2013 IL App (2d) 130115-U
No. 02-13-0115
Order filed September 19, 2013

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

SECOND DISTRICT

In re MARRIAGE OF MARY PAT DOMAS,	)	Appeal from the Circuit Court of Lake County.
Petitioner-Appellee	)	
and	)	No. 07-D-2116
EDWARD DOMAS,	)	Honorable David P. Brodsky,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Jorgensen and Birkett concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court erred in granting petitioner's request for interim attorney fees without conducting an evidentiary hearing, particularly in light of petitioner's failure to support her request with an affidavit; contempt order based on respondent's failure to comply with interim attorney fee order is vacated pending outcome of evidentiary hearing.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Edward Domas, appeals an order of the circuit court of Lake County holding him in indirect civil contempt for failing to comply with an order to pay petitioner $15,000 in interim

attorney fees. On appeal, he advances the following four main arguments: (1) the trial court erred in awarding interim attorney fees to petitioner because she failed to set forth the amount of time her attorney would spend working on her cross-appeal as opposed to defending respondent's appeal; (2) the trial court erred in that it failed to conduct an evidentiary hearing prior to granting petitioner's request for fees (in the course of making this argument, respondent also raises petitioner's failure to support her petition for fees with an affidavit); (3) the trial court applied the incorrect standard and abused its discretion in awarding fees; and (4) the contempt order should be vacated as it is based on respondent's failure to comply with an invalid order. We hold that, under the circumstances presented, the trial court erred by not holding an evidentiary hearing, particularly in light of petitioner's failure to support her fee petition with an affidavit . Therefore, we vacate the award of fees and remand for further proceedings. We also vacate the contempt order pending the outcome of an evidentiary hearing. Given our disposition, we need not address whether the trial court's decision to award fees was an abuse of discretion.

¶ 4 Generally, a trial court's decision to award attorney fees is reviewed using the abuse-of-discretion standard (*In re Marriage of Charles*, 284 Ill. App. 3d 339, 342 (1996)), so we will reverse only if no reasonable person could agree with the trial court (*Shaw v. St. John's Hospital*, 2012 IL App (5th) 110088, ¶ 18)). We apply the manifest-weight standard to factual questions, under which we will reverse a decision only if an opposite conclusion is clearly apparent. *Prignano v. Prignano*, 405 Ill. App. 3d 801, 810 (2010). Questions of law, of course, are reviewed *de novo*. *Khan v. BDO Seidman, LLP*, 408 Ill. App. 3d 564, 595 (2011).

¶ 5 Having reviewed the parties' submissions, we are particularly troubled by two aspects of this case: (1) petitioner's failure to support her request for fees with a current affidavit in accordance with

section 501(c-1) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/501(c-1) (West 2006)) as well as local court rules (19th Judicial Cir. Ct. R. 11.02 (eff. Dec.1, 2006)); and (2) the trial court's failure to hold an evidentiary hearing (see 750 ILCS 5/501(c-1)(1), 508(a) (West 2006) (permitting summary proceedings on fee petitions only in prejudgment proceedings)). While respondent's contention that the trial court applied the incorrect legal standard is not pertinent here, as we review the result of the proceedings below rather than the trial court's reasoning (*In re Marriage of Ackerley*, 333 Ill. App. 3d 382, 392 (2002)), it appears to us that the summary procedures employed were not reasonably calculated to provide the trial court with a current view of the relevant facts. As such, we vacate the fee award and remand for an evidentiary hearing. We decline respondent's request to reverse the contempt award, leaving that subject for the trial court to address following an evidentiary hearing on the merits of petitioner's fee request. We express no opinion on any other issue raised by respondent.

¶ 6 In light of the foregoing, the trial court's order granting petitioner interim attorney fees in the amount of $15,000 is vacated and this cause is remanded for further proceedings consistent with this order. The contempt order is also vacated pending the outcome of an evidentiary hearing.

¶ 7 Vacated and remanded.