

No. 1-11-0778

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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JASMINA DJORDJEVIC DE LA TORRE,	)	CIRCUIT COURT OF
	)	COOK COUNTY
Petitioner-Appellant,	)	
	)	
v.	)	No. 06 D 79593
	)	
STEPHEN JAMES COUKOS,	)	HONORABLE
	)	NAOMI H. SCHUSTER,
Respondent-Appellee.	)	JUDGE PRESIDING.

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PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.  
Justices Hall and Rochford concurred in the judgment.

**ORDER**

Held: Circuit court did not lack jurisdiction to enter challenged orders, and the record on appeal was insufficient to allow review of the appellant's remaining contentions of error.

¶ 1 The petitioner, Jasmina Djordjevic De La Torre, appeals from the circuit court's order directing her to reimburse her former husband, the respondent Stephen Coukos, for attorney's fees he had paid to his attorney in relation to a petition for rule to show cause he filed against her. On appeal, the petitioner argues that the circuit court erred in allowing the petition for rule to show cause to proceed after it was served on her only by electronic mail, awarding fees for failure to comply with

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an order issued while an appeal was pending, awarding fees without entering necessary predicate findings, entertaining the oral motion that eventually led to the contempt proceedings, punishing her with an attorney's fees ruling in a civil contempt proceeding, and awarding unreasonable and unnecessary fees. For the reasons that follow, we affirm the judgment of the circuit court.

¶ 2 The record on appeal consists largely of documents and transcripts related to the parties' initial divorce litigation. The circuit court entered its final order in that litigation in March 2010, and this court upheld the judgment in a December 22, 2010, order disposing of the petitioner's appeal. See *Djordjevic De La Torre v. Coukos*, No. 1-10-1341 (2010) (unpublished under Supreme Court Rule 23). Although the Appellate Court mandate issued initially on December 22, the mandate was later recalled before being reissued on February 22, 2011, after the supreme court denied the petitioner's petition for leave to appeal. In the meantime, both parties sought post-judgment relief. The respondent's "Petition for Post-Judgment Relief," filed August 23, 2010, stated that it was filed pursuant to sections 501 and 610 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/501, 610 (West 2010)) and sought, among other things, an order directing the petitioner to surrender the passport of the parties' son. Although the record includes no transcripts for any proceedings following the March 2010 judgment, the parties' filings indicate that the respondent also made an oral request for an order that the petitioner tender their son's passport. The petitioner filed a written response to that oral request on December 22, 2010, the same day that the circuit court entered an order stating as follows, in pertinent part:

"This cause coming to be heard on [the respondent's] oral motion for Post Judgment Relief, Count III only regarding [the parties' child's] passport, and [the petitioner's] response

thereto, the Court hearing the testimony of the parties, and being advised in the premises:

A. It is the finding of this Court that there is no reason that [the respondent] should not be in possession of [the] passport \*\*\* and [the petitioner] refused to turn over that passport.

It is hereby ordered that [the] passport shall be turned over to [the respondent] by [the petitioner] or her agent no later than December 24, 2010 at 9:00 a.m."

¶ 3 On December 28, the respondent filed an emergency petition for adjudication of indirect civil contempt based on the petitioner's failure to turn over the passport as ordered. The notice of the motion indicated that it was sent via electronic mail to the petitioner. The next day, the circuit court issued an order indicating that the petitioner had failed to appear and directing that the petitioner be issued a rule to show cause why she should not be held in contempt. The order indicated that a hearing on the rule to show cause would be conducted on December 30, 2010, and the order directed that a copy of it and the respondent's motion be delivered by messenger or personally to the petitioner.

¶ 4 On December 30, the circuit court entered an order finding that the petitioner had been given proper notice but had failed to appear, that she had not surrendered the passport and was planning to leave the country, and that a body attachment order should be issued against her. No transcript or further record of the December 30 proceedings appears in the record on appeal.

¶ 5 On January 3, 2011, the petitioner responded to the above actions by filing motions, among other things, opposing the rule to show cause and asking that the December 22 order be vacated. On that same day, the circuit court entered an order stating that the petitioner had failed to appear (and

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had sent word that she did not intend to appear but would surrender the passport), denying the petitioner's request that the December 22 order be vacated, and rejecting her arguments in opposition to the rule to show cause.

¶ 6 On January 18, 2011, the respondent filed a petition to recover the attorney's fees he had accrued in relation to the passport issue. The petitioner responded to the petition, and, on February 25, 2011, the circuit court ruled as follows, in pertinent part:

"This cause coming before the Court for hearing on Respondent's Petition for Attorneys Fees and Costs pursuant to section 508(b) of the [Act]; Petitioner appearing, Respondent appearing with counsel; the court having heard arguments and being fully advised in the premises \*\*\*:

\* \* \*

2. The Court hereby finds that the fees incurred by Respondent \*\*\* are reasonable and were necessary. Respondent's Petition for Attorney's Fees is granted."

¶ 7 The petitioner thereafter filed this timely appeal.

¶ 8 Although the petitioner raises many arguments on appeal, the state of the record precludes our review of most of them. The current record includes transcripts and a bystander's report for the initial divorce proceedings, but it includes only the common law record, with no transcripts or substitutes therefor, for the post-judgment proceedings that form the basis of this appeal, despite the fact that the disputed orders appear to have been entered following proceedings in open court. "[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the

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order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958 (1984). "Any doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Foutch*, 99 Ill. 2d at 392.

¶ 9 Here, the petitioner argues that the circuit court erred when it allowed the rule to show cause to go forward despite deficient service on her; awarded attorney's fees without necessary predicate findings; abused its discretion in entertaining the respondent's oral motion, which led to the contempt proceedings; awarded attorney's fees to punish her, an improper use of civil contempt proceedings; and awarded fees that were unreasonable and unnecessary in light of the above flaws. With respect to the notice and service issues the petitioner raises, the circuit court's December 30 order included a finding that she had been served properly. Without any transcript or further record of the proceedings that led to that finding, we must assume that the finding was proper. Likewise, although the petitioner disputes whether the circuit court had sufficient basis for awarding attorney's fees to the respondent or whether the fees were improperly punitive in nature, the record indicates that the court held a hearing—of which we have no real record—before finding that attorney's fees were appropriate and reasonable. Without a record of those proceedings, we cannot disturb the circuit court's findings. The same holds true for the circuit court's decision to entertain the respondent's oral motion.

¶ 10 What remains of the petitioner's arguments on appeal is her assertion that the circuit court was barred as a matter of law from entering the disputed orders, because the orders disposed of a petition to modify that was filed while her appeal of the original judgment was still pending. The

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petitioner contends that, while her appeal was pending, the circuit court had no jurisdiction over the case and, thus, that any orders entered during that time were void. See *Daley v. Laurie*, 106 Ill. 2d 33, 38, 40, 476 N.E.2d 419 (1985). However, it is well-established that "the pendency of [an] appeal from [an] original custody order [does] not deprive the court of jurisdiction to hear [a] petition to modify" pursuant to section 610 of the Act. In *re Marriage of Spangler*, 124 Ill. App. 3d 1023, 1027, 464 N.E.2d 1120 (1984). For that reason, we reject the petitioner's argument.

¶ 11 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 12 Affirmed.