

No. 1-12-1352

**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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AARON JOHNSON, SR.,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellee,	)	Cook County.
	)	
v.	)	No. 05 D 679091
	)	
CAROL DAVID,	)	Honorable
	)	Martin D. Coghlan,
Respondent-Appellant.	)	Judge Presiding.

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JUSTICE ROCHFORD delivered the judgment of the court.  
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirmed the April 2, 2012, order modifying petitioner's child support obligations where respondent made no coherent arguments for reversal and failed to cite to the record on appeal.

¶ 2 Respondent, Carol David (Carol), appeals the April 2, 2012, order of the circuit court modifying petitioner's, Aaron Johnson's (Aaron's), child support obligations for their minor child, E.D. Carol raises several issues regarding the propriety of the April 2, 2012, order, none of which are supported by a coherent argument or citations to the record on appeal. Accordingly, we affirm the circuit court.

No. 1-12 1352

¶ 3 On May 19, 2005, Aaron filed a petition to register a foreign judgment that was entered in the circuit court of Waukesha County, Wisconsin (*In re the Paternity of E.D.*, 97-PA-146) (Wisconsin order), relating to E.D. The Wisconsin order included a finding that Aaron was the biological father of E.D., and awarded Carol sole legal custody of E.D. and Aaron visitation rights. The Wisconsin order directed Aaron to provide 20% of his gross income as support for E.D.; provide E.D. with medical and dental insurance coverage until she reached the age of 18, or until she reached the age of 19 so long as she was pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent; and pay child support arrearages of \$3,000. The Wisconsin order further provided that the parties were to split equally any medical or dental expenses of E.D. not covered by insurance which were incurred commencing October 17, 1997. On July 8, 2005, Aaron's petition to register the Wisconsin order was granted.

¶ 4 On August 10, 2005, Aaron filed a petition in the circuit court of Cook County seeking to decrease his child support obligation, as set forth in the Wisconsin order, and to designate Carol as the primary carrier of health and dental insurance for E.D. On October 18, 2005, the circuit court entered an order modifying the visitation schedule, and continuing all other matters to November 29, 2005. On the date of the continuance, Carol's attorney was allowed to withdraw, and a hearing on Aaron's request to modify child support was continued to April 17, 2006. However, on January 17, 2006, "after [a] hearing," the circuit court entered an order modifying Aaron's child support responsibility to \$32 per week "representing 20% of [Aaron's] net income during disability retroactive to 10-31-05." The case was continued to April 21, 2006, for status.

¶ 5 On April 21, 2006, the circuit court granted Aaron access to E.D.'s medical and school

No. 1-12 1352

records and continued the case for status to June 23, 2006. After a further continuance, on July 27, 2006, Aaron was ordered to provide proof of his income and the case was set for status on September 8, 2006. On September 8, 2006, the court set a hearing date on the issue of modification of child support for October 19, 2006. Carol noticed an emergency motion to compel Aaron to provide certain financial documents relating to his income and assets for presentment on October 5, 2006. The motion included a notice to produce certain financial documents directed to Aaron. There is no order in the record as to an October 5, 2006, court date. On October 19, 2006, the circuit court entered an order reflecting that it had "heard the testimony of the parties," and directing Aaron to pay child support of \$240 per month effective as of June 1, 2006. The order stated that the amount of child support was based on Aaron's net income of \$1,200 per month. The order further instructed Aaron to continue providing medical coverage for E.D. The case was set for hearing on January 16, 2007, for a determination of any arrearages. Subsequently, Carol again filed a notice asking that Aaron produce certain financial documents. Aaron filed a motion to strike Carol's "second" notice to produce for that day, arguing in part that the hearing on the child support had already taken place. The hearing on the arrearages issue was continued to January 30, 2007. On January 30, 2007, the circuit court entered an order finding that the arrearages totaled \$1,275 which Aaron was to pay in monthly installments of \$25. The circuit court also granted Aaron's motion to strike Carol's "second notice to produce."

¶ 6 On January 30, 2007, Carol filed a one-line motion seeking modification of Aaron's child support, and another pleading seeking modification of Aaron's visitation with E.D. On that date, Carol also filed a counterclaim to Aaron's petition to modify child support seeking: a modification

No. 1-12 1352

of Aaron's child support obligation so that "all" of his income was considered; extensions of Aaron's responsibilities to provide E.D. medical and dental coverage, after the age of 18 or 19, in the event E.D. pursued a college education; to share payment of college expenses if E.D. pursued a college education; an order requiring Aaron to provide a copy of the life insurance policy naming E.D. as beneficiary; and attorney fees and costs. Carol had noticed February 27, 2007, as a hearing date for her motions. On February 27, 2007, the court entered an order striking Carol's counterclaim and motions for modification of child support and visitation for her failure to appear in court.

¶ 7 The next day, Carol again filed and noticed a one-line motion to modify child support for hearing on March 23, 2007. On that day, by agreement, the matter was continued to May 4, 2007. At the May 4 hearing, Carol was represented by counsel. An agreed order was entered on that date which directed Aaron to notify Carol's attorney "within 14 days of receipt of his personal injury award if such an award had not already been received." The order further provided that if Aaron had already received the award, he was to notify Carol and the court immediately, and produce documentation as to the receipt of the award. After the case had been continued for several status dates, on September 25, 2007, an order was entered placing the matter "off call."

¶ 8 Then, almost three years later, on October 22, 2010, Aaron filed a petition to modify child support, which was noticed for hearing on November 16, 2010. In his petition, Aaron asserted that beginning in July 2010, he had been receiving Social Security disability payments, and that E.D. was receiving \$965 per month as a share of those disability benefits. Aaron contended the Social Security allotments for E.D. exceeded his current child support obligation of \$300 per month. He asked that E.D.'s Social Security allotment fulfill his support obligation and that Carol be designated

No. 1-12 1352

as the primary carrier of health insurance for E.D.

¶ 9 In response, Carol filed an emergency motion to continue the hearing on Aaron's motion in which she contended that E.D. was "not receiving \$965.00 [S]ocial [S]ecurity allotment." The record includes a letter addressed to Carol from the Social Security Administration which states that Social Security payments of \$969.90 per month to E.D. had been approved.

¶ 10 On November 16, 2010, the circuit court ordered Carol to respond to Aaron's motion to modify within 21 days and set the matter for status on December 16, 2010. Carol, by counsel, filed both a response to the motion and a petition for payment of medical expenses and insurance on December 14, 2010. In the response, Carol asked that Aaron's motion to modify child support be denied. In her petition, Carol alleged that she currently provided health insurance for E.D. She requested an order requiring Aaron to maintain E.D.'s medical and dental insurance and pay one-half of E.D.'s uncovered medical and dental expenses.

¶ 11 The matters were continued for status to January 24, 2011. However, on December 30, 2010, Carol filed a petition for a rule to show cause why Aaron should not be held in contempt for his failure to comply with the prior court order of May 4, 2007, which required him to give notice of the receipt of a personal injury award. Carol alleged that she was "entitled to child support from said award." Carol also sought her attorney fees and costs incurred in the filing of the rule to show cause.

¶ 12 On January 24, 2011, the circuit court ordered Aaron to respond to the petition for a rule to show cause, and set a status date for the rule and Aaron's motion to modify child support on February 14, 2011. In his response to the petition for rule to show cause, Aaron denied that he had failed to provide any information as to the personal injury award, and that Carol was owed child support from

No. 1-12 1352

the award. Aaron also filed a verified affirmative defense which alleged that he and Carol were living together when he received the settlement; that he told Carol about the settlement; and that he voluntarily gave her "a portion of the settlement and paid other bills on behalf of [Carol] and [Carol's] children." Aaron also filed a response to Carol's petition for payment of medical expenses and insurance where he denied he was able to provide medical and dental insurance for E.D. or pay one-half of the uncovered medical and dental expenses for E.D. In a verified affirmative defense, Aaron stated he discontinued E.D.'s medical coverage at Carol's request, and that he has contributed one-half of Carol's costs for insuring E.D.

¶ 13 On April 11, 2011, the circuit court entered an order which stated that both sides had been present in court with counsel, and that the court had conducted a pretrial. The order also stated that the parties agreed to continue all matters to May 23, 2011. However, Carol's attorney subsequently noticed a motion to withdraw which was to be presented on that date. The motion to withdraw was granted and the matters were continued to June 20, 2011. On that date, a hearing date on the pending matters was set for July 28, 2011. The hearing was, thereafter, continued on several occasions. Certain continuances appear to have been necessitated by the failure of Aaron's attorney to appear in court. The circuit court, thus, issued a rule to show cause against Aaron's attorney and required him to appear on February 1, 2012, for hearing on the rule. On that date, an order was entered withdrawing the rule to show cause and setting the remaining matters for hearing on March 12, 2012. The matters were then continued to April 2, 2012.

¶ 14 On that date, the circuit court entered the order which is the subject of this appeal. The order stated that the court had "conducted a pretrial." The order further stated that Aaron's child support

No. 1-12 1352

was set at the amount of his Social Security dependency allotment retroactive to December 22, 2010, and that Aaron was "up to date in child support." In the order, the circuit court found Aaron had "satisfied his obligation with respect to [the] personal injury settlement of \$23,000.00." Aaron was to be responsible for one-half of the uncovered medical expenses of E.D., and pay one-third of the premiums for E.D.'s insurance coverage until she reached the age of 18, retroactive to December 14, 2010.

¶ 15 On April 26, 2012, Carol filed in the circuit court a motion seeking financial support for E.D.'s private high school expenses from Aaron. On that same date, Carol also filed a *pro se* notice of appeal from the April 2, 2012, order. As the notice of appeal was filed on the same date as the motion for financial support for E.D.'s private high school expenses, the circuit court was divested of jurisdiction to rule on the motion. We have jurisdiction over Carol's appeal. See *Nelligan v. Tom Chaney Motors, Inc.*, 133 Ill. App. 3d 798, 805 (1985).

¶ 16 On appeal, Carol lists the following issues for review: "(1) [w]hether the [t]rial [c]ourt erred in overruling a previous court order regarding [Aaron's] obligation to pay child support, health insurance, uninsured medical expenses, health insurance and personal injury award; (2) [w]hether the trial court abused its discretion in denying child support from Aaron's personal injury award; (3) [w]hether the trial court erred in directing its [o]rder to overrule an [o]rder filed November 7, 1997, and October 19, 2006, regarding [Aaron's] child support obligations for health insurance; (4)[w]hether the trial court erred in directing its [o]rder to overrule an [o]rder filed November 7, 1997, regarding [Aaron's] child support obligations for unpaid medical expenses; (5) [w]hether the trial court erred in dismissing [Carol's] request to hold [Aaron] in contempt [for failing to pay] his

No. 1-12 1352

child support obligations; and (6) [w]hether the [t]rial [c]ourt erred in denying [Carol's] petition for attorney fees and costs."

¶ 17 Aaron has not filed an appellee's brief, but we may decide this case based on the record and on Carol's brief. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 18 Illinois Supreme Court Rule 341(h)(7) provides that the appellant's brief shall include an argument containing the appellant's contentions, the reasons therefor, citation of the authorities, and "the pages of the record relied on." Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). "A reviewing court is entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented [citation], and it is not a repository into which an appellant may foist the burden of argument and research [citation]; it is neither the function nor the obligation of this court to act as an advocate or search the record for error [citation].'" *People v. Universal Public Transportation, Inc.*, 2012 IL App (1st) 073303-B, ¶ 50 (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)). "An issue not clearly defined and sufficiently presented fails to satisfy the requirements of Supreme Court Rule 341(h)(7) and is, therefore, waived." *In re Detention of Lieberman*, 379 Ill. App. 3d 585, 610 (2007). "The fact that a party appears *pro se* does not relieve that party from complying as nearly as possible [with] the Illinois Supreme Court Rules for practice before this court." *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8.

¶ 19 In her appellant's brief, Carol's first issue for review was that the circuit court "erred in denying [her] child support for minor child." In support, Carol states that Aaron: "took it upon himself on October 1, 2010, to stop paying his court-ordered child support and health insurance

No. 1-12 1352

obligations;" "never paid any of minor child uninsured medical expenses;" "refused to pay medical expenses for minor child although there has been [a] [c]ourt [o]rder in place since November 7, 1997, to pay half of all minor child medical expenses;" "did not notify [either Carol or the court] regarding any personal injury award, workers' compensation or any lump sum settlement;" and was "in arrearage of \$20,021.34 on his child-support obligations." However, as discussed, the circuit court here entered an order on April 2, 2012, contradicting Carol's argument that Aaron had stopped paying child support. The circuit court found: Aaron's child support was set at the amount of his Social Security dependency allotment retroactive to December 22, 2010; Aaron was "up to date in child support"; Aaron had "satisfied his obligation with respect to [the] personal injury settlement of \$23,000.00"; and that Aaron was to be responsible for one-half of E.D.'s uncovered medical expenses and was to pay one-third of E.D.'s insurance premiums until she reached the age of 18, retroactive to December 14, 2010. Carol has failed to make any coherent argument that the circuit court's April 2, 2012, order regarding Aaron's child support obligations was in error, nor has she cited *any* portion of the record contradicting the court's findings. The issue is waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 20 At the conclusion of her argument section on her first issue for review, Carol states: "The court may modify a child support award only on proof of a substantial change in circumstances pursuant to section 510(a)(1) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/510(a)(1) (West 2000))." She then cursorily states: "Since there was no substantial and continuing change in Aaron's circumstances, the modification of his child support was not warranted." Carol has failed to cite to the pages of the record relied on or make any coherent argument regarding the

No. 1-12 1352

circuit court's alleged failure in modifying Aaron's child support payments. The issue is waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 21 Carol's second issue for review is that the circuit court erred when it denied her child support from Aaron's personal injury award. As discussed, the circuit court's order on April 2, 2012, found that Aaron had satisfied his obligation with regard to the personal injury award. Carol has failed to make any coherent argument that the court's finding was erroneous, nor has she cited any portion of the record contradicting the court's finding. The issue is waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 22 Carol's third issue for review is that the circuit court erred in "directing its [April 2, 2012] order to override an order filed November 7, 1997, and October 19, 2006, regarding [Aaron's] child support obligations for health insurance." Carol's fourth issue for review is that the circuit court erred "in directing its [April 2, 2012] order to override an order filed November 7, 1997, regarding [Aaron's] child support obligations for medical expenses." As discussed, the circuit court's order on April 2, 2012, provided that Aaron was to be responsible for one-half of E.D.'s uncovered medical expenses, and to pay one-third of the premiums for E.D.'s insurance coverage until she reached the age of 18, retroactive to December 14, 2010. Carol has failed to make any coherent argument regarding the circuit court's alleged errors with regard to its April 2, 2012, order concerning Aaron's payment of E.D.'s medical expenses and health insurance premiums, nor has she cited the pages of the record relied on. The issues are waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 23 Carol's fifth issue for review is that the circuit court erred in dismissing her petition to find respondent in indirect civil contempt for "disobeying court orders." Carol has failed to argue which

No. 1-12 1352

particular orders Aaron should be held in contempt for disobeying, nor has she cited the pages of the record relied on. The issue is waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 24 Carol's sixth issue for review is that the circuit court erred in denying her petition to have Aaron pay her attorney fees and costs for his disobeying of court orders. Carol has failed to argue which particular orders Aaron disobeyed, nor has she cited the pages of the record relied on. The issue is waived. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 25 Further, we note that our review of the record indicates that Carol has failed to include any transcripts, bystander's reports, or agreed statement of facts with regard to any of the hearings held on this case, or with regard to the pretrial conference the circuit court conducted prior to its April 2, 2012, order from which Carol appeals. Thus, we are unable to determine the basis of the court's various findings underlying its April 2, 2012, order, or whether said order was erroneous in any way. As the appellant, Carol has the burden of providing a sufficiently complete record for review and, in the absence of such a record, we presume the circuit court had a sufficient factual basis for the April 2, 2012, order. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984).

¶ 26 For the foregoing reasons, we affirm the circuit court.

¶ 27 Affirmed.