

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2007 CA 2055

LOTTIE ANN RATCLIFF

VERSUS

TY WILLIAM RATCLIFF

Judgment rendered May 2, 2008.

Appealed from the
22nd Judicial District Court
in and for the Parish of St. Tammany, Louisiana
Trial Court No. 2005-13025
Honorable Peter J. Garcia, Judge

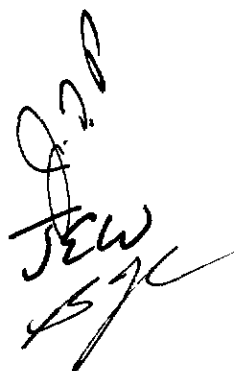
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TY WILLIAM RATCLIFF

BEFORE: CARTER, C.J., PETTIGREW, AND WELCH, JJ.



PETTIGREW, J.

In this case, defendant, Ty William Ratcliff, appeals from the trial court's judgment ordering the clerk of court to disburse the community property funds previously deposited into the registry of the court one-half to him and one-half to plaintiff, Lottie Ann Ratcliff. For the reasons that follow, we dismiss the instant appeal as moot.

According to the record, the parties were divorced in 2006. On April 16, 2007, in anticipation of the sale of the former community home, Mr. Ratcliff filed an "Emergency Motion And Order To Have Community Property Funds Immediately Deposited Into The Registry Of The Court," arguing that it was "imperative that the \$110,000.00 funds from the sale of the former community be deposited into the Registry of the Court to ensure the debts and liabilities of the community are satisfied." The trial court signed the order and set the matter for hearing on May 16, 2007. At the hearing, the trial court ordered that the matter be submitted on briefs.

Thereafter, on May 22, 2007, Mr. Ratcliff filed a "Concursus Petition To Supplement Emergency Motion And Order To Have Community Property Funds Immediately Deposited Into The Registry Of The Court," naming several defendants who may have had competing claims to the funds deposited into the registry of the court. The concursus proceeding was set for hearing on July 23, 2007, at which time the parties argued their positions and submitted the matter to the trial court for a decision. After considering the evidence and applicable law, the trial court dismissed the concursus petition and the motion and order to have the community property funds deposited into the registry of the court. The trial court signed a judgment on July 30, 2007, ordering the clerk of court to disburse the funds one-half to Mr. Ratcliff and one-half to Mrs. Ratcliff. It is from this judgment that Mr. Ratcliff has appealed, arguing that the trial court erred in finding that a concursus proceeding was not proper in this case.

It is well settled that the function of the appellate courts is to render judgments that can be made effective and not to give opinion on moot questions or abstract propositions. **Orange Grove Properties, L.L.C. v. Allured**, 2003-1878, p. 5 (La. App. 1 Cir. 6/25/04), 885 So.2d 1170, 1173. Courts may not decide cases that are

moot, or where no justiciable controversy exists. An issue is moot when it has been deprived of practical significance and has been made abstract or purely academic. **Suire v. Lafayette City-Parish Consol. Government**, 2004-1459, 2004-1460, 2004-1466, p. 24 (La. 4/12/05), 907 So.2d 37, 55; **McLain v. Mann**, 2006-1174, p .3 (La. App. 1 Cir. 5/4/07), 961 So.2d 415, 417.

We have made a careful review of this entire record and are convinced that the issues raised by Mr. Ratcliff on appeal have become moot. When the instant matter was initiated by Mr. Ratcliff, community funds had been deposited into the registry of the court by order of the trial court. However, when the trial court's judgment was served on the clerk of court, the clerk apparently mailed checks to the parties, through their respective counsel, on August 1, 2007. According to the record, Mr. Ratcliff's check was in the amount of \$54,276.31, and Mrs. Ratcliff's check was for \$54,695.11.¹

Mr. Ratcliff neither filed a suspensive appeal from the trial court's judgment nor filed a motion for a stay order to prevent the disbursement of the funds. Rather, Mr. Ratcliff simply filed a devolutive appeal, but only after withdrawing his portion of the funds from the registry of the court. Thus, there remains no justiciable issue. Moreover, in light of the above principles, it is clear that any opinion this court were to render concerning these issues would afford no practical relief to Mr. Ratcliff at this time and would amount to an improper advisory opinion. We cannot issue a meaningful decision. Accordingly, based on the facts and circumstances of this case, this appeal is no longer viable and must be dismissed as moot.

For the above and foregoing reasons, the appeal is dismissed as moot.² We issue this memorandum opinion in accordance with Uniform Rules-Courts of Appeal, Rule 2-16.1B and assess all appeal costs against Mr. Ratcliff.

APPEAL DISMISSED; MOTION TO SUPPLEMENT APPEAL DISMISSED.

¹ Counsel for both parties acknowledged during oral argument to this court that the funds have in fact been withdrawn from the registry of the court.

² Mrs. Ratcliff's motion to supplement the appeal, which was previously referred to the merits of the appeal, is also dismissed as moot.