court on June 23, 2015, in favor of the plaintiff, Walter Lookofsky, and against the defendant, Craig Clark (first appeal). The second case pertains to the circuit court’s July 28, 2015, order dismissing a petition for a “Stalking No Contact Order” filed by the plaintiff, Craig Clark, against the defendant, Walter Lookofsky (second appeal). Clark appeals the circuit court’s decision in favor of Lookofsky in both cases. On appeal, Clark also filed a written motion to strike all portions of Lookofsky’s brief that are unsupported by citation to the record. For the reasons that follow, we dismiss the first appeal and deny Clark’s motion to strike, finding the first appeal, and thus the motion, to be moot. Additionally, we affirm the order dismissing Clark’s petition for a “Stalking No Contact Order.”

¶ 3 FACTS

¶ 4 On December 17, 2014, Lookofsky filed a petition for a “Stalking No Contact Order” against Clark. 740 ILCS 21/5 (West 2014). On June 18, 2015, Clark filed a petition for a “Stalking No Contact Order” against Lookofsky. *Id.* On June 23, 2015, the circuit court entered a “Stalking No Contact Order” in favor of Lookofsky and against Clark. On June 24, 2015, Clark filed a timely notice of appeal, thus initiating the first appeal. On July 28, 2015, the circuit court dismissed Clark’s petition for a “Stalking No Contact Order” against Lookofsky. On August 27, 2015, Clark initiated the second

appeal by filing a timely notice of appeal of the dismissal order. On April 27, 2016, this court consolidated the first appeal and the second appeal for the purposes of briefing, argument, and disposition.

¶ 5 During oral argument, which took place on September 27, 2017, this court granted Clark leave to file a motion to strike the statement of facts set forth in Lookofsky's appellee's brief. Also during oral argument, this court pointed out that the "Stalking No Contact Order" that is the subject of the first appeal had expired. Clark was granted leave to supplement the record on appeal with documents to show that the order was extended.

¶ 6 On October 3, 2017, Clark filed a written motion, requesting that this court strike all portions of Lookofsky's brief that are unsupported by citation to the record. On October 4, 2017, Clark filed a supplement to the record which indicates that on June 16, 2017, the circuit court, *ex parte*, extended the plenary "Stalking No Contact Order" to July 3, 2017, and set a hearing on the extension for that date. On June 30, 2017, Clark, by newly retained counsel, filed a motion to continue the hearing on the extension due to a scheduling conflict. On July 3, 2017, the circuit court granted the motion to continue and extended the "Stalking No Contact Order" to October 3, 2017. On October 2, 2017, Clark's attorney again filed a motion to continue, and on October 3, 2017, the circuit court granted that motion, rescheduled the matter for December 5, 2017, and ordered that the "Stalking No Contact Order" be extended until that time.

¶ 7 There are no further documents contained within the supplement to the record on appeal, but this court is able to access publicly available, online circuit court records from judici.com, of which we may take judicial notice. See, *e.g.*, *May Department Stores Co.*

v. Teamsters Union Local No. 743, 64 Ill. 2d 153, 159 (1976). From these records, this court is able to discern that, on December 5, 2017, the hearing on the extension was again continued, and the “Stalking No Contact Order” extended, to December 29, 2017. On December 29, 2017, an order extending the “Stalking No Contact Order” was entered, but *judici.com* does not reveal the date to which the order was extended.

¶ 8

ANALYSIS

¶ 9 Clark’s first appeal is from the “Stalking No Contact Order” that was entered by the circuit court on June 23, 2015, and expired on June 23, 2017. A case on appeal becomes moot when the issues involved no longer exist because events occurring after the filing of appeal make it impossible for the appellate court to grant effective relief. *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009). Pursuant to section 105 of the Stalking No Contact Order Act (Act) (740 ILCS 21/105 (West 2016)), a plenary no stalking order shall be effective for a fixed period of time, not to exceed two years. Because the June 23, 2015, “Stalking No Contact Order” has expired and is no longer in effect, an appeal from it is moot, as there is not effective relief that this court could grant to Clark.

¶ 10 We must find that the circuit court’s orders of extension do not change our conclusion that Clark’s appeal from the June 23, 2015, “Stalking No Contact Order” is moot. In order to extend a “Stalking No Contact Order” beyond two years, section 105 of the Act provides that the requirements of section 95 or 100 of the Act, as appropriate, be satisfied. 740 ILCS 21/105(c) (West 2016). Both of these sections require that new acts of stalking be alleged and proven at a hearing. 740 ILCS 21/95, 100 (West 2016). In this case we are aware of no allegations of proof of new acts of stalking. Therefore, on the

record before us, and pursuant to the aforementioned terms of the Act, the circuit court's June 23, 2015, "Stalking No Contact Order" was not capable of being extended beyond June 23, 2017, and any orders of extension are voidable. See *In re Marriage of Mitchell*, 181 Ill. 2d 169, 174 (1998) (a voidable judgment is one entered erroneously by a court having jurisdiction).¹ For these reasons, we dismiss, as moot, Clark's first appeal. Because Clark's motion to strike is directed toward Lookofsky's briefing of the issues raised by the first appeal, we deny the motion to strike as moot.

¶ 11 We next address the subject of Clark's second appeal, concerning the circuit court's July 28, 2015, order dismissing Clark's petition for a "Stalking No Contact Order" against Lookofsky. Illinois Supreme Court Rule 341(h)(7) states that points not argued in an appellant's brief are waived. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016). Clark did not make any arguments in his brief regarding the circuit court's July 28, 2015, order dismissing Clark's petition. Therefore, all issues relating to the second appeal have been waived and the circuit court's dismissal is affirmed.

¶ 12 CONCLUSION

¶ 13 For the forgoing reasons, we dismiss as moot the first appeal, which was from the June 23, 2015, "Stalking No Contact Order" against Clark. We deny Clark's motion to strike portions of Lookofsky's brief as moot. We affirm the July 28, 2015, order dismissing Clark's petition for a "Stalking No Contact Order" against Lookofsky, which is the subject of the second appeal.

¹We recognize that technically the circuit court's December 29, 2017, order may still be in effect. If so, we trust that the circuit court will vacate the order if asked to do so, in the absence of a legal basis for the order.

¶ 14 Motion denied; first appeal dismissed; second appeal affirmed.