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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

LEE WALLACH,

Plaintiff and Respondent,

v.

FRED STEWART,

Defendant and Appellant.

B278725

(Los Angeles County  
Super. Ct. No. SS026288)

APPEAL from an order of the Superior Court of Los Angeles County, Donna Kleeman, Temporary Judge (Pursuant to Cal. Const., art. VI, § 21.) Dismissed.

Fred Stewart, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Fred Stewart appeals from a civil harassment order that restrained him from harassing, contacting, or going near Lee Wallach for one year. The order has already expired, however, and we dismiss the appeal as moot.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Stewart and Wallach are both active in their community and frequent attendees at Palms Neighborhood Council meetings. They have been on opposite sides of local political issues and have supported different candidates. Wallach operates the Motor Avenue Farmer's Market. The parties have had numerous confrontations at the public farmer's market venue, Palms Neighborhood Council meetings, and different community events. Stewart frequently photographs and records in these public venues.

Stewart and Wallach previously sought civil harassment restraining orders against each other (Los Angeles Superior Court Case Nos. SS025325, SS025363), but resolved that dispute in mediation, signing a mutual stay-away agreement on May 13, 2015. The parties were back in court a scant 16 months later for a hearing on their respective new applications for civil harassment restraining orders.

Stewart and Wallach testified. Stewart also offered the testimony of his mother and another witness. At the conclusion of the hearing, the trial court granted a one-year civil harassment restraining order against Stewart, protecting Wallach and his two minor children, and against Wallach, protecting Stewart and

his mother.<sup>1</sup> The court found by clear and convincing evidence that each party knowingly and willfully engaged in conduct “that seriously alarms, annoys, and harasses [the other], and that serves no legitimate purpose.” The parties were ordered to stay at least 50 yards away from each other, except at Palms Neighborhood Council meetings, where the size of the room would not permit both parties to participate without violating the civil restraining orders.

The civil harassment restraining orders issued September 30, 2016, and expired September 30, 2017. As the civil restraining order lapsed during the pendency of this appeal, we asked Stewart to brief the issue of mootness.<sup>2</sup> Stewart confirmed the restraining order had expired, but asserts we should nonetheless reach the merits because the appeal “raises an issue of broad public interest that is likely to recur.”

## DISCUSSION

An appeal becomes moot when the reviewing court can no longer provide the appellant with any effective relief. (*City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1079; *Environmental Charter High School v. Centinela Valley Union High School Dist.* (2004) 122 Cal.App.4th 139, 144 [“If relief granted by the trial court is temporal, and if the relief granted expires before an appeal can be heard, then an appeal by the adverse party is moot”].)

A reviewing court has discretion to hear a moot appeal under three circumstances: (1) the appeal presents an issue of

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<sup>1</sup> The trial court denied Wallach’s request for a restraining order against Stewart’s mother.

<sup>2</sup> Wallach has not appeared in this court.

broad public interest, (2) the conduct leading to the underlying action is likely to recur, or (3) a material question remains for the court to decide. (*Malatka v. Helm* (2010) 188 Cal.App.4th 1074, 1088.) None of these circumstances exists here.

We do not agree with Stewart that the lapsed restraining order presents an issue of interest to the public. Because the restraining order against Stewart has expired, any recurring conduct (and Stewart does not suggest in his supplemental letter brief that there has been any) would require a new application for a new restraining order. Any such application would be evaluated on a new set of facts, not those presented at the hearing on the now-expired civil harassment restraining order.

Nor is there a residual material question for this court to decide. The only issue before the trial court was whether Stewart's conduct supported the issuance of a one-year civil harassment restraining order. That order, now expired, has no carryover effect and does not preclude Stewart from litigating any future legal question.

Stewart's expressed desire to see "the mistakes of the trial court . . . acknowledged and rectified" is not a sufficiently compelling reason to ignore mootness and reach the merits. Although a criminal defendant whose conviction is set aside nonetheless may be "entitled to an opportunity to clear [his] name and rid [himself] of the stigma of criminality," even though the appeal is moot (*People v. DeLong* (2002) 101 Cal.App.4th 482, 484), this exception does not exist in the civil context.

**DISPOSITION**

The appeal is dismissed as moot. No costs are awarded.  
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DUNNING, J.\*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

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\* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.