

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

Decided and Entered: December 17, 2009

506435

In the Matter of CHERYL L.,
Appellant,

v

MEMORANDUM AND ORDER

SCOTT L.,
Respondent.

Calendar Date: November 18, 2009

Before: Peters, J.P., Lahtinen, Malone Jr., Kavanagh and
Stein, JJ.

Samuel D. Castellino, Elmira, for appellant.

Scott L., Afton, respondent pro se.

Kavanagh, J.

Appeal from an order of the Family Court of Chenango County (Sullivan, J.), entered January 15, 2009, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 8, for an order of protection.

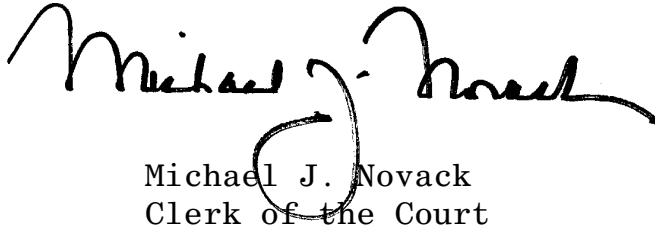
In January 2009, Family Court granted an order of protection in favor of petitioner directing respondent to refrain from, among other things, assaulting or harassing her. Although petitioner has appealed, contending that Family Court abused its discretion in failing to grant her a "no contact" order of protection, a review of the record reveals that the challenged order of protection was vacated in March 2009 with leave for petitioner to refile, if necessary, in the context of the parties' matrimonial action. Inasmuch as the underlying order of protection no longer is in effect, petitioner's appeal is moot

and must be dismissed (see Matter of Prehna v Prehna, 24 AD3d 917 [2005]; Matter of Senator NN., 21 AD3d 1187, 1188 [2005]).

Peters, J.P., Lahtinen, Malone Jr. and Stein, JJ., concur.

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

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is written in a cursive, flowing style with a large, prominent initial "M".

Michael J. Novack
Clerk of the Court