

[Cite as *Tadross v. Ikladious*, 2015-Ohio-3147.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102531

GEORGE TADROSS

PLAINTIFF-APPELLEE

vs.

MARYAN IKLADIOUS

DEFENDANT-APPELLEE

[Appeal by Fady Ikladious]

**JUDGMENT:
DISMISSED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. DR-14-350356

BEFORE: Boyle, J., McCormack, P.J., and Stewart, J.

RELEASED AND JOURNALIZED: August 6, 2015

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MARY J. BOYLE, J.:

{¶1} This case came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.R. 11.1.

{¶2} Appellant, Fady Ikladious (“Fady”), appeals from the trial court’s judgment denying his motion to quash three subpoenas issued to three separate banks where he allegedly has an account. Because all three banks have already complied with the subpoenas, we dismiss this appeal as moot.

I. Background

{¶3} The underlying case involves a contested divorce action between plaintiff-appellee, George Tadross (“George”), and defendant-appellee, MaryAn Ikladious. Fady is MaryAn’s brother.

{¶4} Relevant to the instant appeal, on November 21, 2014, Fady moved to quash subpoenas issued on November 10, 2014, by George to the following three banks: (1) First National Bank, (2) Charter One Bank, NA (n.k.a. Citizen’s Bank), and (3) JP Morgan Chase Bank, NA. In his motion, Fady argued that he is a nonparty to the action, that the subpoenas are not reasonably calculated to lead to discoverable evidence, and that none of the funds in his accounts are relevant to the underlying divorce action. He broadly asserted that the subpoenas are frivolous and place an undue burden on him.

{¶5} Eleven days later, George filed his brief in opposition to Fady’s motion to quash, arguing that the issuance of the three subpoenas are necessary to trace the removal

of potential marital money. George further argued that Fady has aided his sister, MaryAn, in moving and transferring funds that directly relate to this case.

{¶6} On January 14, 2015, the trial court denied Fady’s motion to quash. Fady, however, never sought a stay of the trial court’s order. On January 23, 2015, Fady, who was a nonparty to the case, filed the instant appeal, challenging the trial court’s denial of his motion to quash.¹

{¶7} The record reflects, however, that all three banks have complied with the subpoena served upon them. Specifically, First National Bank answered the subpoena on November 20, 2014, one day before Fady even filed his motion to quash; Charter One answered the subpoena the following day on November 21, 2014; and JP Morgan Chase responded to the subpoena on January 28, 2015. Consequently, George has moved this court to dismiss this appeal as moot.

II. Law and Analysis

{¶8} “Appellate courts will not review questions that do not involve live controversies.” *State v. Werber*, 8th Dist. Cuyahoga No. 97797, 2012-Ohio-2516, ¶ 9, citing *Tschantz v. Ferguson*, 57 Ohio St.3d 131, 133, 566 N.E.2d 655 (1991). It is well settled that an action should be dismissed as moot unless it appears that a live controversy exists. *Lorain Cty. Bd. of Commrs. v. U.S. Fire Ins. Co.*, 81 Ohio App.3d 263, 266-267,

¹ According to the docket, after Fady’s filing of the notice of appeal, the trial court issued an order on January 30, 2015, joining Fady as a new party defendant to the underlying action. While the parties dispute the validity of that order, we need not reach that issue in the resolution of this appeal.

610 N.E.2d 1061 (9th Dist.1992). Because the records that were subject to the subpoena have been provided, there is no live controversy before this court. *See generally In re Atty. Gen.'s Subpoena*, 11th Dist. Geauga No. 2009-G-2916, 2010-Ohio-476 (nothing for the court to consider on appeal when the appeal involved the trial court's denial of a motion to quash of a subpoena when the proponent of the subpoena subsequently withdrew it). Indeed, there is no relief that this court can provide based on the order appealed.

{¶9} We further note that there is no indication in the record that the issue raised on appeal is capable of repetition, yet evading review, which would warrant a departure from the well-established mootness doctrine. *See State ex rel. Plain Dealer Publishing Co. v. Barnes*, 38 Ohio St.3d 165, 527 N.E.2d 807 (1988), paragraph one of the syllabus.

{¶10} Appeal dismissed as moot.

It is ordered that appellee recover from appellant the costs herein taxed.

It is ordered that a special mandate issue out of this court directing the common pleas court, domestic relations division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY J. BOYLE, JUDGE

TIM McCORMACK, P.J., and
MELODY J. STEWART, J., CONCUR

