

2012 IL App (1st) 112254-U

SIXTH DIVISION
October 26, 2012

No. 1-11-2254

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

<i>In re</i> MARRIAGE OF MAUREEN LAZAR,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County.
)	
and)	No. 06 D 6254
)	
MICHAEL SACKMAN,)	Honorable
)	Naomi H. Schuster,
Respondent-Appellee.)	Judge Presiding.

PRESIDING JUSTICE LAMPKIN delivered the judgment of the court.
Justice Garcia concurred in the judgment.
Justice Robert E. Gordon dissented.

ORDER

- ¶ 1 *Held:* In *pro se* appeal from circuit court order denying petitioner's motion to modify child support payments pursuant to dissolution of marriage, denial of motion to modify affirmed where record supplied by petitioner on appeal was insufficient to support petitioner's claim of error.
- ¶ 2 Petitioner-appellant Maureen Lazar appeals *pro se* from an order of the circuit court of Cook County denying her motion to modify the child support payments to be made by respondent-appellee Michael Sackman pursuant to their 2007 dissolution of marriage.

¶ 3 Although Michael has not filed a responsive brief, we will consider this appeal on Maureen's brief alone. *People v. Cosby*, 231 Ill. 2d 262, 285 (2008); *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 4 Maureen contends that evidence adduced in an evidentiary hearing on her petition to modify child support payments supports her contention that Michael failed to pay his one-half share of child expenses such as after-school care, tuition, books and school fees. She also contends that evidence from that same hearing supports her claim that Michael is hiding income through falsified income tax returns and falsified transfers of shares in a medical practice. However, Maureen has failed to include a transcript or bystander's report of that evidentiary hearing in the record on appeal.

¶ 5 When the record supplied by an appellant is insufficient to support the appellant's claim of error, we will presume that the trial court's determination was supported by the law and the evidence presented. *In re Marriage of Abma*, 308 Ill. App. 3d 605, 613 (1999). Under these circumstances, we resolve any doubts arising from the incomplete record in favor of the appellee. *In re Marriage of Gullan and Kanaval*, 234 Ill. 2d 414, 422 (2009); *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Accordingly, based upon the incomplete record before us, we will presume that the evidence supports the determination of the circuit court of Cook County and we affirm its order denying Maureen's petition and her motion for reconsideration of the petition.

¶ 6 Affirmed.

¶ 7 JUSTICE ROBERT E. GORDON, dissenting.

¶ 8 I respectfully dissent. As the majority observes, petitioner-appellant Maureen Lazar appeals *pro se* from an order of the circuit court of Cook County denying her motion to modify the child support payments to be made by respondent-appellee Michael Sackman pursuant to their 2007 dissolution of marriage. Respondent has not filed a responsive brief.

¶ 9 The majority dismisses this appeal on the ground that petitioner has failed to include in the appellate record a transcript or bystander's report of the evidentiary hearing held on May 6, 2011. Petitioner claims that, at that hearing, the trial court barred her from preventing evidence that respondent, who is a doctor, sold 80% of the shares in his clinic to his now-current wife, in order to avoid paying the amount of child support agreed upon in the divorce agreement, namely, 32% of his net income from all sources.

¶ 10 In light of the fact that petitioner is appearing *pro se* and that her *pro se* brief shows a possibly meritorious claim, I would grant petitioner, in the exercise of our discretion, a short extension of time in order to supplement the record with a transcript or bystander's report of the May 6, 2011, hearing. From the allegations made by this *pro se* petitioner, I believe that an extension of time could prevent what may be a great injustice, and I cannot understand how a short delay in issuing our order would harm the interests of either the court system or the respondent, particularly in light of the fact that the respondent chose not to file a responsive brief in our court.