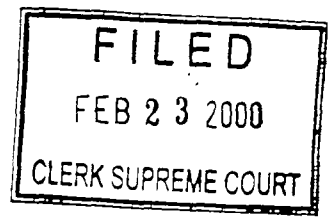
IN THE COURT OF APPEALS OF IOWA

No. 1999-374 (9-627) / 98-2030
Filed February 23, 2000



DEANNA MARIE KRESSIN,
Plaintiff-Appellant,

vs.

DANIEL EDWIN KRESSIN,
Defendant-Appellee.

Appeal from the Iowa District Court for Cherokee County, Joseph J. Straub, Judge.

Plaintiff appeals the district court's ruling extending and expanding a temporary protective order for relief from domestic abuse. Plaintiff contends that the court erred in (1) expanding the order into a mutual protective order, (2) extending the temporary order indefinitely, (3) limiting the admission of evidence to occurrences within one year of the hearing, and (4) finding that she failed to prove assault by a preponderance of the evidence. **DISMISSED AS MOOT.**

Nancy Lynn Robertson of the Iowa Coalition Against Domestic Violence, Des Moines, and Carrie O'Connor of Neary & Flannery, Le Mars, for appellant.

Daniel A. Meloy of Sayre, Wittgraf & Meloy, Cherokee, for appellee.

Considered by Sackett, C.J., and Zimmer and Miller, J.J.

PER CURIAM

Deanna and Daniel Kressin married in November 1995. They had one child in February 1996 while living in North Dakota. Deanna moved to Iowa with their child in mid-1997. A North Dakota court dissolved the parties' marriage in June 1998. Deanna alleges that Daniel made a threatening phone call to her from North Dakota on October 3, 1998. She filed a petition under Iowa Code chapter 236 for relief from domestic abuse on October 5. The district court entered a temporary protective order that same day.

After a hearing on October 12, the court determined Deanna had not proved Daniel committed domestic abuse. However, the court continued the case indefinitely, made the temporary protective order mutual, and provided the case would be dismissed "if nothing happens prior to October 12, 1999.

On appeal, Deanna claims the court exceeded its statutory authority in making the protective order mutual because, among other things, Daniel had not filed a petition requesting an order. She argues the court violated Iowa Code section 236.4(2) (1997), because it did not continue the hearing, yet extended the temporary order. She asserts the court improperly limited evidence to occurrences within one year of the hearing. She maintains she proved Daniel assaulted her in the gun incident and that she feared immediate harm on October 5 when she filed the petition because that was the day Daniel threatened in his October 3 telephone call to come to her home. Daniel also claims the court erred in extending and expanding the no-contact order. He also claims the Iowa district court lacked subject matter jurisdiction because the alleged assault occurred in North Dakota.

Pursuant to the district court's order, this case was to be dismissed on October 12, 1999. A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent. *Sear v. Clayton County Zoning Bd. of Adjustment*, 590 N.W.2d 512, 514 (Iowa 1999); *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983). In assessing whether an appeal is moot, we make a determination whether an opinion would be of force or effect in the underlying controversy. *Id.*

The district court did not make any finding of domestic abuse, so there are no collateral consequences for either party from the proceeding, such as consideration in a custody determination or the inability to possess a firearm. No useful purpose would be served by addressing the claims raised. With no pending case to consider, we conclude this appeal is moot and dismiss the appeal.

DISMISSED AS MOOT.