

Case No. 75146-8-I

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

JOSE MALDONADO, Appellant

v.

NOEMI MALDONADO, Respondent

RESPONSIVE BRIEF AND MOTION TO DISMISS APPEAL

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I. INTRODUCTION

Appellant Jose Maldonado brings this appeal to petition the Appellate Court for review of the Superior Court's denial of his motion for revision of the Family Court Commissioner's Domestic Violence Order of Protection (DVPO).

Mr. Maldonado petitioned the Court for a DVPO after one of his three children with the Respondent, Ms. Noemi Maldonado, alleged that Ms. Maldonado had physically harmed her. Mr. Maldonado requested a DVPO protecting all three children and for a duration of longer than one year. The Commissioner, after three re-issuances, entered a four-month DVPO restraining Ms. Maldonado from contacting the child and ordering limited professionally supervised visitation. He found that there was no sufficient evidence to warrant the inclusion of the other two unaffected children in the order. He also directed Mr. Maldonado to seek a parenting plan modification if he wanted relief from the Court regarding the other two children.

Judge Julia Garratt incorporated the Commissioner's findings as her own when she denied the motion for revision. She found that four months was sufficient time to seek a parenting plan modification if Mr. Maldonado wanted to pursue additional relief.

The Court properly excluded the other unaffected children from the DVPO and properly limited the order to a duration of less than one year. Further, this issue is now moot as the Appellant has filed for a parenting plan modification and the DVPO has now expired.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

Issues Pertaining to Assignments of Error

- A. Whether the Court properly excluded the unaffected children, N.A.M. and J.M.M., from the DVPO because the Appellant failed to support the inclusion of the unaffected children.
- B. Whether the Court properly found that the inclusion of the other, unaffected children in the DVPO would constitute an improper modification of the permanent parenting plan.
- C. Whether the Court properly declined to enter protective residential provisions for the unaffected children in the DVPO and instead directed Mr. Maldonado to seek a modification of the parenting plan.
- D. Whether the Court properly limited the DVPO to four months, rather than invoking the maximum time limit of one year.

III. STATEMENT OF CASE

Family History:

Mr. and Ms. Maldonado have three children from their marriage: two daughters, N.A.M. (age 14) and N.L.M (age 9), and one son, J.M.M. (age 6).¹ CP 49. The parties' dissolution and final parenting plan was finalized in October 2015 in Snohomish County Superior Court. CP 49.

Procedural History:

Appellant filed a petition for a domestic violence protection order (DVPO) in King County Superior Court, on December 18, 2015, under cause number 15-2-03568-9 KNT. CP 1-12. In his petition, he requested a protection order be entered for all three minor children and for a duration of one year or more. CP 2, 3. His petition was based upon an incident reported by the 9 year old child, N.L.M., claiming that the mother, Ms. Maldonado, spanked her with a belt. CP 6, 50. She also allegedly claimed that Ms. Maldonado hit N.A.M. with a flip flop, and J.M.M. with a belt as well. CP 50. N.L.M. had a bruise on her upper right bicep. CP 50. Mr. Maldonado took her to a doctor to inspect the bruise, to whom she reported the same story. CP 50. She also told her teacher at school. CP 5,

¹ In order to protect the identities of the minor children, this brief will use their initials. It should also be noted that the transcript of the March 4th hearing spelled N.L.M.'s name incorrectly.

50. Ms. Maldonado admitted to spanking the child once, but said she did not know how the child got the bruise. RP 6:24-25.

The Court on December 18, 2015, entered a temporary order of protection. CP 13-16. The protection order had to be reissued no less than three times, because the court was waiting on a report from Family Court Services and Child Protection Services. CP 17-18, 29, 39. The order was reissued on December 31, 2015, January 21, 2016, and February 19, 2016. CP 17-18, 29, 39. The hearing on the DVPO was finally held on March 4, 2016. CP 43-48, RP 4-11. At that hearing, Commissioner Mark Hillman granted the domestic violence protection order, which included one child, N.L.M., and for a period of four months to expire on July 5, 2016. CP 43. The DVPO also ordered professionally supervised visitation for the protected child and parenting classes for the mother, and was subject to any modification of the parenting plan. CP 45. RP 11:19-12:10.

Because Commissioner Hillman found that there was insufficient allegations and evidence regarding harm to the other two children, N.A.M. and J.M.M., he excluded them from the order. RP 10:17-25. During the hearing, he said, "The only evidence I have before me is the allegations regarding abuse of the 9-year-old, correct?" to which Mr. Maldonado replied, "Yes." RP 9:16-18. After which, Mr. Maldonado tried to bring up the past sexual abuse of the children from 2012 while in the mother's case,

to which the Commissioner said “the only allegations contained in the petition concern [N.L.M.]. At this point I can’t let you amend your petition in that almost three months has gone by.” RP 9:20-10:10. Commissioner Hillman also stated,

This is a petition for a domestic violence-protection order brought on behalf of three minors. Again, the only allegation brought before me involves one minor, 9-year-old [N.L.M.]. There are no other allegations that are brought before me regarding the 14-year-old or the 6-year-old; therefore, the Court cannot grant and will not grant a protection order for the 14-year-old or the 6-year-old. I’m striking them from this protection order.

RP 10:17-25.

Further, he went on to address the allegations of domestic violence against N.L.M. RP 11:1-18. He cited RCW 98.16.020, which allows the use of force on children when it is reasonable and moderate and inflicted for the purpose of restraining or correcting a child. RP 11:1-4. The Commissioner also stated that acts are unreasonable when they cause bodily harm greater than transient pain or minor temporary marks. *See* RP 11:5-9. “Bruising is ordinarily considered as not a temporary mark under the statute.” RP 11:9-10. He stated that he believed the bruise on her arm had been inflicted by the mother during discipline. RP 11:12-13. He further found that the bruise was improperly inflicted on the child and that the mother’s act constituted domestic violence as defined by the statute. RP 11:14-17.

Appellant filed a motion for revision of the Commissioner's order on March 11, 2016, which was heard in King County Superior Court by the Honorable Judge Julia Garratt on March 29, 2016. CP 49-58, RP 12-28. Judge Garratt denied the revision and adopted the protection order as entered by the Commissioner. RP 27:13-18, CP 82. She found that including all three children in the DVPO for a one year duration would be a "back door modification of a parenting plan and is contrary to the statute." RP 26:20-21. Most notably, she found that,

It is completely proper under the circumstances, when there is a parenting plan in place . . . to not extend it to a point that would by its language contained in the order, impact the dynamics of the parenting plan.

Here the commissioner did set some safeguard for the short-term – four months is plenty of time for someone to get something going if they wanted to modify the parenting plan; and also directed if you wanted additional restrictions, you know, that was his avenue which was appropriate.

RP 26:24-27:10.

Simultaneously, Appellant filed a petition to modify the parenting plan in Snohomish County on March 18, 2016, under cause number 12-3-02374-5. The Court found adequate cause to modify the plan on June 10, 2016, and temporary orders were entered and a GAL appointed on July 8, 2016.

On April 27, 2016, the Appellant filed a notice of appeal with the Court of Appeals Division I. CP 84-92.

Appellant filed a petition for renewal of order for protection on June 16, 2016. A hearing was held on July 5, 2016, where Commissioner Hillman directed Mr. Maldonado to seek permission from this Court in order for the Superior Court to hear the renewal issue, as the issue of the DVPO was currently pending appeal. He also found that Mr. Maldonado needed to perfect his service in order for the issue to be properly heard. The DVPO was re-issued for one month. Appellant filed a motion pursuant to RAP 7.2(e) to allow the superior court to consider a petition for renewal and request for expedited oral argument pursuant to RAP 18.12 with this Court. At the return hearing for the renewal on August 8, 2016, the DVPO was again re-issued as the Court of Appeals had not yet ruled on the issue of permission. On August 9, 2016, the Commissioner Masako Kanazawa of the Court of Appeals entered an order allowing the Superior Court to hearing the petition for renewal. The Commissioner denied the appellant's motion for expedited review. On August 31, 2016, the renewal hearing was held and Commissioner Jacqueline Jeske found that Ms. Maldonado had demonstrated by a preponderance of the evidence that there was no threat of future violence, and she denied the petition for renewal.

Alleged Act of Domestic Violence:

Mr. Maldonado's allegation of domestic violence against Ms. Maldonado stems from a visit on November 21, 2015. CP 5, 50. Ms. Maldonado had the children for the weekend and took them to the mall with her boyfriend. N.L.M. began throwing a tantrum in the store because Ms. Maldonado would not purchase a toy for her. She began screaming, hitting Ms. Maldonado and her sister, and demanding to call Mr. Maldonado so that she could have the toy. Her older sister, N.A.M., took her to the bathroom to calm down. When they returned, N.L.M. continued her tantrum so the family left the store. She continued this for the car ride home and further when they arrived back at the house. She was screaming, hitting her siblings, and hitting the walls. Because of the excessive tantrum, Ms. Maldonado used physical discipline, which caused N.L.M. to cease her fit. Ms. Maldonado hit N.L.M. on the bottom, through the child's clothes, once with a belt. RP 6:14-25.

Mr. Maldonado claims that while Ms. Maldonado and the children were visiting a store, N.L.M. asked to use the restroom. CP 50. When she returned, Ms. Maldonado pushed her to the ground and at some point pinched her upper arm. CP 50. Mr. Maldonado provided evidence of a bruise on N.L.M.'s arm after she returned from Ms. Maldonado's house for the petition for the DVPO. CP 50. He also claimed that Ms.

Maldonado hit N.L.M. multiple times with a belt on her back and legs. CP 50. N.L.M. told the school counselor about this and also that her mother hit her brother with a belt and her sister with a flip flop. CP 50. Mr. Maldonado took the child to the doctor who reported the incident to the police. CP 50. CPS investigated the allegations and screened it out as a FAR case. CP 67, 98. They found that no safety threats were identified. CP 67, 98.

IV. ARGUMENT

This appeal arises from Judge Garratt's order on appellant's motion for revision, dated March 29, 2016. CP 49-58; CP 82. Motions for revision will be reviewed de novo. *In re the Marriage of Moody*, 137 Wn.2d 979, 976 P.2d 1240 (1999). When an appeal is made from an order denying revision of a court commissioner's decision, the appellate court must review the superior court's decision, not the commissioner's decision. See *In re Estate of Wright*, 147 Wn. App. 674, 680, 196 P.3d 1075 (2008); *Williams v. Williams*, 156 Wn. App. 22, 27, 232 P.3d 573 (2010). The decision to grant or deny a protection order is reviewed by the Appellate Court for abuse of discretion. *In re Marriage of Stewart*, 133 Wn. App. 545, 550, 137 P.3d 25 (2006). Under this standard, the reviewing court cannot substitute its judgment for that of the trial court

unless the trial court's decision rests on unreasonable or untenable grounds. *In re Marriage of Dodd*, 120 Wn. App. 638, 644, 86 P.3d 801 (2004). Findings will be upheld on appeal if they are supported by substantial evidence in the record. *Stewart*, 133 Wn. App. at 27.

The Domestic Violence Prevention Act (DVPA) dictates the issuance of domestic violence protection orders. RCW 26.50. The DVPA finds that:

[A]ny person may seek relief under this chapter by filing a petition with a court alleging that the person has been a victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

RCW 26.50.020(1)(a). "Domestic violence" is defined as "[p]hysical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members."

RCW 26.50.010(3). "Family or household members" includes "persons who have a biological or legal parent-child relationship." RCW

26.50.010(6). Mr. Maldonado petitioned for relief on behalf of his biological children, alleging that they were all victims of domestic violence caused by their mother, Ms. Maldonado.

The DVPA also finds that "[i]f a protection order restrains the respondent from contacting the respondent's minor children the restraint

shall be for a fixed period not to exceed one year.” RCW 26.50.060(2). In this case, the Court granted a DVPO restraining Ms. Maldonado from having any contact with N.L.M. for four months, with the exception of professionally supervised visitation weekly for two hours. CP 43, 45. RP 12:8-14.

A. The Court did not abuse its discretion when it properly excluded the other two children, N.A.M. and J.M.M., from the DVPO because Appellant failed to meet his burden to support inclusion of the other children by a preponderance of the evidence.

In evaluating Commissioner Hillman’s findings, Judge Garratt did not abuse her discretion in finding that the Commissioner properly excluded N.A.M. and J.M.M. because Mr. Maldonado had not presented adequate evidence to warrant including them in the DVPO.

Mr. Maldonado cites *In re Marriage of Stewart* as justification for including the other children in the DVPO. However, Mr. Maldonado misinterprets *Stewart*. In addition, while this case provides controlling law, it is not factually analogous to our case. Our case can be easily distinguished from *Stewart*. In *Stewart*, the acts of violence perpetrated by the father against the mother were severe, continual, and repeated acts of domestic violence that the children were exposed to. The Court in *Stewart*

recognized that this extensive exposure to severe domestic violence support a parent's restrictions on visitation. Our case does not rise to the extreme level in *Stewart*. While the analysis in *Stewart* is applicable here, the facts in our case can be distinguished.

Stewart involved severe assaults of the mother by the father in front of the children. *Id.* In *Stewart*, the parents had two children, ages 8 and 13, prior to dissolving their marriage. *Id.* at 547. After the dissolution, there were numerous incidents of domestic violence. *Id.* During one incident, the father reached into the mother's car and smeared chewing gum in her hair, while the children were present in the car. *Id.* The 13 year-old tried to call 911 on a cell phone. *Id.* As a result of this incident, the father pled guilty to assault in the fourth degree. *Id.* Later, during a visitation exchange, the father was alleged to have shoved his hand down the mother's pants and then forced his finger into her mouth, in the presence of the younger child. *Id.* at 548. A few months later, the father barged into the mother's home, accused her of seeing other men and ripped the sheets off the bed to examine them for evidence of sex, all while the children were present. *Id.* Another time, during an exchange, the father spat upon the mother in front of the children. *Id.* The mother testified that the youngest child called her multiple times crying from the father's house and then would hang up because she was afraid the father

would catch her calling the mother. *Id.* The father was again charged with assault in the fourth degree. *Id.* at 549.

The court granted a DVPO restraining the father from contacting the mother or the children. *Id.* The father moved for a revision of the commissioner's order, which the superior court denied. *Id.* The superior court found that there was "evidence of imminent psychological harm to the children which is a basis for an order for protection as to the children." *Id.* The appellate court found that the psychological harm caused to the children was a basis for the issuance of a DVPO. *Id.* at 551. Although the father had not assaulted the children, the children witnessed multiple assaults of the mother and were afraid for her. *Id.* The court cited the fact that one child attempted to call 911 during an incident and that when the father barged into the home, both children were terrified and begged him to leave. *Id.* The appellate court concluded that there was ample evidence to suggest that the father caused the children to fear that he would assault the mother. *Id.*

Our case is easily distinguishable from *Stewart*. In *Stewart*, there were multiple incidents that occurred in front of the children, where there was an active reaction from the children expressing their fear. *See id.* The conduct of the father caused the children to call 911 because they were scared for their mother, or to cry and beg their father to leave. *Id.* In our

case, there was only one incident of discipline of one child and there has been no evidence presented that the other children were scared either that their mother would assault them or their sibling. To the contrary, N.A.M. stated to CPS that “the mother attempted to talk to [N.L.M.] when she was being disrespectful.” CP 98. Further, the acts committed by Mr. Stewart in front of the children were so severe as to cause multiple assault in the fourth degree charges. *Stewart*, 133 Wn. App. at 547, 549. The one act of discipline committed by Ms. Maldonado was one in which the child was swatted on her behind one time with a belt. The contact was not to injure, but to create drama. No criminal charged have been brought against her and no CPS findings were entered against her. The CPS case was closed with a recommendation for counseling and parenting classes. CP 98.

While *Stewart* does find that a showing of imminent psychological fear is grounds for the issuance of a DVPO, there was no showing of this fear in this case. Nothing was presented to show that N.A.M. or J.M.M. feared their mother or feared for their safety or their sister’s safety. Mr. Maldonado only states once in his petition for a domestic violence protection order “The children are afraid of what will happen to them during these visits.” CP 4. No evidence to support this has been shown by CPS or any other source. Mr. Maldonado failed to establish through

sufficient evidence that the children were in imminent psychological fear for their mother.

Further, the allegations of physical abuse of the other children were completely unsupported or corroborated. The only evidence was the hearsay statement of N.L.M. who stated that the mother hit her brother with a flip flop and her sister with a belt. While hearsay is admissible in DVPO hearings, under ER 1101(c)(4), which states that the rules of evidence “. . . need not be applied,” nothing was presented to corroborate or support this statement. The commissioner properly concluded that the main allegation against Ms. Maldonado only involved N.L.M. Although Mr. Maldonado mistakenly claims that there was evidence before the commissioner of domestic violence against the other children, the record does not support his claim. Thus, the Court did not abuse its discretion in finding that the other children were not victims of domestic violence as defined by the statute because there was no showing that the children were either assaulted or were in fear of imminent physical harm from their mother.

Further, Mr. Maldonado contends that the Court erred in failing to give writing findings when it “denied” the DVPO to the other two children, as required by RCW 26.50.060(7). *See Appellant’s Opening Brief, page 25, fn. 26.* However, RCW 26.50.060(7) does not apply

because the Commissioner did not deny the issuance of a DVPO. He issued the requested order with modification; thus, no error occurred. Even if it did apply, Commissioner Hillman provided a clear explanation and further instructions to Mr. Maldonado for his exclusion of the other children from the order.

B. The Court properly found that the inclusion of the other, unaffected children in the DVPO would constitute an improper modification of the permanent parenting plan.

The Court properly found that extending the DVPO to the other children would constitute an improper modification of the parenting plan. With regard to minor children, a protection order is meant to be a temporary remedy. In *Stewart*, the court found that the issuance of a DVPO for the children, who were found to be in imminent psychological fear of their father, was not an “improper modification of the residential provisions of the parenting plan” but instead a “*temporary proceeding pending further proceedings.*” *Stewart*, 133 Wn. App. at 554 (emphasis added). However, suspending the residential provisions of a permanent parenting plan through a protection order of a child, with whom it has not been proven by sufficiency of the evidence is in need of temporary relief and protection from domestic violence, would result in a de facto

modification of the parenting plan. A protection order may not operate as a de facto modification of a parenting plan. *In re Marriage of Barone*, 100 Wn. App. 241, 247, 996 P.2d 654 (2000); *Stewart*, 133 Wn. App. at 554. Anything beyond a temporary interruption of contact pending further proceedings in family court is beyond the scope of a protection order and would result in a de facto modification, contrary to statute. *See Stewart*, 133 Wn. App. at 555.

To that point, Mr. Maldonado confuses the temporary nature of the remedy of a protection order regarding minor children with the requirement that a DVPO not be denied on the basis that other remedies are available. He cites RCW 26.50.025(2), which finds that “[r]elief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action.” Here, the DVPO was not denied; it was issued. However, it was not extended to the other two children, but that was not because other remedies were available, but because this remedy of a DVPO was not appropriate given the evidence. Thus the Court did not err under this statute because the relief was not denied or delayed because of the availability of other relief. A protection order is meant to be a “temporary interruption of contact pending further proceedings in family court, as authorized by the protection order statutes to protect children

from the immediate threat of domestic violence.” *See Stewart*, 133 Wn. App. at 555.

C. The Court did not err when it refused to enter protective residential provisions for the unaffected children, N.A.M. and J.M.M., in the DVPO and instead directed Mr. Maldonado to seek alternative long-term relief through a modification of the parenting plan.

The Court did enter protective residential provisions for N.L.M., because the Court found that Ms. Maldonado had committed an act of improper discipline against her. Not only did the Commissioner suspend the residential provisions of the parenting plan, but he ordered this temporary protective residential provision of professionally supervised visitation. CP 43-48. The Commissioner complied with RCW 26.50.060(1)(d).

While a protection order may be temporarily necessary to protect a child[ren], the remedy of a protection order is to be just that: temporary. The *Stewart* Court found that “[n]othing in RCW 26.50.060(1) indicates a legislative intent to incorporate the full panoply of procedures and decision factors from the Parenting Act into the protection order proceeding.” *Stewart*, 133 Wn. App. at 553. “[T]he protection order court is required to make its orders affecting minor children ‘on the same basis’

as required by the family law statutes . . . means what it says: the protection order court must consider the same factors in making its temporary orders.” *Id.* The factors to be considered by the court include: “(ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.” RCW 26.09.191(2). Ms. Maldonado’s conduct did not rise to such a level as to invoke these restrictions. The isolated act of discipline, while found to be improper, is not enough to invoke the RCW 26.09.191 restrictions. This was not an act of violence and she has not exhibited a history of acts of domestic violence, but was the exercise of parental discipline. Because the Court found that this act was enough to warrant temporary protection, a DVPO was issued.

Further, a protection order should have only a “fleeting effect.” *See Stewart*, 133 Wn. App. at 554. In, *Stewart* the mother filed a motion in family court to modify the parenting plan the same day that the father’s motion for revision of the DVPO was denied. *Id.* The Court found that this was a proper procedure to invoke adequate long-term protections. “If protection order restrictions have more than a very temporary duration, it is because the parties have delayed in seeking resort to family court. Delay is not a result of the protection order.” *Id.* Therefore, the Court here did

not err in refusing to provide further residential provisions for the children, or by directing Mr. Maldonado to pursue a parenting plan modification in order to effect a more permanent change.

D. The Court did not abuse its discretion by limiting the DVPO to four months because the threat was not severe enough to invoke the maximum time limit of one year and the DVPO was only intended to be a temporary protection while the parties modified the parenting plan.

Mr. Maldonado contends that the one-year is the presumptive length for a DVPO. However, he fails to cite to any authority in support of this contention. As he references, the Legislature did revise the DVPA in 1992 and specifically changed the language relating to the duration, from not to exceed one-year, applying to all DVPOs, to DVPOs with *restrictions involving minor children* to not exceed a period of one year. Laws of 1984, ch. 263, § 7; Laws of 1992, ch. 143, § 2 (emphasis added). This change clearly shows an intentional change by the legislature to eliminate a one-year presumption involving minor children. If the Legislature had intended to maintain a one year presumption for DVPOs, including those with restrictions applying to minor children, then it would not have revised the statute as it did. Thus, there is no basis to assert that

the Court erred in not applying a presumptive one year term on the DVPO. The time limit of four months was within the Commissioner's discretion and should not and cannot be overturned unless made on untenable grounds. *Dodd*, 120 Wn. App. at 644. Presumably, the Commissioner entered a four-month protection order to give Mr. Maldonado sufficient time to modify the final parenting plan. RP 27:5-10.

V. MOTION TO DISMISS APPEAL: Appellant's Appeal Should be Dismissed as the Issue is Now Moot

Based upon the above fact involving the pending modification action in Snohomish County and the expiration of the DVPO, Ms. Maldonado moves the court to dismiss this appeal as moot. RAP 18.9(c) allows an appellate court to dismiss a case if it is moot. *Spokane Research & Def. Fund v. City of Spokane*, 155 Wn.2d 89, 99, 117 P.3d 1117 (2005). "A case is moot when it involves only abstract propositions or questions, the substantial questions in the trial court no longer exist, or a court can no longer provide effective relief." *Id.*

Here, as the DVPO has expired, the renewal was denied, and the modification of the parenting plan is currently pending, the Court cannot provide effective relief and there are no remaining substantial questions. A moot appeal will be dismissed unless the case presents issues of

continuing and substantial public interest. *State v. Ross*, 152 Wn.2d 220, 228, 95 P.3d 1225 (2004). The Court in *Stewart* was present with a procedurally similar question, and recognized that the case before it was actually moot, but elected to address the issues because of their importance and likelihood to arise again. *Stewart*, 133 Wn. App. at 550. The Court found that “the pending modification action and the expiration of the protection order render this appeal moot.” *Id.* Our case, while factually different, is procedurally analogous to *Stewart*. The appellant in *Stewart* filed a revision after the entry of a protection order against him, which was denied. *Id.* at 549. After the motion for revision was denied, the mother filed a petition to modify the parenting plan. *Id.* The father then filed a notice of appeal. *Id.* at 550. During the time pending the appeal, the DVPO expired. *Id.* This is very similar to our case. Mr. Maldonado filed a motion for revision, which was denied, after the entry of a DVPO, after which, he filed a motion to modify the parenting plan. The DVPO has also expired in this case, as the renewal was not granted. Like in *Stewart*, the pending modification of the parenting plan and the expiration of the DVPO, render this appeal moot. As there are no issues of continuing or substantial public interest, the Respondent moves the Court to dismiss this appeal as moot.

VI. CONCLUSION

Respondent, Ms. Maldonado, respectfully requests that the Court dismiss this appeal as moot, as there is no effective relief for the Appellant and no questions of continuing or substantial public interest. Alternately, Ms. Maldonado respectfully requests that the Court find that the Superior Court did not abuse its discretion in granting a DVPO for four-months or in excluding the other, unaffected children.

RESPECTFULLY SUBMITTED this 2nd day of September, 2016



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