

2012 IL App (1st) 110636-U

FIRST DIVISION
August 13, 2012

Nos. 1-11-0636 and 1-11-0647
(CONSOLIDATED)

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ROBERT HARRIS,)	Appeal from the
)	Circuit Court of
Respondent-Appellant,)	Cook County.
)	
v.)	No. 07 D 230250
)	
MINDY HARRIS,)	Honorable
)	Jeanne Marie Reynolds,
Petitioner-Appellee.)	Judge Presiding.

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

ORDER

¶ 1 *Held:* Where the record on appeal is insufficient to address respondent's claims, we affirm the judgment of the circuit court.

¶ 2 In this *pro se* consolidated appeal, respondent Robert Harris challenges the trial court's orders holding him in contempt during proceedings following the dissolution of his marriage to petitioner Mindy Harris. On appeal, respondent asserts that the trial court erred in denying his motion to appoint an attorney to represent him in defense of the indirect civil contempt action, and for holding him in contempt for failing to provide petitioner with his 2010 tax return.

Although the petitioner has not filed a brief in response, we will consider the appeal pursuant to the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976). We affirm.

¶ 3 The record on appeal is clearly incomplete. Although the common law record contains extensive pleadings filed by the parties, for which several hearings were held over the course of approximately four years, the record does not contain any trial transcripts. In addition, although this is a consolidated appeal, the record only contains pleadings from case number 1-11-0636. In lieu of the one volume record that was filed in case number 1-11-0647, which respondent took out from the clerk's office and has not returned, he filed a supplemental record containing the second page of a February 14, 2011 order. Furthermore, although respondent has attached to his brief what appears to be the May 17, and June 6, 2011 orders he is appealing from in case number 1-11-0647, those orders are not in the record, nor is his notice of appeal in case number 1-11-0647.

¶ 4 The record does show, in pertinent part, that on May 17, 2007, petitioner filed a petition for the dissolution of marriage, which was granted by the trial court on December 18, 2008. Thereafter, petitioner filed a petition for rule to show cause why respondent should not be held in indirect civil contempt for failing to comply with the judgment for dissolution of marriage. Petitioner specifically asserted that respondent refused to pay child support and reimburse her for half of the earned income credit that petitioner received on his 2008 federal tax return. Petitioner also demanded that respondent pay her costs and attorney fees. On October 1, 2009, the court found respondent in contempt of court for his failure to comply with the judgment for dissolution of marriage and ordered that he pay petitioner \$1,508.50 within 14 months or be incarcerated. Respondent purged himself of contempt on November 13, 2009.

¶ 5 On August 26, 2010, petitioner filed two additional petitions for rule to show cause why respondent should not be held in indirect civil contempt of court for his refusal to pay child support, pay half of the earned income credit he received on his 2009 federal tax return, and for his refusal to provide a true copy of his 2009 federal tax return, as well as other tax forms. Petitioner also sought attorney fees. The trial court subsequently entered orders on October 22, 2010, December 3, 2010, December 16, 2010, December 22, 2010, and January 6, 2011, finding respondent in contempt of court, in part, for failing to pay child support and failing to pay petitioner half of the earned income credit.

¶ 6 On January 13, 2011, respondent filed a petition for appointment of counsel to represent him in defense of the petition for rule to show cause filed by petitioner. On January 21, 2011, the trial court struck respondent's petition for appointment of counsel. On February 10, 2011, respondent filed a motion to reconsider, asserting, in pertinent part, that counsel be appointed to represent him on the rule to show cause in this matter. On February 14, 2011, respondent's motion to reconsider was denied, and the finding of contempt against him was continued on that date, and again on February 18, 2011.

¶ 7 Although not included in the record, respondent attached to his appellate brief a trial court order from May 17, 2011, his motion to reconsider the May 17 order, and a trial court order from June 6, 2011. The May 17 order found respondent in indirect civil contempt for his failure to provide petitioner with his 2010 tax return and half of the refund he received. The order also noted that respondent remained in indirect civil contempt of court for his failure to remain current in his child support obligation. Respondent's motion to reconsider the May 17 order included his purported 2010 tax return, and the June 6 order appears to indicate, in part, that the trial court denied defendant's motion for leave to file a motion for reconsideration.

¶ 8 On February 16, 2011, respondent filed a notice of appeal in case number 1-11-0636, challenging nine trial court orders. In his brief on appeal, however, respondent only contests one of those orders in any meaningful way, *i.e.*, the February 14, 2011 order denying his motion to reconsider the trial court's finding that it would not appoint him counsel.

¶ 9 Initially, we observe that respondent's brief fails to comply with the requirements of Illinois Supreme Court Rule 341(h) (eff. July 1, 2008). His statement of facts fails to include all facts necessary to understand the case. Ill. S. Ct. R. 341(h)(6). In addition, respondent's argument fails to cite to pertinent legal authority for the principles upon which he relied. Ill. S. Ct. R. 341(h)(7); see *People v. O'Malley*, 356 Ill. App. 3d 1038, 1045 (2005). Accordingly, his contentions are waived. *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 208-09 (2007).

¶ 10 Moreover, we find that the record is insufficient to facilitate review of respondent's contention that the trial court abused its discretion in failing to appoint counsel to represent him in defense of the indirect civil contempt charges. The record on appeal does not contain any transcripts. Without knowing what transpired on January 21, 2011 (the date respondent's petition for appointment of counsel was stricken) or on February 14, 2011 (the date the trial court denied respondent's motion to reconsider said petition), it is impossible to evaluate respondent's claim. The appellant has the burden of providing an adequate record on appeal, and where the record is incomplete, there is a presumption in favor of the trial court's ruling. *People v. Bala*, 265 Ill. App. 3d 1070, 1079 (1994); see also *Village of Lake Villa v. Bransley*, 348 Ill. App. 3d 280, 285-86 (2004) (finding the record on appeal insufficient to review the defendant's claim that the trial court erred in failing to appoint him counsel).

¶ 11 In his appellate brief, respondent also challenges the May 17, 2011 and June 6, 2011 trial court orders. The common law record, however, does not contain the May 17 and June 6 orders,

a notice of appeal from these orders, or any notice of appeal from case number 1-11-0647. This court need not consider records that were not filed as part of the common law record following the filing of a notice of appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42-43 (2005). Here, the only notice of appeal in the common law record reflects a date of February 16, 2011. Therefore, we need not consider the May 17 and June 6, 2011 orders respondent attached to his appellate brief. We note that even if we did consider respondent's claim that the trial court erred in holding him in indirect civil contempt of court, the claim would be dismissed for lack of jurisdiction because the court did not impose sanctions upon respondent. See Ill. S. Ct. R. 304(b)(5) (eff. Feb. 26, 2010); *In re Marriage of Gutman*, 232 Ill. 2d 145, 152-53 (2008) (only contempt judgments that impose a penalty or sanction are final and appealable orders).

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

¶ 13 Affirmed.