

STATE OF MICHIGAN
COURT OF APPEALS

EMILY VIRTANEN-JAMIESON,

Plaintiff-Appellee,

v

SEAN ARTHUR LARABEE,

Defendant-Appellant.

UNPUBLISHED

August 10, 2010

No. 296557

Ingham Circuit Court

LC No. 97-095069-DC

Before: FORT HOOD, P.J., and BORRELLO and STEPHENS, JJ.

PER CURIAM.

In this custody action, defendant appeals as of right the trial court's January 28, 2010 order denying his motion for relief from judgment. Specifically, defendant is seeking relief from the trial court's ex parte order, which granted plaintiff sole physical custody of the parties' child. We refrain from addressing defendant's arguments because we conclude that the issues have been rendered moot.

On appeal, defendant asserts that the trial court committed reversible error when it granted plaintiff sole physical custody without first holding an evidentiary hearing. Defendant filed his claim of appeal on February 18, 2010. The record demonstrates that the evidentiary hearing he desired was held in part on March 5, 2010. More significantly, the trial court entered an order on June 9, 2010, which granted defendant primary physical custody of the child. That order was apparently entered without objection from plaintiff. As this Court has previously stated, "[a]n issue is moot if an event has occurred that renders it impossible for the court, if it should decide in favor of the party, to grant relief." *Michigan Nat Bank v St Paul Fire & Marine Ins Co*, 223 Mich App 19, 21; 566 NW2d 7 (1997). Because defendant now has physical custody of his child, the order that he initially sought from this Court would be without effect. Consequently, it would be improper for this Court to address whether the trial court's ex parte order constituted reversible error.

/s/ Karen M. Fort Hood

/s/ Stephen L. Borrello

/s/ Cynthia Diane Stephens