



entitled to a hearing because some of the facts stipulated to by mother were about his behavior and history. It held the merits hearing on December 9, 2021. On December 13, 2021, the family division issued an entry order stating that “based on [m]other’s testimony, all agree that [f]ather was not a custodial parent at the time the petition was filed as had not provided any care to [K.S.]” It ordered DCF to prepare an updated case plan and indicated that it would set a disposition hearing.

K.S. has moved to dismiss father’s appeal on the ground that the family division’s September 2021 order was an interlocutory order and father did not obtain permission to appeal it. The State joins in K.S.’s motion. Father opposes dismissal, arguing that the court’s September 2021 order was a final disposition order. He asks this Court to strike record complete to include the transcript of the December 9, 2021, hearing, so that he can raise new arguments related to the court’s decision that he was a noncustodial parent at the time of the petition.

We agree that this appeal should be dismissed, but on a different basis than argued by appellees. The September 2021 order, which adopted a case plan and transferred conditional custody to mother, appeared at that time to be the court’s final disposition order and father could appeal it. See 33 V.S.A. § 5315(d) (“A disposition order is a final order. ...”). However, after father filed his notice of appeal from the September 2021 disposition order, the family division acknowledged that father was entitled to a merits hearing and that further proceedings concerning disposition were required. The appeal has therefore become moot. A case is moot when “the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.” In re Moriarty, 156 Vt. 160, 163 (1991) (quotations omitted). “Even if a case originally presented an actual controversy in the trial court, the case must remain live throughout the appellate process for us to examine the issues. Thus, a change in facts or circumstances can render a case moot if this Court can no longer grant effective relief.” Houston v. Town of Waitsfield, 2007 VT 135, ¶ 5, 183 Vt. 543 (quotation omitted). The family division has granted the relief that father seeks on appeal, thereby rendering this case moot. The appeal is therefore dismissed. Father’s motion to strike record complete is denied.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice