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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> MARRIAGE OF	)	Appeal from the Circuit Court
CHRISTOPHER E. MANCUSO,	)	of Winnebago County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 91—D—548
	)	
KATHLEEN S. MANCUSO,	)	Honorable
	)	Stephen L. Nordquist,
Respondent-Appellant.	)	Judge, Presiding.

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PRESIDING JUSTICE JORGENSEN delivered the judgment of the court.  
Justices Burke and Birkett concurred in the judgment.

**ORDER**

*Held:* Where issues raised on appeal were not timely or developed, trial court order affirmed.

¶ 1 Respondent, Kathleen S. Mancuso, appeals an April 9, 2010, trial court order that denied her motion requesting the court to reconsider a September 18, 2009, order. The September 18, 2009, order, resolved three petitions respondent had filed concerning petitioner's, Christopher E. Mancuso's, obligations for child support and medical and educational expenses. The September 18, 2009, order further purported to deny or dismiss for want of prosecution any other pending motions.

¶ 2 On appeal, respondent challenges the trial court's: (1) "denial of the respondent's right to beneficiary status" under petitioner's military survivor benefit plan; (2) calculation of petitioner's net income for child support; (3) failure to order petitioner to reimburse respondent for medical expenses; and (4) finding that permits petitioner to receive as credit toward his share of education expenses any payments made by the Veteran's Administration (VA) or any other government entity to petitioner for the parties' daughter's benefit. In sum, none of these issues was the subject of the trial court's September 18, 2009, or April 9, 2010, orders. To the extent that the trial court ever substantively ruled on any of the aforementioned issues, the rulings were issued significantly more than 30 days prior to respondent's May 10, 2010, notice of appeal. Thus, for the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 We note first that petitioner did not file a response brief on appeal, but the issues are not complex and we may decide the merits of this appeal under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (1976). See *MacNeil v. Trambert*, 401 Ill. App. 3d 1077, 1079 (2010).

¶ 5 The judgment that dissolved the parties' marriage was entered in 1991; nevertheless, for over 20 years, this litigation has continued, with the parties contentiously pursuing, for example, modifications of the judgment and numerous contempt petitions. Apparently, the volume of proceedings was confusing to the parties and the court. On March 10, 2009, at one of the hearings that relates to the orders being appealed, petitioner's attorney tried to clarify which motions were, in fact, the subject of the hearing. Specifically, he represented that he was prepared to proceed on respondent's three petitions for rule to show cause filed on March 17, 2005, July 1, 2005, and July

28, 2008, respectively. Respondent confirmed for the court that the three petitions for rule to show cause remained “the primary issue,” although some requests to admit that pertained to those three petitions also remained pending.

¶ 6 Accordingly, on September 18, 2009, the court specified in its memorandum opinion that its substantive ruling pertained only to respondent’s three contempt petitions, which it understood as constituting the only petitions then pending. Specifically, the court stated as follows:

“The court notes that there were numerous other petitions filed during the interim period, however, they have either been ruled upon contemporaneously, or at least prior to this memorandum of decision, *or are now being dismissed for want of prosecution*. The frustration in concluding this litigation is that the [respondent] continued to present numerous exhibits and arguments that are not subject to the above referenced petitions. On the last day of testimony the court confirmed with counsel that the above referenced petitions for rule to show cause were the *only* petitions being litigated.” (Emphases added.)

The court then ruled on each of respondent’s three petitions.

¶ 7 First, the court addressed respondent’s March 17, 2005, contempt petition, in which she argued that petitioner failed to make payments in accordance with the court’s earlier (November 4, 2004) child support order and was in arrears. The court did not find petitioner in contempt, stating that petitioner had previously satisfied the arrearage. However, the court determined that interest on that arrearage, which had previously been reserved, should be awarded. Accordingly, the court ordered petitioner to pay respondent \$403.00, representing interest on the arrearage.

¶ 8 Next, with respect to respondent’s July 1, 2005, contempt petition in which she argued that petitioner did not comply with the court’s earlier (January 18, 2005) order requiring him, upon

receipt from the VA of funds for their daughter's benefit, to immediately forward those payments to their daughter and that he was in arrears on those payments, the court did not find petitioner in contempt. However, it determined, based on the arrangement ordered in the agreed, January 18, 2005, order, that petitioner owed \$598 to his daughter and \$1,673 to respondent.<sup>1</sup>

¶ 9 With respect to respondent's third contempt petition, filed July 28, 2008, which concerned "petitioner's failure to execute a release to VA for records," the court found the petition moot, noting

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<sup>1</sup>These figures were reached as follows. On January 18, 2005, in an agreed order, the court ordered the parties to equally split their daughter's net educational expenses (after all grants, scholarships, loans, or other financial aid funds were applied). It further ordered that petitioner was entitled to a credit against his share of the education expenses or loans for any military benefits he received from the VA and other programs for his daughter and "which he was ordered to pay over to [her]." It was determined that those benefits would satisfy the majority of the parties' daughter's educational expenses, leaving approximately \$6,000 in annual educational expenses. Accordingly, the court ordered each party to pay \$6,000 every other year until their daughter received her undergraduate degree. In its September 2009 ruling, the court determined that the daughter had graduated and that the evidence reflected that only respondent had withdrawn loans each of the four years, in an amount totaling approximately \$24,000. Accordingly, the court found petitioner responsible for half, or \$12,000, but it gave petitioner credit for the monthly payments he received from the government and turned over to his daughter, which, according to the evidence, totaled \$9,729.00. The difference is what the court ordered petitioner to pay to his daughter (\$598) and to respondent (\$1,673).

that the parties proceeded to trial without the records from the VA and that respondent had obtained much of the desired information from other sources, including witnesses and computer research.

¶ 10 The court concluded its September 18, 2009, memorandum decision by noting that “any previously filed petitions not specifically ruled upon in this memorandum are denied.”

¶ 11 Both parties moved for reconsideration. On April 9, 2010, the court issued a memorandum opinion denying the motions to reconsider. The court denied the two claims of error raised in respondent’s motion to reconsider on the bases that: (1) respondent’s first claim asserted that the court erred in calculating interest on the child support arrearage, but it did not allege that the court misapplied the law in determining interest, did not state where the error was made, nor did it explain what respondent would calculate interest to be; and (2) respondent’s second claim of error regarding the amounts of the loans she withdrew for her daughter’s college education merely repeated arguments previously made regarding the evidence. Petitioner appeals.

¶ 12 II. ANALYSIS

¶ 13 A. Survivor Benefit Plan

¶ 14 Respondent argues first that the trial court erred in failing to “award her” petitioner’s survivor benefit plan. We reject this argument as untimely under Supreme Court Rule 303(a) (Ill. Sup. Ct. R. 303(a) (eff. May 30, 2008) (appeal must be filed within 30 days after the final judgment).

¶ 15 First, a brief recitation of the procedural history regarding this issue is warranted. On appeal, respondent essentially argues that she requested and should have been awarded the petitioner’s survivor benefit plan in the original 1991 dissolution judgment, *i.e.*, she is challenging the court’s 20-year-old, 1991 dissolution judgment. It appears from the record that the only other time that respondent arguably raised any issue regarding *her* interest in the plan was in 2006 (*i.e.*, 15 years

after the dissolution judgment). As respondent notes, the 1991 dissolution judgment required petitioner to maintain the survivor benefit plan and to name the children as beneficiaries.<sup>2</sup> On June 25, 2002 (11 years later), respondent petitioned for a rule against petitioner, alleging only that he had failed to maintain the children as beneficiaries (*not* that the court should have “awarded” the plan to her). In May 2003, respondent allegedly learned from the Defense Finance and Accounting Service (DFAS) that petitioner had added his new wife as a plan beneficiary. The court, in June 2003, ordered respondent to produce those documents. The record reflects that those documents list the children as beneficiaries and, more specifically, that one of those documents is a letter from DFAS stating that petitioner “is currently covering [his new wife] *as well as his children* on his [survivor benefit plan] coverage. \*\*\* All children below the age of 21 and that are in school are covered under this plan.” Accordingly, on October 8, 2003, the court issued a memorandum decision denying relief “with respect to maintaining life insurance policies” for the children. Thus, the issue respondent raised in 2002 regarding petitioner’s alleged failure to maintain the plan for the children was resolved in 2003.

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<sup>2</sup>We note that, on November 21, 1991, the trial court announced its findings with respect to the dissolution and specifically found that petitioner’s income does not include a pension, that he held minimum pension benefits, and that petitioner would be responsible for maintaining any existing life insurance policies for the benefit of the children. On December 9, 1991, the court entered an order, drafted by respondent’s counsel and purporting to memorialize the November 21, 1991, ruling, that added that petitioner maintain *for the children’s benefit* (not respondent’s benefit) any: existing (1) life insurance benefits; and (2) “survivor benefit plans.”

¶ 16 It was not until three years later, in September 2006 (and 15 years after the dissolution judgment) that respondent first questioned her own beneficiary status by petitioning the court to order petitioner to add her as a beneficiary under petitioner's plan. Respondent alleges that "no hearing on the motion was had, and the matter was dealt with, without comment, in the memorandum decision of September [1]8, 2009." On appeal, she concludes that the court's alleged "substitution" of the children as plan beneficiaries instead of her (which occurred in 1991) was contrary to the manifest weight of the evidence.

¶ 17 Accordingly, the exact argument on appeal, that the court's "substitution" of the children as plan beneficiaries was error and that the court should have instead "awarded" the plan to respondent, appears to be raised for the first time on appeal. As such, the argument is untimely under Rule 303(a). To the extent that respondent's 2006 petition, wherein she sought to compel petitioner to add her to the plan, can remotely be construed as a challenge to the court's original judgment, the fact that there was no hearing on that motion is held against respondent (see 17th Judicial Cir. Ct. R. 10.05 (Oct. 1, 1991) ("the burden of setting a motion for hearing in a civil case is on the party making the motion. If a setting for hearing is not obtained by the moving party within sixty (60) days from the date it is filed, the court may deem the motion withdrawn and deny the relief requested with or without prejudice")). Moreover, in 2009, respondent agreed with the court that the only three petitions that remained pending were those involving child support, college expense contribution, and a subpoena issue. Thus, to the extent that the 2006 petition regarding the survivor benefit plan even remained pending, which the court and counsel apparently did not view to be the case, the local rule makes clear that the court did not err to the extent it dismissed or denied that petition.

¶ 18

B. Child Support Calculations

¶ 19 Next, respondent argues that the court erred in its October 8, 2003, child support calculations, and in its January 18, 2005, order involving the parties' motions to reconsider the 2003 order. Respondent asserts that the court's calculations did not account for petitioner's "miscellaneous income." She then cursorily asserts that the court also improperly failed to order petitioner to reimburse respondent for medical insurance payments, that the court did not order interest on the arrearage, and that it improperly failed to award her attorney fees.

¶ 20 First, respondent's arguments fail to comply with Supreme Court Rule 341(h)(7) (Ill. Sup. Ct. R. 341(h)(7) (eff. July 1, 2008)). They are undeveloped, dump the burden of research on this court, and we therefore reject them on this basis. See *In re Marriage of Baumgartner*, 237 Ill. 2d 468, 475 (2009) (reviewing court is entitled to have the issues clearly defined with pertinent authority cited; the court is not simply a depository in which the appealing party may dump the burden of argument and research); *Zerjal v. Daech & Bauer Const., Inc.*, 405 Ill. App. 3d 907, 915-16 (2010) (declining to address issue on appeal that was unsupported by coherent argument or citation to authority).

¶ 21 Second, we also note that respondent's arguments are untimely under Rule 303(a). Respondent purports to challenge a 2005 order that resolved her motion regarding a 2003 order. As respondent acknowledges, however, the portion of the 2005 order that pertains to calculation of child support arrearage was an *agreed* order, stating "it is hereby ordered by agreement of the parties" and that, "based upon agreement of the parties after extensive pre-trial conference with this honorable court," the parties had applied the child support provisions of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/505 (West 2004)) and had stipulated to the child support amounts due

and owing “*WITHOUT STATUTORY INTEREST.*” (Emphasis in original.) Thus, the 2005 order respondent now challenges purports to resolve respondent’s challenge to the 2003 calculations in a manner to which she agreed. And, regardless of whether *petitioner*’s counsel nevertheless signed that 2005 agreed order noting his overall objection, respondent points to no motion (and this court’s review of the record did not reveal one) wherein *respondent* thereafter challenged the January 2005 ruling.

¶ 22 Instead, in March 2005, she filed a contempt petition, not challenging the court’s January 2005 order, but, rather, arguing that petitioner had failed to pay in accordance with that order. The court, in its September 18, 2009, order resolved that petition and, in her motion to reconsider the September 18, 2009, order, respondent again raised no issue concerning the court’s initial child support calculations, arguing instead that the court’s *interest* calculations on the arrearage were incorrect. Thus, because they are undeveloped and untimely, we reject respondent’s arguments regarding the court’s January 18, 2005, order.

¶ 23 C. Medical Expenses

¶ 24 Respondent’s third argument on appeal is that the court erred in not ordering petitioner to reimburse her for his share of the children’s medical expenses. According to respondent, on July 30, 2001, she petitioned for a contempt finding requesting that petitioner be ordered to comply with the dissolution judgment’s requirement that he pay an equal share of any uncovered medical expenses. As of April 10, 2006, petitioner asserts, the trial court had not held a hearing or reached a decision on unreimbursed medical expenses. Accordingly, respondent filed a request to admit consisting of “hundreds of pages of copies of receipts for various medical expenses.” Petitioner issued a general denial and then there was purportedly no mention of the reimbursement issue in five

subsequent hearings. Respondent asserts the court ruled on the unreimbursed expenses in its September 18, 2009, order where it denied any previously-filed petitions not specifically ruled upon. Respondent asserts that the court's ruling is against the manifest weight of the evidence because petitioner presented no evidence to counter her petition and the evidence attached thereto. Again, we reject respondent's argument.

¶ 25 While we cannot be certain, we suspect that the "hundreds of pages of copies of receipts" is the type of filing to which the trial court referred where, in its September 18, 2009, memorandum, it expressed frustration that respondent filed voluminous documents that did not pertain to the three petitions the parties agreed remained pending. When the court asked respondent's counsel to confirm that only three petitions remained pending (none of them the 2001 petition), counsel agreed. Respondent's counsel did note that there remained some issues regarding requests to admit; however, he framed those pending requests as being related to the three pending petitions. Accordingly, respondent's argument on appeal may be distilled to an assertion that a trial court's ruling will be against the manifest weight of the evidence where a party files a petition, does not pursue having that petition heard, files hundreds of pages of "evidence," represents to the court that the petition is no longer pending, *i.e.*, it is longer being pursued, and then the court does not rule in his or her favor. Clearly, we cannot accept such an argument. Thus, where it appears that respondent failed to comply with the local rules where she filed a petition in 2001 and did not pursue a hearing thereon, we again conclude that, to the extent that the 2001 petition and requests to admit remained pending in 2009, which the parties and court did not view to be the case, the court did not err in dismissing them for want of prosecution.

¶ 26

D. Education Support

¶ 27 Respondent's final argument on appeal is that the court erred where, in January 2005, it ordered that the parties would split education expenses but that, with respect to petitioner's obligation, he would receive a credit for any sums paid by the VA or other governmental entity. Respondent argues that the arrangement, instead of requiring petitioner to pay half of the expenses out of his own pocket, results in the government paying a portion of petitioner's half, while respondent remains solely responsible to pay her half.

¶ 28 Again, respondent's argument lacks any citation to relevant authority, thereby violating Supreme Court Rule 341(h)(7), and is rejected. Further, the argument is again untimely under Rule 303(a). The January 18, 2005, order specifies that "whatever funds are received by [petitioner] from the VA or other government benefits, for the child being in college, shall be paid to the child directly, immediately without delay, and [petitioner] will be given credit for the sums paid towards his half of the uncovered need for educational expenses." The order provides that this arrangement, like child support, was *agreed* upon by the parties after an extensive pre-trial conference with the court. Respondent does not point us to any subsequent challenge she made to this arrangement.

¶ 29 The contempt petition that respondent filed on July 1, 2005, challenged petitioner's alleged failure to comply with the court's January 2005 order and, more specifically, with petitioner's alleged failure to comply with the specific provision that he directly pay his daughter any funds he received from the VA for her benefit; it did not challenge the order's method of allocating college expenses. Accordingly, respondent's challenge to the method of dividing education expenses is untimely and, for all of the foregoing reasons, we reject her argument.

¶ 30

III. CONCLUSION

¶ 31 For the foregoing reasons, the judgment of the circuit court of Winnebago County is affirmed.

¶ 32 Affirmed.