



2008

# Recent Developments: *Suter v. Stuckey*: Parties to a Domestic Violence Protective Order Entered by Consent Do Not Have the Right to an Appeal

Lydia Hu

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

## Recommended Citation

Hu, Lydia (2008) "Recent Developments: *Suter v. Stuckey*: Parties to a Domestic Violence Protective Order Entered by Consent Do Not Have the Right to an Appeal," *University of Baltimore Law Forum*: Vol. 38 : No. 2 , Article 14.  
Available at: <http://scholarworks.law.ubalt.edu/lf/vol38/iss2/14>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact [snolan@ubalt.edu](mailto:snolan@ubalt.edu).

## RECENT DEVELOPMENT

---

### ***SUTER V. STUCKEY*: PARTIES TO A DOMESTIC VIOLENCE PROTECTIVE ORDER ENTERED BY CONSENT DO NOT HAVE THE RIGHT TO AN APPEAL.**

**By: Lydia Hu**

The Court of Appeals of Maryland determined that parties to a domestic violence protective order entered by consent do not have the right to an appeal. *Suter v. Stuckey*, 402 Md. 211, 935 A.2d 731 (2007). More specifically, the Court held that the Protection from Domestic Violence Act does not abrogate the common law rule that a judgment entered by consent may not be appealed. *Suter*, 402 Md. at 232, 935 A.2d at 744.

In April 2006, Darryl Stuckey ("Stuckey") was arrested for a domestic violence incident in which he attacked his fiancée, Judith Suter ("Suter"), in their home. One week later, Stuckey harassed Suter at her place of employment, prompting Suter to file a petition for a temporary protective order ("TPO") against Stuckey in the District Court for Prince George's County. On April 13, 2006, the district court issued the TPO and scheduled a hearing for the final protective order on April 20, 2006. The court entered a final protective order by consent.

On May 17, 2006, Stuckey noted an appeal to the Circuit Court for Prince George's County. Suter moved to dismiss the appeal, arguing that the appeal was time-barred and that Stuckey was estopped from appealing a consent judgment. The circuit court granted the motion to dismiss and affirmed the final protective order.

Stuckey subsequently requested an in banc review of the circuit court ruling and argued that he was entitled to a *de novo* hearing in the circuit court. The panel ruled that the statutes governing appeals from district court to circuit court in domestic violence cases gave Stuckey a right to a *de novo* appeal. The panel found section 12-401(f) of the Courts and Judicial Proceedings Article ("section 12-401(f)") controlling, which provides that appeals from civil judgments when the amount in controversy is greater than \$5,000 will be heard on the district court record. Moreover, section 12-401(f) provides that all

other appeals will be tried *de novo*. The panel determined that the instant case was an example of "every other case" to be tried *de novo* because appeals from domestic violence protective orders are not noted in companion exceptions. Thus, the panel reversed the circuit court's holding and remanded the case for a trial *de novo*. The Court of Appeals of Maryland granted Suter's petition for writ of certiorari to address the question of whether parties to a domestic violence protective order entered by consent have the right to an appeal.

Before addressing the case on the merits, the Court addressed the threshold question of whether the case was moot. *Suter*, 402 Md. at 219, 935 A.2d at 736. A case is moot "when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant." *Id.* at 219, 935 A.2d at 736 (quoting *Dep't of Human Res. v. Roth*, 398 Md. 137, 143, 919 A.2d 1217, 1221 (2007)).

The protective order at issue in the instant case expired on April 18, 2007. *Id.* at 219, 935 A.2d at 736. Even if the Court were to find that Stuckey was entitled to a trial *de novo*, no relief was possible and therefore the Court held this case was moot. *Id.* at 219, 935 A.2d at 736. However, the Court found it appropriate to address the merits of the case because it "implicates an important public policy, it is likely to recur, and on recurrence it will evade review." *Id.* at 220, 935 A.2d at 737.

Stuckey argued, and the in banc panel below found, that the plain language of section 4-507 of the Family Law Article ("section 4-507"), codified as part of the Protection from Domestic Violence Act ("the Act"), and section 12-401(d) of the Courts and Judicial Proceedings Article, allow *de novo* appeals from protective orders entered by consent. *Suter*, 402 Md. at 222, 935 A.2d at 737-38. After examining the legislative history of both statutes, the Court was not similarly persuaded. *Id.* at 226, 935 A.2d at 740.

When two statutes apply, the Court must first reconcile them, and in the event they are contradictory, the Court must apply the more specific statute. *Id.* at 231, 935 A.2d at 743 (citing *Md. Nat'l Capital Park and Planning v. Anderson*, 395 Md. 172, 183, 909 A.2d 694, 700 (2006)). Section 4-507 is the more specific statute involved in the instant facts, so the Court examined that provision first and reconciled section 12-401 with section 4-507. *Suter*, 402 Md. at 231, 935 A.2d at 743.

The Act provides for a *de novo* appeal in section 4-507(b)(1), as follows: "If a District Court judge grants or denies relief under a petition filed under this subtitle, a respondent, any person eligible for relief, or a petitioner may appeal to the circuit court for the county where the District Court is located." *Suter*, 402 Md. at 216, 935 A.2d at 734. Section 4-507(b)(2) further provides that appeals taken pursuant to the above section shall be "heard *de novo* in the circuit court." *Suter*, 402 Md. at 216, 935 A.2d at 734. The Court was not persuaded by a plain language interpretation of section 4-507(b)(2) and explained it must consider the statutory language as it is found within the broader context of the Act to achieve the over-arching purpose of protecting victims of domestic violence. *Suter*, 402 Md. at 231, 935 A.2d at 743. Allowing appeals from protective orders entered by consent would invariably diminish the incentive for domestic violence victims to enter into such agreements, thereby undermining the purpose of the Act. *Suter*, 402 Md. at 231, 935 A.2d at 743.

The Court also recognized a secondary legislative goal in reducing the costs of implementing protective orders. *Id.* at 232, 935 A.2d at 743. The administrative costs of a trial are avoided when protective orders are entered by consent. *Id.* at 232, 935 A.2d at 743. Hearing *de novo* appeals from consent protective orders would undoubtedly increase administrative costs. *Id.* at 232, 935 A.2d at 743.

When construing statutory provisions, the Court is bound by the rule that the common law will not be repealed by mere implication. *Id.* at 232, 935 A.2d at 734. The applicable Maryland common law rule to the instant case is that "the only persons who may appeal a judgment are those aggrieved by that judgment." *Id.* at 232, 935 A.2d at 744 (citing *Thompson v. State*, 395 Md. 240, 248-49, 909 A.2d 1035, 1041 (2006)). The established result of that common law rule is that a consent judgment may not be appealed because a consenting party cannot be aggrieved. *Id.* at 232-33, 935 A.2d at 744. The legislature did not expressly abrogate or limit the common law rule that a party may not appeal from a consent judgment, and the Court refused to "read into [section 4-507(b)(1)] as an abrogation of the common law rule." *Suter*, 402 Md. at 233, 935 A.2d at 744.

The Court further explained that section 12-401 can be construed harmoniously with the Act because section 12-401(f) determines the mode of appeal but does not grant or constrain the right of appeal. *Suter*, 402 Md. at 234, 935 A.2d at 745. Rather, the grant of a right to appeal in domestic violence protective orders is governed by section 4-

507 of the Act and Maryland common law. *Suter*, 402 Md. at 234, 935 A.2d at 745.

By deciding this case, the Court of Appeals of Maryland helps achieve the legislature's goals of protecting victims of domestic violence. *Suter* is particularly important because entering domestic violence consent orders at the district court level will now be treated as if the parties have waived their right to appeal. The finality of consent orders quickly ensures security for victims and provides the option of avoiding litigation.