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2023 IL App (3d) 220215-U

Order filed August 8, 2023

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2023

JEFFREY T.,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Petitioner-Appellee,	)	Will County, Illinois,
	)	
v.	)	Appeal No. 3-22-0215
	)	Circuit No. 21-OP-617
	)	
ANGELA T.,	)	Honorable
	)	Elizabeth D. Hoskins Dow,
Respondent-Appellant.	)	Judge, Presiding.

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JUSTICE DAVENPORT delivered the judgment of the court.  
Justices McDade and Peterson concurred in the judgment.

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**ORDER**

¶ 1 *Held:* We lack jurisdiction to review an April 8, 2021, and a June 3, 2021, order and therefore dismiss the appeal in part. We reverse the circuit court's April 27, 2022, order extending the order of protection because the circuit court did not comply with the requirements of the Illinois Domestic Violence Act of 1986.

¶ 2 Respondent, Angela T., appeals from the circuit court's April 27, 2022, extension of an order of protection. She asks us to reverse that order, as well as (1) an April 8, 2021, emergency order of protection, and (2) a June 3, 2021, interim order of protection and later orders extending the June 3 order. For the following reasons, we dismiss in part and reverse in part.

¶ 3

## I. BACKGROUND

¶ 4

The parties married in 2004 and had three children, Ty. T. (born in 2005), To. T. (born in 2007), and S.T. (born in 2009). In 2013, Angela petitioned to dissolve the marriage and the matter was docketed as case No. 13-D-1217. In 2015, the circuit court entered a judgment dissolving the parties' marriage, which incorporated the parties' marital settlement agreement (MSA). Under the judgment, the parties shared joint decisionmaking authority for the children, and Angela was given a majority of the parenting time subject to Jeffrey's visitation on two designated nights per week and alternating weekends. Each party was allowed reasonable contact with the children when the children were with the other parent.

¶ 5

Since the divorce, the parties have engaged in extensive postdissolution litigation, which has been highly contentious. We take judicial notice of the trial court record in the related appeal No. 3-23-0012, an appeal from a December 14, 2022, order in the divorce case, to the extent helpful in resolving the issues raised in the instant appeal. See *Godfrey Healthcare and Rehabilitation Center, LLC v. Toigo*, 2019 IL App (5th) 170473, ¶ 49 (citing *People v. Davis*, 65 Ill. 2d 157, 165 (1976)) ("An appellate court may take judicial notice of readily verifiable facts if doing so will aid in the efficient disposition of a case, even if the parties did not seek judicial notice in the trial court."). We likewise take judicial notice of other judicial proceedings involving the parties.

¶ 6

In 2019, Jeffrey was charged with several counts of domestic battery for an incident that allegedly occurred with Ty. T. (Will County case No. 19-CF-1855). Jeffrey elected a bench trial, and the State proceeded on three counts. In August 2020, the trial judge directed a finding in his favor on two counts and found him not guilty on the third count.

¶ 7 In connection with the criminal proceedings, Angela obtained an order of protection against Jeffrey<sup>1</sup> (Will County case No. 19-OP-2107), during which Jeffrey’s parenting time was briefly reduced, then suspended, then partially reinstated. In February 2020, the circuit court ordered that Jeffrey have 6 hours of weekly supervised parenting time. On June 29, 2020, Jeffrey filed an emergency motion to modify parenting time. On July 30, 2020, the court ordered that Jeffrey have 12 hours of weekly unsupervised parenting time “[a]s previously ordered” and set a hearing date for the June 29 emergency motion to modify parenting time.

¶ 8 On September 11, 2020, Jeffrey filed a motion for a change of custody, requesting a majority of the parenting time. On October 28, 2020, Jeffrey filed another emergency motion to modify parenting time. On January 21, 2021, Jeffrey filed yet another emergency motion to modify parenting time, requesting “to resume his parenting time as reflected in the [MSA].” Ultimately, on February 10, 2021, the court ordered that Jeffrey’s parenting time be expanded commensurate with the parties’ agreement in the MSA (two designated nights per week and every other weekend).

¶ 9 B. Jeffrey’s April 2021 Petition for an Emergency Order of Protection

¶ 10 On April 8, 2021—while Jeffrey’s motion for a change of custody remained pending—Jeffrey petitioned for an emergency order of protection under the Illinois Domestic Violence Act of 1986 (Domestic Violence Act) (750 ILCS 60/101 *et seq.* (West 2020)). He filed his petition independently and not in conjunction with the divorce proceedings. See *id.* § 202(a) (an action for an order of protection may be commenced independently or in conjunction with another civil proceedings). The petition was docketed as Will County case No. 21-OP-617. The matter was not formally consolidated with the divorce case, but it was assigned to the same judge, Judge Garcia, and generally proceeded parallel to the divorce case.

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<sup>1</sup>It is unclear from the record when the order of protection against Jeffrey expired.

¶ 11 In his petition, Jeffrey alleged Angela woke the children at 5:45 a.m. on April 7, 2021, and began yelling at them and commanding them to do chores. After school, Angela started an argument with Ty. T. about a failing grade. During the argument, Angela (1) pushed Ty. T. three or four times, (2) tried to knee Ty. T. in the groin but missed and struck his left leg, (3) lifted Ty. T.'s left leg, and (4) struck Ty. T. in the right hand and right ear. Ty. T. did not strike Angela. Jeffrey also alleged Angela previously physically abused Ty. T. and locked him out of the house.

¶ 12 C. The April 8, 2021, Emergency Order of Protection

¶ 13 That same day, the circuit court *ex parte* entered an emergency order. Under the emergency order, Jeffrey was granted “the physical care and possession of the minor children” and Angela was denied any parenting time with them until further order of court. In addition, the order prohibited Angela from harassing, stalking, intimidating, physically abusing, and interfering with the personal liberty of Jeffrey and the children. Respondent was to have no contact with Jeffrey or the children. The order also restricted Angela’s access to school and “any other” records of the children. The order expired on April 26, 2021, at which time the court would consider an extension.

¶ 14 On April 22, 2021, Angela filed an “emergency” petition to reopen and rehear the April 8, 2021, emergency order of protection. The record does not show the court ever formally ruled on the petition.

¶ 15 D. Orders Extending the Emergency Order of Protection

¶ 16 On April 26, 2021, the circuit court extended the emergency order to April 28, 2021, and continued all matters to that date for hearing. On April 28, the court, by agreement, extended the emergency order of protection to May 7, 2021, but modified it to allow Angela to be present at Ty. T.'s medical appointment and a bowling tournament in which the children were participants.

¶ 17 On May 7, 2021, the court, by agreement, entered an order extending as modified the emergency order of protection to May 17, 2021. The order permitted Angela to have telephone contact with the minor children and granted her three hours of supervised visitation on May 9, 2021. Additionally, the order precluded both parties from discussing the case with the children or speaking disparagingly about the other party.

¶ 18 E. May 13, 2021 Interim Order

¶ 19 In the meantime, on May 13, 2021, the court, by agreement, entered an order extending the emergency order of protection as an *interim* order of protection to May 26, 2021. The order modified the terms of the emergency order of protection to allow Angela to attend a band concert on May 19, 2021, and a bowling ceremony on May 22, 2021.

¶ 20 F. The June 3, 2021, “Interim” Order of Protection

¶ 21 The circuit court held a hearing over three days beginning on May 26, 2021, and concluding on June 3, 2021. Jeffrey first presented Ty. T.’s testimony, which was largely consistent with the allegations in Jeffrey’s petition. Jeffrey next called Angela as an adverse witness. She denied abusing Ty. T. and explained she woke the children at 5:45 a.m. on April 7, 2021, because they had not finished the chores she asked them to do the night before and were leaving for Jeffrey’s that evening.

¶ 22 During Angela’s testimony as an adverse witness, Jeffrey’s attorney confronted her with a printout of messages she had sent to Ty. T. and his friend and cousin, Austin. Angela acknowledged the emergency order of protection precluded her from contacting Ty. T. directly or indirectly and ultimately acknowledged she had sent some of the messages. Jeffrey’s attorney asked the court to hold Angela in direct criminal contempt as a result of her contact with Ty. T. and Austin. The court declined to do so and instead referred the matter to the State’s Attorney’s

office. After Angela admitted sending the messages, she exercised her fifth amendment privilege against self-incrimination for the remainder of the hearing.

¶ 23 At the conclusion of the hearing, on June 3, 2021, the court directed a finding in Jeffrey’s favor and extended the May 13, 2021, interim order of protection, purportedly as an “interim” order, with an expiration date of December 3, 2021. *Contra* 750 ILCS 60/220(a)(2) (West 2020) (“Interim orders shall be effective for *up to 30 days*.” (Emphasis added.)). The court explained it had

“extended [the order] because there was no—due to potential [*sic*] criminal case against [Angela for violating the emergency order of protection], she couldn’t testify and her attorney and myself advised her not to testify because it would be used against her. So since I didn’t hear any testimony to the contrary, I extended the order of protection as an interim for six months, \*\*\* and I did it as an interim, because if something gets worked out in the meantime, we can get rid of it, because I have to err on the side of the children.”

The order states it was entered “with prejudice,” and that a hearing on a further extension would be held on December 3, 2021, if Jeffrey filed “a proper motion with due notice for extension of the order of protection prior to November 3, 2021. On the record, the court stated it was modifying the previous order of protection to remove Angela’s right to reasonable telephonic contact with the children. The court made no other findings concerning the remedies granted in the order. In addition, the court appointed a guardian *ad litem* (GAL) to investigate the parties’ pending pleadings.

¶ 24 G. Angela’s Appeal and Motions For Relief from the June 3 Order

¶ 25 On July 2, 2021, Angela appealed the June 3, 2021, interim order of protection. Her notice of appeal stated she was also seeking relief from the April 8 emergency order of protection and the orders extending it. The appeal was docketed in this court as appeal No. 3-21-0317.

¶ 26 On July 6, 2021, the GAL filed a report. The next day, the court held a status hearing in the divorce proceedings and set the pleadings relating to child support for hearing on August 18, 2021. On July 15 and July 27, 2021, Angela filed motions seeking relief from the June 3 order.

¶ 27 On July 28, 2021, Angela filed a motion in this court to dismiss her appeal, because (1) the GAL had filed an interim report that “undermine[d] the basis” for the June 3 order, and (2) she wished to pursue relief from the order of protection in the circuit court. We granted her motion the next day and, on August 6, 2021, issued our mandate.

¶ 28 On August 19, 2021, Angela filed another motion seeking relief from the June 3 order. Specifically, Angela asked the court to either vacate the order insofar as it protected To. T. and S.T. and modify its provisions concerning Ty. T. Alternatively, Angela asked the court to modify the order as it concerned all three children in line with the GAL’s interim report, that is, to allow her to have unsupervised weeknight and unsupervised overnight weekend parenting time with To. T. and S.T. and to allow her to have regular electronic communication with Ty. T.

¶ 29 H. December 3, 2021, Order Extending the June 3 Order

¶ 30 Jeffrey never filed a written motion to extend the June 3, 2021, “interim” order of protection. On December 3, 2021, the parties appeared, and the court entered an order further extending the June 3 order, as an “interim” order, to January 3, 2022. On January 3, 2022, the court again extended the June 3, 2021, order as an “interim order to February 22, 2022.

¶ 31 I. February 4, 2022, Agreed Order

¶ 32 On February 4, 2022, the circuit court entered an agreed order, which modified the existing order of protection to allow Angela up to four hours of supervised parenting time with the minor children on a weekend day (preferably Sundays), beginning on February 12 or 13, 2022, until further order of court.<sup>2</sup>

¶ 33 J. February 2022 Hearings

¶ 34 On February 22 to 24, 2022, the circuit court held hearings on various motions in the divorce proceedings. The order of protection was extended during the hearing. Jeffrey withdrew his motion for a change of custody. Jeffrey’s attorney stated Jeffrey was willing to vacate the order of protection in favor of a mutual no offensive contact order. (Jeffrey’s understanding was that he would remain the primary caregiver for the children if the order of protection was vacated.) An agreement was never reached, however, and on February 24, 2022, the court entered an order extending the June 3 order, as modified by the February 4 agreed order, as an “interim” order to April 27, 2022.

¶ 35 K. April 27, 2022, “Plenary” Order of Protection

¶ 36 On April 27, 2022, the parties appeared to discuss scheduling issues. On that date, Judge Dow was presiding over Judge Garcia’s call. Neither the court nor the parties mentioned an extension of the order of protection during the appearance. At the conclusion of the appearance, Jeffrey’s attorney stated she could draft an order, and the court stated, “[Jeffrey’s attorney] will draft the scheduling order and circulate it.” The court entered an order extending the order of protection. The order is entitled “Order Extending Plenary Order of Protection.” The order states the “emergency plenary” order entered on April 8, 2022, and extended on various dates was

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<sup>2</sup>The order was not made a part of the record in the order-of-protection proceedings. However, the GAL has supplemented the record with a copy of the order. The caption of the order includes both case numbers.



extended “without prejudice on the same terms and conditions \*\*\* “as [a] plenary Order of Protection to terminate on [June 1, 2022].” The order also set the matter for hearing on a further extension on June 1, 2022.

¶ 37 On May 4, 2022, the parties appeared in the divorce proceedings, with Judge Dow again presiding. At that time, Angela’s attorney told the court there was an error on the April 27, 2022, order extending the order of protection. Angela’s attorney explained the order “refer[red] to an emergency plenary order of protection that was entered on [April 8, 2022]. There [was] no such order. There was \*\*\* an emergency order of protection entered on [April 8, 2021], and there was an interim order of protection that was entered on [June 3, 2021], and that interim order has been extended from time to time to the present.” The court responded that it would “just correct that to a plenary order because of the time frame of an interim order.” Angela’s attorney told the court he did not “understand why it’s being turned into a plenary,” and the court responded, “Because of the 30-day time frame on an interim [order of protection].” Angela’s attorney said, “Perhaps I should just file a motion \*\*\* to correct the record.” Angela did not file such a motion.

¶ 38 On May 25, 2022, Angela filed a notice of appeal from the April 27, 2022, order. Her notice of appeal stated she was challenging the April 27 order, as well as the April 8 emergency order of protection, the June 3 “interim” order of protection, and the orders extending the June 3 order.

¶ 39 II. ANALYSIS

¶ 40 On appeal, Angela asks that we reverse the April 8, 2021, emergency order of protection, the June 3, 2021, “interim” order of protection, and the April 27, 2022, “plenary” order of protection. Angela focuses primarily on what she sees as insufficient evidentiary bases for the April 8 and June 3 orders. She argues the April 27, 2022, order should be reversed because it was based on the same insufficient evidence. Additionally, Angela contends the circuit court erred by

finding she violated the April 8, 2021, emergency order, as extended, when she messaged Ty. T.'s cousin and friend, Austin.

¶ 41 Jeffrey did not file a brief. On December 28, 2022, however, the GAL moved to dismiss the appeal for lack of jurisdiction. The next day, the GAL moved for sanctions under Illinois Supreme Court Rule 375(b) (eff. Feb. 1, 1994). Angela responded to both motions, and we ordered them to be taken with the case.

¶ 42 A. The GAL's Motion to Dismiss the Appeal

¶ 43 In his motion to dismiss, the GAL notes the April 27, 2022, order states the April 8, 2021, order of protection as extended on "various dates" was further extended to June 1, 2022, "without prejudice" as a "plenary order." However, the GAL asserts, the April 27, 2022, order was not a plenary order of protection and was intended to act as an "interim" extension of the June 3 "interim" order of protection. Thus, he maintains, the April 27, 2022, order was not appealable under Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) and Rule 303 (eff. July 1, 2017), because it was not a final order; rather, Angela's only avenue to appeal the April 27 order was under Rule 307(a) (eff. Nov. 1, 2017). The GAL further states that Rule 307(a) does not automatically permit the review of all orders entered by the circuit court up to the date of the order appealed, and it does not permit the court to decide controverted facts or the merits of a case. Rather, "[t]he only question in [a Rule 307(a)] appeal is whether there was a sufficient showing to affirm the order of the trial court granting or denying the relief requested." According to the GAL, Angela's brief "is solely focused on the controverted facts and merit of the trial court's decision to issue [the April 8, 2021,] emergency order of protection." Moreover, the GAL asserts a portion of Angela's argument—that the order of protection proceedings were an improper custody grab—was rendered moot by the

court's December 14, 2022, order in the divorce proceedings granting Jeffrey sole parental responsibilities.

¶ 44 Angela responds the GAL's interpretation of the record is incorrect, and the April 27, 2022, order was the initial plenary order of protection in this case. Because a plenary order is the final and appealable order in order-of-protection cases, she could properly appeal it as of right under Rules 301 and 303. And because the April 8 emergency order and June 3 "interim" order were part of the procedural progression leading to that order, she continues, those orders are subject to challenge in this appeal from a final judgment.

¶ 45 For the reasons set forth below, we agree with the GAL in part, although we do so on a different basis. We find we lack jurisdiction to review the April 8 and June 3 orders and therefore dismiss that portion of her appeal. However, we have jurisdiction to review the April 27, 2022, order.

¶ 46 *1. Standard of Review*

¶ 47 We consider questions regarding this court's jurisdiction *de novo*. *People v. English*, 2023 IL 128077, ¶ 13. When the appellate court lacks jurisdiction, it must dismiss the appeal. *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 218 (2009).

¶ 48 The doctrine of mootness also bears on this court's jurisdiction. "As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided." *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009). In fact, this court lacks jurisdiction to consider moot questions. *In re Robert M.*, 2020 IL App (5th) 170015, ¶ 30. An appeal is moot when it presents no actual controversy or when intervening events render it impossible for the reviewing court to grant effectual relief to the complaining party. *In re Marriage of Palarz*, 2022 IL App (1st) 210618, ¶ 24. "The existence of

a real dispute is not a mere technicality but, rather, is a prerequisite to the exercise of this court’s jurisdiction.’ ” *Id.* (quoting *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 291 (2005)). We review *de novo* whether an appeal should be dismissed as moot. *Alfred H.H.*, 233 Ill. 2d at 350.

¶ 49 In addition, the GAL’s motion calls on us to interpret the April 27, 2022, order. We construe court orders like any other written instrument, meaning we construe it “reasonably and as a whole so as to give effect to the apparent intention of the court.” (Internal quotation marks omitted.) *Baldi v. Chicago Title & Trust Co.*, 113 Ill. App. 3d 29, 33 (1983). In construing an order, we rely on its language and consider “other parts of the record, including the pleadings, the motions before the court, and the issues to be decided.” *People v. Ryan*, 259 Ill. App. 3d 611, 613 (1994).

¶ 50 *2. What Kind of Order Was the April 27, 2022, Order?*

¶ 51 We first address the parties’ dispute regarding the type of order—interim or plenary—entered on April 27, 2022. Our careful review of the record leads us to conclude the order was neither an interim order nor the initial plenary order in this case. Rather, the April 27, 2022, order was an extension of a plenary order initially entered on June 3, 2021.

¶ 52 The Domestic Violence Act states the circuit court may enter three types of orders of protection—emergency, interim, and plenary—provided certain statutory requirements are met. See 750 ILCS 60/214, 217, 218, 219 (West 2020). The Domestic Violence Act also places specific time limits on each type of order. *Id.* § 220. An emergency order may be effective for 14 to 21 days (*id.* § 220(a)(1)), and an interim order may be effective for up to 30 days (*id.* § 220(a)(2)). When entered under the provisions of the Domestic Violence Act, and not in conjunction with another civil proceeding, a plenary order is effective for a fixed period of time, not to exceed two years. *Id.* § 220(b)(0.05).

¶ 53 The record shows that on April 8, 2021, the circuit court *ex parte* entered an emergency order of protection that was continued until May 13, 2021. On that date, the court extended the order as an *interim* order of protection to May 26, 2021, when a hearing on Jeffrey’s petition would commence. After that hearing, during which the court heard testimony over three separate days, on June 3, 2021, the court directed a finding in favor of Jeffrey on his petition. The court stated it would enter the order as an “interim” order of protection so the court could “get rid of it” if the parties “worked [something] out in the meantime.” The court’s written order is entitled “Order Extending Interim Order of Protection” and states the “interim” order entered on April 8, 2021, and extended on various dates was extended “with prejudice” as an “interim” order of protection to December 3, 2021. The order set a hearing for further extension of the order on December 3, 2021, provided Jeffrey filed a proper motion for extension, with due notice to Angela, on or before November 3, 2021.

¶ 54 The court’s June 3 order makes it clear that it was, in fact, the initial plenary order in these proceedings. Here, the court attempted to style the order as a six-month interim order. However, the Domestic Violence Act limits an interim order to a 30-day duration. See *id.* § 220(a)(2). More importantly, the June 3 order stated it was entered “with prejudice.” The phrase “with prejudice” means “[w]ith loss of all rights; in a way that finally disposes of a party’s claim.” Black’s Law Dictionary 1919 (11th ed. 2019). Thus, by its terms, the order finally disposed of Jeffrey’s claims in the petition. Because it finally fixes the rights of the parties involved, a plenary order of protection “is the usual final order in an order of protection proceeding.” *Scheider v. Ackerman*, 369 Ill. App. 3d 943, 945 (2006); see *Big Sky Excavating, Inc. v. Illinois Bell Telephone Co.*, 217 Ill. 2d 221, 232-33 (2005) (explaining when a judgment is final).

¶ 55 The court’s rationale for styling the order as an interim order—so the court could “get rid of it” if the parties “worked [something] out in the meantime”—does not change our conclusion. Under section 224(b) of the Domestic Violence Act (*id.* § 224(b)), the court may modify “any prior order of protection’s remedy for custody, visitation, or payment of support” under the relevant provisions of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq.* (West 2020)). In addition, “After 30 days following entry of a plenary order of protection, a court may modify that order \*\*\* when changes in the \*\*\* facts since that plenary order was entered warrant a modification of its terms.” *Id.* § 224(c).

¶ 56 Simply put, the language of the June 3 order, when considered in its entirety, leads us to the inescapable conclusion that the June 3 order was not an interim order of protection but, rather, was the initial plenary order entered in this case. As a result, each of the orders extending that order, including the April 27, 2022, order, was an extension of a plenary order of protection. With this understanding of the record in mind, we turn to the GAL’s motion to dismiss.

¶ 57 *3. The April 8, 2021, and June 3, 2021, Orders*

¶ 58 We lack jurisdiction to review the April 8, 2021, and June 3, 2021, orders for two reasons. First, because the June 3, 2021, order was a plenary order of protection, that is, a final order, it was immediately appealable under Rules 301 and 303, which provide that a party may appeal from a final judgment as of right, provided the party files a notice of appeal within 30 days of the court’s judgment. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994), R. 303 (eff. July 1, 2017). On July 2, 2021, Angela timely filed a notice of appeal from the June 3, 2021, order. At that point, we had jurisdiction to review the entry of the June 3 order and likely would have had jurisdiction to review the April 8 order and the subsequent orders extending it. See *Valdovinos v. Luna-Manalac Medical Center, Ltd.*, 307 Ill. App. 3d 528, 538 (1999) (appeal from a final judgment permits a reviewing court to

review interlocutory orders if those orders were “a procedural step in the progression leading to the entry of the final judgment from which an appeal has been taken”). Angela, however, abandoned that appeal and instead pursued modification of the June 3 order of protection in the circuit court. Putting aside the fact that Angela abandoned her previous, timely appeal of the June 3 order, Angela filed the instant notice of appeal on May 25, 2022, well outside the 30-day timeframe for appealing the June 3 order. Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017).

¶ 59 Second, Angela’s challenge of the April 8 and June 3 orders is now moot. Before those orders were entered, the MSA governed the allocation of the parties’ parental responsibilities. Specifically, the parties shared joint decisionmaking authority, and Angela had a majority of the parenting time, subject to Jeffrey’s unsupervised visitation on two nights per week and alternating weekends. When the court entered the April 8 and June 3 orders of protection, it effectively temporarily modified the parties’ rights and responsibilities. Under the April 8 and June 3 orders, contrary to the divorce judgment, Jeffrey had all of the parenting time and Angela had none. Those orders expired on May 13, 2021, and December 3, 2021, respectively, and are no longer in effect. Admittedly, the June 3, 2021, order was extended on December 3, 2021, and January 3, 2022. However, those orders were replaced by the parties’ February 4, 2022, agreed order allowing Angela some parenting time until further order of court. We are therefore unable to grant Angela any relief from the April 8 and June 3 orders and they are therefore moot. See *Palarz*, 2022 IL App (1st) 210618, ¶ 24.

¶ 60 Accordingly, we dismiss Angela’s appeal insofar as she seeks relief from the April 8 and June 3 orders.

¶ 61 4. *The April 27, 2022, “Plenary” Order of Protection*

¶ 62 Turning next to the April 27, 2022, extension of the plenary order of protection, we find we have jurisdiction under Rule 307(a)(1). Rule 307(a)(1) permits a party to appeal an order “granting, modifying, refusing, dissolving, or refusing to dissolve or modify an injunction.” Ill. S. Ct. R. 307(a)(1) (eff. Nov. 1, 2017). Such an appeal must be perfected within 30 days of its entry. *Id.* Generally, orders of protection entered under the Domestic Violence Act are considered injunctions, as are extensions of orders of protection. *In re Marriage of Padilla*, 2017 IL App (1st) 170215, ¶ 17. Here, Angela filed her notice of appeal on May 25, 2022, within 30 days of the April 27, 2022, order. The supporting record attached to the GAL’s motion to dismiss shows the protective order was extended on several occasions after April 27, 2022, and our review of the circuit court’s docket entries to the present time shows the protective order remains in effect. Thus, we have jurisdiction to review the order.

¶ 63 B. The April 27, 2022, Order

¶ 64 On the merits, Angela primarily focuses on what she views as a lack of evidence to sustain the April 8 and June 3, 2021, orders. Specific to the April 27, 2022, order, Angela argues that because the earlier orders lack a sufficient evidentiary basis, the April 27 order likewise lacked a sufficient evidentiary basis. As noted, Jeffrey has not filed a brief. However, because the record is simple and we can easily decide the claimed errors without the aid of an appellee’s brief, we will consider the merits of the appeal. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 65 Angela’s argument misses the mark, as it is premised on the assumption that the April 27, 2022, order was the initial plenary order in this case and not, as we have explained, an order extending a plenary order of protection. The initial entry of a plenary order and an extension of a plenary order are statutorily distinct actions, governed at least in part by different standards.



Compare 750 ILCS 60/214, 219 (West 2020) (setting the requirements for plenary orders of protection) with *id.* § 220(e) (setting the requirements for extensions of orders of protection).

¶ 66 Nevertheless, our review of the record shows the court entered the April 27, 2022, extension without regard to the requirements of the Domestic Violence Act. Section 220(e) governs the extension of prior orders of protection. It reads in part as follows:

“Any emergency, interim or plenary order may be extended one or more times, as required, provided that the requirements of Section 217, 218 or 219, as appropriate, are satisfied. If the motion for extension is uncontested and petitioner seeks no modification of the order, the order may be extended on the basis of petitioner’s motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension. An extension of a plenary order of protection may be granted, upon good cause shown, to remain in effect until the order of protection is vacated or modified. Extensions may be granted only in open court.” *Id.* § 220(e) (West 2020).

¶ 67 Under section 220(e), a written motion to extend or an affidavit explaining the need for an extension is a statutory prerequisite to any order extending the order of protection. *Id.* Jeffrey, however, never filed any motion or affidavit demonstrating the need for the extension, even though the June 3, 2021, order expressly required him to do so before November 3, 2021. Since no written motion was ever filed, the court should not have extended the protective order.

¶ 68 Moreover, section 220(e) also provides extensions may be granted only in open court. *Id.* “Open court” means (1) “[a] court that is in session, presided over by a judge, attended by the parties and their attorneys, and engaged in judicial business,” and usually “refers to a proceeding in which formal entries are made on the record”; or (2) “[a] court session that the public is free to

attend.” Black’s Law Dictionary 1314 (11th ed. 2019). The report of the April 27, 2022, proceedings reveals Jeffrey did not request an extension on that date and neither the court nor the parties mentioned an extension. Rather, the parties’ appearance on April 27, 2022, concerned the divorce proceedings. At the conclusion of the hearing, Jeffrey’s attorney drafted and circulated a scheduling order. But the record does not show the order granting the extension of the order of protection was entered in open court.

¶ 69 Further, section 220(e) provides that an extension of a plenary order of protection may be granted only when the requirements of section 219 are satisfied. 750 ILCS 60/220(e) (West 2020). In turn, section 219 states a plenary order shall be entered if the requirements of section 214 are satisfied. *Id.* § 219. Section 214(c) states the court must consider certain factors when determining whether to grant any remedy. *Id.* § 214(c). And, except when entering an *ex parte* emergency order of protection, “the court shall make its findings in an official record or in writing,” and at least state the court has considered “the applicable relevant factors \*\*\*[,] [w]hether the conduct or actions of respondent, unless prohibited, will likely cause irreparable harm or continued abuse[,] \*\*\* [and] [w]hether it is necessary to grant the requested relief in order to protect petitioner or other alleged abused persons.” *Id.* § 214(c)(3).

¶ 70 Here, the record is entirely devoid of any of the necessary findings that must be made when extending an order of protection. Indeed, the court never made any mention of the extension during the April 27, 2022, appearance.

¶ 71 Under these circumstances, we conclude the circuit court erred by entering the April 27, 2022, extension of the plenary order. We therefore reverse that order and the subsequent orders extending that order.

¶ 72 In reaching our conclusion, we acknowledge we are affording Angela relief from the order of protection on a basis she has not argued. Ordinarily, we must refrain from searching the record “ ‘for unargued and unbriefed reasons to *reverse* a trial court’s judgment.’ ” (Emphasis in original.) *People v. Givens*, 237 Ill. 2d 311, 323 (2010) (quoting *Saldana v. Wirtz Cartage Co.*, 74 Ill. 2d 379, 386 (1978)). However, when, as here, a clear and obvious error exists in the trial court proceedings, we have the authority to do so. *Id.* at 325.

¶ 73 C. The Circuit Court’s Finding that Angela  
Violated the April 8, 2021, and Later Orders of Protection

¶ 74 Angela also contends the circuit court erred when, during the May and June 2021 hearing, it found she violated the order of protection by contacting Austin. The circuit court expressly declined to make that finding under its powers of contempt and instead referred the matter to the State’s Attorney’s office. Accordingly, there is no finding to vacate or reverse.

¶ 75 D. The GAL’s Motion for Sanctions

¶ 76 Finally, we briefly address the GAL’s motion for sanctions. Rule 375(b) provides this court may sanction a party if we determine the appeal was frivolous or not taken in good faith. Ill. S. Ct. R. 375(b) (eff. Feb. 1, 1994). Whether to impose sanctions under Rule 375 is a matter left to our discretion. *U.S. Bank, N.A. v. Coe*, 2017 IL App (1st) 161910, ¶ 21. Given our conclusion that the April 27, 2022, order and the subsequent orders extending the order of protection must be vacated, we deny the GAL’s request for sanctions.

¶ 77 III. CONCLUSION

¶ 78 For the reasons stated, we dismiss the appeal insofar as it challenges the orders entered before April 27, 2022, and we reverse the circuit court’s April 27, 2022, order.

¶ 79 Appeal dismissed in part; judgment reversed.