

STATE OF MAINE

SUPREME JUDICIAL COURT  
Sitting as the Law Court

DOCKET NO. Yor-16-72  
Decision No. 2017 ME 31

GUARDIANSHIP OF )  
ALISHA K. GOLODNER )

**ORDER GRANTING MOTION  
FOR RECONSIDERATION**

The appellant, Daniel Golodner, has filed a motion for reconsideration, pursuant to M.R. App. P. 14(b), of our opinion in *Guardianship of Alisha K. Golodner*, 2017 ME 31, published on February 24, 2017, dismissing his appeal to the extent that it presents issues that have become moot. Daniel asks us to reconsider the applicability of exceptions to the mootness doctrine. Upon reconsideration, we grant his motion.

On February 17, 2017, we were notified that Alisha's guardian, Gail Golodner, died on February 13, 2017. Daniel then presented us with a motion for relief from the Probate Court's order denying his petition to terminate the guardianship. He suggested that his appeal was moot but asked us to "clarify and settle his status as sole custodian" of Alisha. On February 24, 2017, we issued our opinion agreeing with Daniel that, except for the issue of a sanction imposed by the probate court, the substance of his appeal was moot, but denying his motion for relief. Daniel moved for reconsideration of our mootness determination pursuant to M.R. App. P. 14(b).

The death of the guardian gives rise to uncertainty regarding the critical issue of continuing responsibility for the care of the minor child. Because time is of the essence for addressing this uncertainty, and in order to facilitate a timely transition of responsibility for the child's care, we have considered Daniel's motion for reconsideration without hearing from opposing counsel, *see* M.R. App. P. 14(b)(1), and conclude that, in these unique circumstances, the "collateral consequences" exception to the mootness doctrine applies. *See In re Nicholas S.*, 2016 ME 82, ¶¶ 7-8, 140 A.3d 1226; *In re Ciara H.*, 2011 ME 109, ¶ 3, 30 A.3d 835.

Because the guardianship of Alisha terminated upon Gail's death, a decision on Daniel's challenge to the denial of his petition to terminate that guardianship would not provide him with any effective relief. The substance of his appeal is therefore moot. *See Mainers for Fair Bear Hunting v. Dep't of Inland Fisheries & Wildlife*, 2016 ME 57, ¶ 5, 136 A.3d 714. In limited circumstances, such as where sufficient "collateral consequences" will flow from the determination of the questions presented in an appeal, we will still address the merits of a moot issue on appeal. *See Bailey v. Dep't of Marine Res.*, 2015 ME 128, ¶ 4, 124 A.3d 1125.

We conclude that the "collateral consequences" exception applies in this case in great part because Daniel has asked us to address the merits, asserting

that the court's order denying Daniel's petition to terminate the guardianship, which includes a finding, by clear and convincing evidence, that Daniel is unfit to parent Alisha, could have bearing on any guardianship proceeding that is initiated as a result of Gail's death. See *In re Nicholas S.*, 2016 ME 82, ¶¶ 7-8, 140 A.3d 1226; *In re Ciara H.*, 2011 ME 109, ¶ 3, 30 A.3d 835.

Therefore, as Daniel has requested, his motion for reconsideration is GRANTED and we reach the merits of his appeal.

It is ORDERED that our opinion in *Guardianship of Alisha K. Golodner*, 2017 ME 31, published on February 24, 2017, is hereby withdrawn and replaced by the opinion attached to this order.

Dated: March 16, 2017

For the Court,

\_\_\_\_\_/s/  
Leigh I. Saufley  
Chief Justice