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6-10-2009

## Bruce Buccolo v. Thomas Orr

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**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 08-1214

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IN RE: LORI BUCCOLO,  
Debtor

THOMAS J. ORR,  
Trustee

vs.

BRUCE BUCCOLO,  
Appellant

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On Appeal from the United States District Court  
for the District of New Jersey  
(D.C. Civil Action No. 07-cv-01036)  
District Judge: Honorable Mary L. Cooper

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Submitted Pursuant to Third Circuit LAR 34.1(a)  
June 5, 2009

Before: SCIRICA, Chief Judge, CHAGARES and WEIS, Circuit Judges  
Opinion filed: June 10, 2009

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OPINION

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PER CURIAM.

In January 2007, Thomas J. Orr, the appointed trustee in Lori Buccolo's bankruptcy case, filed suit to evict Lori Buccolo's then-estranged husband, Bruce Buccolo ("Buccolo"), from the Buccolos' marital residence at 14 Conkling Street in Basking Ridge, New Jersey. In a preliminary ruling, the Bankruptcy Court decided that Bruce Buccolo could stay in the home until March 31, 2007, provided that he properly maintained the property and cooperated with agents trying to sell the home. If he did not leave thereafter, the U.S. Marshals were to remove him from the property. Buccolo appealed the decision to the District Court.

Ultimately, the District Court dismissed Buccolo's appeal for failure to prosecute and failure to file a brief in a timely fashion. Buccolo filed a motion for reconsideration, which the District Court denied. Buccolo appeals from the District Court's orders.

However, while Buccolo's District Court appeal of the preliminary eviction order was pending, proceedings continued in the Bankruptcy Court. In June 2007, the trustee won a default judgment against Buccolo. Buccolo appealed again to the District Court. Ultimately, the District Court dismissed Buccolo's appeal for failure to prosecute. We subsequently dismissed Buccolo's appeal of the District Court's decision pursuant to 28 U.S.C. § 1915(e)(2)(B). See In re Buccolo, No. 08-1215, slip op. at 4 (3d Cir. Jan. 22, 2009).

Because we dismissed the appeal of the District Court’s order dismissing Buccolo’s appeal of the default judgment against him, this appeal is now moot, as the trustee argues in his pending, unopposed motion to dismiss this appeal for lack of jurisdiction. Generally, we must dismiss an appeal as moot ““when events occur during [its] pendency . . . which prevent the appellate court from granting any effective relief.”” Isidor Paiewonsky Assocs., Inc. v. Sharp Properties, Inc., 998 F.2d 145, 151 (3d Cir. 1993) (quoting General Elect. Co. v. Cathcart, 980 F.2d 927, 934 (3d Cir. 1992) (citing In re Cantwell, 639 F.2d 1050, 1053-54 (3d Cir. 1981)). Here, where the trustee has a valid default judgment for Buccolo’s eviction, we cannot fashion any meaningful relief related to the appeal of the preliminary eviction order. See generally, id.

A federal court does not have the power to decide moot questions. See North Carolina v. Rice, 404 U.S. 244, 246 (1971). Article III requires a live case or controversy throughout the entire litigation; if no live controversy exists, we must dismiss the case for lack of jurisdiction. See Lusardi v. Xerox Corp., 975 F.2d 964, 974 (3d Cir. 1992).

Accordingly, we must dismiss this moot appeal for lack of jurisdiction.