

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: December 8, 2005

97640

In the Matter of MARGERY J.
PREHNA,

Appellant,

v

MEMORANDUM AND ORDER

WILLIAM PREHNA,

Respondent.

Calendar Date: October 18, 2005

Before: Mercure, J.P., Spain, Carpinello, Rose and Kane, JJ.

Tully, Rinckey & Associates, Albany (Gregory T. Rinckey of counsel), for appellant.

Michael L. Breen, Middleburgh, for respondent.

Christine E. Nicolella, Law Guardian, Delanson.

Rose, J.

Appeal from an order of the Family Court of Schoharie County (Bartlett III, J.), entered January 20, 2005, which dismissed petitioner's application, in a proceeding pursuant to Family Ct Act article 8, to modify an existing order of protection.


While she was separated from respondent and contemplating an action for divorce, petitioner applied for and received a temporary order of protection against respondent in this Family Ct Act article 8 proceeding. Thereafter, following a hearing on petitioner's accusations of domestic violence, the order of protection was extended. The last such order, dated September

27, 2004, extended its restraints until August 25, 2005. Petitioner's present application to modify the order was denied by Family Court. Inasmuch as the order of protection is no longer in effect, this appeal by petitioner is now moot and must be dismissed (see Matter of Noor v Noor, 15 AD3d 788, 788 [2005]; Matter of Hanehan v Hanehan, 8 AD3d 712, 714 [2004]; Matter of Schreiber v Schreiber, 2 AD3d 1094, 1095 [2003]).

Mercure, J.P., Spain, Carpinello and Kane, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:



Michael J. Novack
Clerk of the Court