

¶ 1 In this consolidated appeal, respondent Frank A. Epstein, proceeding *pro se*, filed an amended petition under subsections (a) and (f) of section 2-1401 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-1401(a), (f) (West 2010)), seeking to vacate a series of post-dissolution orders entered by the circuit court. The circuit court dismissed the amended petition pursuant to a motion to dismiss brought by petitioner Deborah Salzer Epstein under section 2-619.1 of the Code (735 ILCS 5/2-619.1 (West 2010)). For the reasons that follow, we affirm the circuit court's order dismissing respondent's amended petition.

¶ 2 **BACKGROUND**

¶ 3 The record reveals the following relevant facts and procedural history. Respondent and petitioner were married on June 5, 1993. Two children were born of the marriage, a son born April 9, 1996, and a daughter born January 4, 2001.

¶ 4 The parties separated and began living apart sometime in September 2005, when respondent moved out of the marital home. On October 24, 2005, petitioner filed a petition for dissolution of marriage and other relief. On the same date, she also filed for and was granted an emergency order of protection on behalf of herself and the parties' children.

¶ 5 On November 9, 2005, an attorney from a law firm entered an appearance on behalf of respondent, along with a response to the petition for dissolution. Thereafter, the parties agreed to terminate the emergency order of protection and the circuit court entered an agreed order giving respondent a 30-day trial period of visitation. The agreed order provided, *inter alia*, that the visitation should not occur in the presence of respondent's sister or mother;¹ the parties should

¹ Respondent's sister allegedly sexually abused the children in September 2003, and respondent's mother sided with her daughter on the issue. The record contains a copy of a letter dated November 30, 2005, from the children's pediatrician stating that the children exhibited

refrain from making disparaging comments about each other in the presence of the children; and neither party "shall physically abuse, harass, interfere with the personal liberty, stalk, intimidate or threaten the other."

¶ 6 On November 17, 2005, respondent filed a petition seeking, *inter alia*, a court order allowing the minor children to have contact with his mother and sister. On December 2, 2005, respondent filed a petition for a rule to show cause why petitioner should not be held in indirect civil contempt for failing to comply with the agreed order. Respondent alleged petitioner violated the agreed order by refusing to allow him to visit the children on November 30, 2005.

¶ 7 On December 5, 2005, petitioner responded by filing a motion asking the court to order the following: order the parties to complete a court-ordered parenting education program; order mediation to address visitation and custody issues; in the event the mediation is unsuccessful, to appoint a custody evaluator pursuant to section 604(b) or section 604.5 of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/604(b), 604.5 (West 2006)); appoint a child representative to represent the children's best interests; temporarily suspend or modify respondent's visitation pending mediation, family therapy, and the recommendations of the child representative; and order that respondent's visitation occur outside the presence of his sister or mother.

¶ 8 On the same date, December 5, 2005, petitioner also filed a motion requesting the court to order respondent to undergo random drug testing pursuant to Illinois Supreme Court Rule behavioral disorders stemming from the alleged sexual abuse and that he had coordinated ongoing counseling for the children. The letter stated in part that "[u]nder no circumstances should the children be in contact with the paternal aunt." A subsequent investigation determined that the allegations of sexual abuse were unfounded.

215(a) (eff. Mar. 28, 2011). In the motion, petitioner alleged that during their marriage, respondent regularly smoked marijuana. Petitioner further alleged she discovered two pills in the children's bag, after the bag was returned to her following a visitation. Petitioner maintained that respondent's drug abuse could affect his ability to adequately care for the children during visitation.

¶ 9 On December 7, 2005, the court appointed attorney Michael S. Schiffman as the children's representative. On December 14th, the court entered an agreed order in which the parties agreed, *inter alia*, that respondent's visitation would be supervised by a person or agency selected by the child representative; costs associated with visitation would be equally shared between the parties subject to reallocation; each party was prohibited from speaking about the other party in a demeaning manner in the presence of the children; and the agreed order would serve as express authorization for mental health professionals to discuss any aspects of provided mental health services with the child representative. On December 28, 2005, the court entered an order referring the parties to a parent education program.

¶ 10 On March 30, 2006, the law firm which had represented respondent was granted leave to withdraw and to file a final fee petition. Respondent was granted 21 days to file an appearance *pro se* or through new counsel. On March 31st, respondent filed his appearance *pro se*.

¶ 11 The parties subsequently negotiated the terms of a marital settlement agreement, which included child support and maintenance. The parties also negotiated the terms of a parenting agreement. On April 20, 2006, the court entered a judgment dissolving the parties' marriage. The judgment incorporated the terms of the marital settlement agreement and parenting agreement.

¶ 13 Respondent, acting *pro se*, filed the amended petition at issue in this consolidated appeal pursuant to section 2-1401 of the Code. This section of the Code provides a comprehensive statutory procedure for obtaining relief from final orders, judgments, and decrees when 30 days or more have elapsed since their entry. *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 220 (1986). As a general rule, a circuit court loses jurisdiction to review its own final judgments or orders after the passage of 30 days. *In re Marriage of Stufflebeam*, 283 Ill. App. 3d 923, 927 (1996).

¶ 14 The purpose of a section 2-1401 petition is to bring before the trial court facts not appearing in the record which, if known to the court at the time judgment was entered, would have prevented entry of the judgment. *In re Estate of Barth*, 339 Ill. App. 3d 651, 662 (2003). A section 2-1401 proceeding invokes the equitable powers of the court when the exercise of such power is needed to prevent an injustice. *In re Petition of Glick*, 259 Ill. App. 3d 371, 373 (1994). The primary concern is whether substantial justice is being done between the litigants and whether it is reasonable under the circumstances to proceed to trial on the merits. *Sunderland ex rel. Poell v. Portes*, 324 Ill. App. 3d 105, 109 (2001).

¶ 15 A petition under section 2-1401 of the Code is not a continuation of the original proceeding but constitutes a new action. *Welfelt v. Schultz Transit Company*, 144 Ill. App. 3d 767, 771 (1986). Ordinarily, a section 2-1401 petition must be filed no later than two years after entry of the order or judgment. 735 ILCS 5/2-1401(c) (West 2010). Moreover, in order to obtain relief under section 2-1401 of the Code, a petitioner must typically establish by a preponderance of the evidence: (1) the existence of a meritorious defense or claim; (2) due diligence in presenting this defense or claim; and (3) due diligence in filing the petition. *Airoom*, 114 Ill. 2d at 220-21.

¶ 16 However, the amended petition at issue in this consolidated appeal was not only brought pursuant to subsection (a) of section 2-1401 of the Code, but also under subsection (f) of this section, seeking to vacate the challenged orders as void. The two-year limitations period does not apply to petitions brought on grounds of voidness (*Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 104 (2002)), and the petitioner need not allege a meritorious defense to the original action or due diligence. *Ford Motor Credit Co. v. Sperry*, 214 Ill. 2d 371, 379 (2005). "Rather, [t]he allegation that the judgment or order is void substitutes for and negates the need to allege a meritorious defense and due diligence." *Ford Motor Credit Co.*, 214 Ill. 2d at 379 (quoting *Sarkissian*, 201 Ill. 2d at 104). A section 2-1401 petition seeking relief based on an argument that the underlying order or judgment is void, is reviewed *de novo*. *Deutsche Bank National Trust Co. v. Hall-Pilate*, 2011 IL App (1st) 102632, ¶ 12.

¶ 17 A void order or judgment is one entered by a court without jurisdiction of the subject matter or parties, or by a court lacking the inherent power to enter the particular order involved. *In re Estate of Steinfeld*, 158 Ill. 2d 1, 12 (1994). A void order or judgment may be attacked and vacated at any time, either directly or collaterally. *Id.* Here, respondent raises several arguments as to why he believes the circuit court erred in denying his section 2-1401 petition to vacate as void, certain post-dissolution orders entered by the court. We address the arguments in turn and find no merit to any of them.

¶ 18 The first order at issue was entered on December 21, 2007, which, *inter alia*, ordered respondent to submit to a psychiatric evaluation pursuant to Illinois Supreme Court Rule 215(a) (eff. Mar. 28, 2011). Rule 215 is a discovery rule. See *Thompson v. Palos Community Hospital*, 254 Ill. App. 3d 836, 839 (1993). Supreme Court Rule 215(a) provides, in relevant part, that "In any action in which the physical or mental condition of a party or of a person in the party's

custody or legal control is in controversy, the court, upon notice and motion made within a reasonable time before trial, may order such party to submit to a physical or mental examination by a licensed professional in a discipline related to the physical or mental condition which is involved." Illinois Supreme Court Rule 215(a) (eff. Mar. 28, 2011). The purpose of the rule is "to permit the discovery of facts which will assist the trier of fact to reach a correct determination of the issues before it. *** The person sought to be examined must be a party (or a person in his custody or legal control), the physical or mental condition of that person must be in controversy, and good cause must be shown for the examination." *In re Stevenson*, 44 Ill. 2d 525, 529 (1970). A circuit court's decision to order a party to submit to a physical or mental examination pursuant to Supreme Court Rule 215(a) is reviewed for abuse of discretion. *In re Marriage of Cohen*, 189 Ill. App. 3d 418, 423 (1989).

¶ 19 Respondent contends the circuit court abused its discretion by ordering him to submit to psychiatric evaluations pursuant to Supreme Court Rule 215(a), arguing that his mental health was not in controversy and that the requisite good cause for the evaluations was not shown. Respondent further contends he was not given notice of the initial evaluation. He also contends the evaluation was procured by fraud. We disagree with all of these contentions.

¶ 20 A review of the record shows that respondent's mental health was put in controversy on December 19, 2007, after he engaged in a heated telephone conversation with Dr. Ruth Kraus, who was appointed by the court to facilitate therapeutic visitations between respondent and his minor children. During the telephone conversation, Dr. Kraus became so concerned about the level of anger expressed by respondent that she contacted Michael S. Schiffman, the child representative, and expressed her belief that respondent should undergo a psychiatric evaluation to determine if he was mentally fit to have visitation with his minor children. On the same day,

respondent spoke with Jim Langworthy, the children's therapist, who alleged that respondent physically threatened him.

¶ 21 On December 21, 2007, the circuit court held a hearing on, *inter alia*, Michael S. Schiffman's oral emergency motion to compel respondent to submit to a psychiatric evaluation pursuant to Supreme Court Rule 215(a). The court appointed Dr. Mark Goldstein to perform the evaluation. The court also banned respondent from threatening Dr. Kraus, Jim Langworthy, and the children's treating psychiatrist Dr. Elkun.

¶ 22 On April 16, 2008, the circuit court entered an order vacating the paragraph of its order of December 21, 2007, appointing Dr. Goldstein to perform the evaluation after it was discovered he was a psychologist and not a psychiatrist. The court appointed Dr. Robert M. Galatzer-Levy to perform the evaluation. Respondent subsequently underwent a series of psychiatric examinations with Dr. Galatzer-Levy, who diagnosed him as suffering from generalized anxiety disorder; substance abuse disorder (probably in remission); personality disorder, not otherwise specified with narcissistic, antisocial, paranoid and impulsive features. The doctor opined, in part, that respondent "regards himself as entirely psychologically healthy and appears either not to understand or to entirely deny the negative impact of his personality disorder on his relations with other people." The doctor suggested that "visits be limited to therapeutic visitations with the therapy provided by a sophisticated mental health professional thoroughly familiar with the case."

¶ 23 The record shows concerns on the parts of both Dr. Kraus and Michael S. Schiffman which put respondent's mental health in controversy and furnished good cause for the psychiatric examinations. The record further shows that respondent received adequate notice of the evaluations and its purposes. In addition, Supreme Court Rule 215(a) addresses those situations

in which the physical or mental condition of a party or of a person in the party's custody or legal control is in controversy, and therefore, it presents a justiciable matter for consideration by the circuit court. A "justiciable matter" is "a controversy appropriate for review by the court, in that it is definite and concrete, as opposed to hypothetical or moot, touching upon the legal relations of the parties having adverse legal interests." *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325 335 (2002). In addition, contrary to respondent's contention, there is no evidence that Michael S. Schiffman engaged in any fraudulent conduct in making the oral emergency motion to compel respondent to submit to the psychiatric evaluation.

¶ 24 In our opinion, the circuit court did not abuse its discretion or exceed its authority by ordering respondent to undergo the psychiatric evaluations pursuant to Supreme Court Rule 215(a). Accordingly, we find no error in the court's failure to vacate as void, its order of December 21, 2007, which, *inter alia*, ordered respondent to undergo the evaluations. For these same reasons, we find the circuit court did not err in failing to vacate as void, the orders entered on March 19, 2008; April 16, 2008; and October 3, 2008, as these orders all related to respondent's psychiatric evaluations.

¶ 25 The next order at issue was entered on March 25, 2009, which, *inter alia*, terminated respondent's supervised visitation. Respondent argues that the portion of the order regarding visitation was void because the court exceeded its jurisdiction in entering the order since there was no evidence to support terminating his visitation. We disagree.

¶ 26 The record shows that on July 1, 2008, the circuit court ordered limited visitation, allowing respondent supervised visitation pending completion of Dr. Galatzer-Levy's psychiatric evaluation, but in no event, later than September 15, 2008. The psychiatric evaluation was delayed because of respondent's uncooperative behavior. On October 3, 2008, an agreed order

was entered in which respondent agreed to continue the evaluation process and continue with supervised visitation pending completion of Dr. Galatzer-Levy's psychiatric evaluation.

¶ 27 On February 3, 2009, Dr. Galatzer-Levy completed his psychiatric evaluation of respondent and prepared a written report. Upon receiving the report, petitioner filed a motion to suspend supervised visitation and resume therapeutic visitation. The motion was heard on March 29, 2009. After reviewing the doctor's report, the circuit court granted the motion and terminated respondent's visitation until further order of the court. Therefore, contrary to respondent's contentions, there was evidence presented to the court supporting termination of his visitation.

¶ 28 The next order at issue was entered on March 22, 2010, which, *inter alia*, ordered respondent to provide certain financial disclosure documents and appear for a deposition within 30 days. In the order, the court also sanctioned respondent pursuant to Illinois Supreme Court Rule 219 (c) (eff. July 1, 2002), by barring him from presenting his ten pending petitions until he provided the requested financial documents and appeared for his deposition.

¶ 29 Respondent argues the circuit court should have vacated the order of March 22, 2010, as void because it was obtained by fraudulent conduct. Respondent claims that petitioner's counsel's fraudulent conduct caused him to miss his deposition scheduled for March 3, 2010, and also caused him to fail to appear in court on March 22, 2010. These contentions are meritless.

¶ 30 The record indicates that on September 11, 2009, respondent was ordered to furnish certain financial disclosure documents. On June 9, 2009, respondent appeared for his deposition, but failed to produce all of the requested documents. As a result, the deposition was continued pending receipt of the documents. On January 11, 2010, the circuit court entered an order ordering respondent to appear for a deposition on March 3, 2010.

¶ 31 On February 23, 2010, counsel for petitioner sent an email to respondent, as well as to Michael S. Schiffman, and petitioner informing them he had a hearing in Lake County scheduled for the same date as respondent's deposition on March 3, 2010. Counsel suggested the deposition be rescheduled to a mutually convenient date. Respondent emailed back that he would be unable to travel to Chicago at any other time in March.

¶ 32 On February 25, 2010, counsel for petitioner sent an email to respondent, Michael S. Schiffman, and petitioner informing them that his schedule was cleared for March 3, 2010, and he would be proceeding with the deposition as scheduled. Respondent failed to attend the March 3rd deposition.

¶ 33 On March 17th, counsel for petitioner filed a notice of motion indicating he would appear before the circuit court on March 22, 2010, to present a fourth motion for sanctions pursuant to Supreme Court Rule 219(c) on the grounds of respondent's failure to appear for his deposition and his failure to provide the requested financial documents. On March 17th, counsel for petitioner mailed the notice of motion to respondent's address in Florida and also emailed it to his email address. Respondent failed to appear in court on March 22, 2010.

¶ 34 Respondent now claims he did not receive notice of his deposition scheduled for March 3, 2010, or notice of the court date of March 22, 2010. His claims are contradicted by the record. The order of January 11, 2010, indicates respondent was present in court when the order was entered. This alone is sufficient to constitute ample notice of his deposition scheduled for March 3, 2010. Respondent also received sufficient notice of the court date scheduled for March 22, 2010. As mentioned, on March 17th, counsel for petitioner served respondent with notice of the

scheduled court date by mailing the notice to respondent's address in Florida by first-class mail and emailing it to his email address.

¶ 35 We also reject respondent's contention that the sanction of barring him from presenting his ten pending petitions until he provided the requested financial documents and appeared for his court-ordered deposition was unreasonably harsh. We do not believe the sanction was unduly harsh under the circumstances in this case. Pursuant to Supreme Court Rule 219(c), a trial court may impose sanctions upon any party who unreasonably fails to comply with supreme court rules governing discovery. *Stringer v. Packaging Corp. of America*, 351 Ill. App. 3d 1135, 1138 (2004). The decision whether to impose a particular sanction is within the discretion of the trial court and will not be disturbed absent an abuse of that discretion. *Hartnett v. Stack*, 241 Ill. App. 3d 157, 172 (1993). Based on our review of the record, we cannot say the circuit court abused its discretion by imposing these sanctions for respondent's repeated failures to comply with court orders ordering him to appear for his depositions or provide the requested financial documents.

¶ 36 The next order at issue is the agreed order entered on April 29, 2011, which provided in relevant part as follows: found respondent in arrears on his child support payments in the amount of \$33,000; reduced child support to \$500 per month plus 28% of any additional net income respondent earns starting May 15, 2011; ordered respondent to reimburse petitioner in the amount of \$12,000, to be paid at a rate of \$100 per month, for child-related expenses; ordered each party to pay the child representative \$29,367.75 in satisfaction of the judgment entered upon the child representative's 5th, 6th, and 7th schedules of fees, whereby each party is to pay the child representative not less than \$500 per month, due the 15th of each month, commencing May 2011, until the judgment is satisfied in full; and ordered respondent to indemnify and hold

petitioner harmless for any medical bills he was ordered to pay in the judgment dissolving the parties' marriage.

¶ 37 We note that an agreed order is not a judicial determination of the parties' rights, it is a recitation of an agreement between the parties which is subject to the rules of contract interpretation. *In re Marriage of Tutor*, 2011 IL App (2d) 100187, ¶ 13. For this reason, such orders are "conclusive on the parties and can be amended or set aside *** only upon a showing that the order resulted from fraudulent misrepresentation, coercion, incompetence of one of the parties, gross disparity in the position or capacity of the parties, or newly discovered evidence." *In re Haber*, 99 Ill. App. 3d 306, 309 (1981).

¶ 38 Respondent contends the circuit court should have vacated the agreed order of April 29, 2011, as void because it is unconscionable, was entered into under duress, and is contrary to public policy. These contentions are meritless.

¶ 39 A court may make a finding of unconscionability based on procedural unconscionability, substantive unconscionability, or some combination of the two. *In re Marriage of Tabassum*, 377 Ill. App. 3d 761, 774-75 (2007). "Procedural unconscionability refers to a situation where a term is so difficult to find, read, or understand that the plaintiff cannot fairly be said to have been aware he was agreeing to it, and also takes into account a lack of bargaining power." *Razor v. Hyundai Motor America*, 222 Ill. 2d 75, 100 (2006). "Substantive unconscionability refers to those terms which are inordinately one-sided in one party's favor." *Id.* The determination of whether a contractual clause is unconscionable is a matter of law to be decided by the court. *Id.*

¶ 40 Duress may be sufficient to render an agreement unconscionable. *In re Marriage of Richardson*, 237 Ill. App. 3d 1067, 1082 (1992). "Duress includes oppression, undue influence, or taking undue advantage of the stress of another to the point where another is deprived of the

exercise of free will." *Id.* Evidence of duress must be clear and convincing before a court may set aside an agreement on this basis. *Id.*

¶ 41 Public policy favors the freedom to contract. *Bruzas v. Richardson*, 408 Ill. App. 3d 98, 102 (2011). As a result, the power to declare a private agreement invalid on public policy grounds is exercised sparingly. *Country Preferred Ins. Co. v. Whitehead*, 2012 IL 113365, ¶ 28. "Whether a contract is contrary to public policy depends on the peculiar facts and circumstances of each case, as well as the language of the contract itself." *Braye v. Archer-Daniels-Midland Co.*, 175 Ill. 2d 201, 216 (1997). In addition, the determination as to whether a provision in a contract violates public policy is a question of law, which we review *de novo*. *Phoenix Ins. Co. v. Rosen*, 242 Ill. 2d 48, 55 (2011). " ' Agreements are not held to be void, as being contrary to public policy, unless they be clearly contrary to what the constitution, the statutes or the decisions of the courts have declared to be the public policy or unless they be manifestly injurious to the public welfare. ' " *Vine Street Clinic v. HealthLink, Inc.*, 222 Ill. 2d 276, 300 (2006) (quoting *Schumann-Heink v. Folsom*, 328 Ill. 321, 330 (1927)).

¶ 42 Here, there is no evidence in the record supporting respondent's claims that the amounts he agreed to pay in the agreed order of April 29, 2011, were unconscionable. And there is no evidence respondent was under duress at the time he entered into the agreed order or that he was coerced into the agreement. Furthermore, there is no evidence to support respondent's contentions that the agreed order contravenes the public policy of Illinois.

¶ 43 In sum, we find the circuit court did not err in dismissing respondent's amended petition to vacate as void the challenged orders under subsection (f) of section 2-1401 of the Code. And for the same reasons, we also find that respondent's amended petition seeking relief under

subsection (a) of section 2-1401 of the Code was properly dismissed because he failed to demonstrate either due diligence in presenting the petition or any meritorious defenses.

¶ 44 Next, we reject respondent's assertion that the circuit court erred in granting petitioner's combined motion to dismiss filed under section 2-619.1 of the Code. This section of the Code allows a party to combine a section 2-615 motion to dismiss with a section 2-619 motion to dismiss. 735 ILCS 5/2-619.1 (West 2012). A section 2-615 motion to dismiss tests the legal sufficiency of the pleading, while a section 2-619 motion to dismiss admits the sufficiency of the pleading but asserts affirmative matter that defeats the claim. *Bjork v. O'Meara*, 2013 IL 114044, ¶ 21.

¶ 45 Respondent contends the circuit court erred in granting petitioner's combined motion to dismiss under section 2-619.1 of the Code because she failed to specify which of her arguments were made pursuant to section 2-615 and which arguments were made pursuant to section 2-619. On our review *de novo* (*Thomas v. Fuerst*, 345 Ill. App. 3d 929, 933 (2004)), we disagree. While a failure to properly label a combined motion to dismiss under section 2-619.1 of the Code is not a practice that is encouraged, a reversal on this ground is only appropriate when it prejudices the nonmovant. *Burton v. Airborne Express, Inc.*, 367 Ill. App. 3d 1026, 1029 (2006). Other than faulting petitioner for failing to properly label her combined motion, respondent does not claim he was prejudiced as a result and therefore we find reversal is not warranted.

¶ 46 Finally, respondent contends the circuit court abused its discretion by denying his application to sue or defend as an indigent person. We review a circuit court's decision to grant or deny an application for leave to sue or defend as an indigent person under an abuse of discretion standard. *Dear v. Locke*, 128 Ill. App. 2d 356, 362 (1970). A circuit court abuses its discretion only where its ruling is arbitrary, fanciful, or unreasonable, or where no reasonable

person would take the view adopted by the court. *In re Marriage of Romano*, 2012 IL App (2d) 091339, ¶ 121. In this case, we do not find the circuit court abused its discretion by denying respondent's application to sue or defend as an indigent person.

¶ 47 Section 5-105 of the Code (735 ILCS 5/5-105 (West 2010)), defines an indigent person as any person who meets one or more of the following criteria:

"(i) He or she is receiving assistance under one or more of the following public benefits programs: Supplemental Security Income (SSI), Aid to the Aged, Blind and Disabled (AABD), Temporary Assistance for Needy Families (TANF), Food Stamps, General Assistance, State Transitional Assistance, or State Children and Family Assistance.

(ii) His or her available income is 125% or less of the current poverty level as established by the United States Department of Health and Human Services, unless the applicant's assets that are not exempt under Part 9 or 10 of Article XII of this Code are of a nature and value that the court determines that the applicant is able to pay the fees, costs, and charges.

(iii) He or she is, in the discretion of the court, unable to proceed in an action without payment of fees, costs, and charges and whose payment of those fees, costs, and charges would result in substantial hardship to the person or his or her family.

(iv) He or she is an indigent person pursuant to Section 5-105.5 of this Code."

¶ 48 Section 5-105.5 of the Code (735 ILCS 5/5-105.5 (West 2010)), defines an indigent person as "a person whose income is 125% or less of the current official federal poverty income guidelines or who is otherwise eligible to receive civil legal services under the Legal Services Corporation Act of 1974."

¶ 49 Cook County Circuit Court General Order No. 05 D 1 (Cook Co. Cir. Ct. Gen. Order 05 D 1) defines an indigent person utilizing the same criteria set forth in section 5-105 of the Code. A review of the record shows respondent does not qualify as an indigent person under any of the criteria set out in sections 5-105 and 5-105.5 of the Code (735 ILCS 5/5-105, 5-105.5 (West 2010)), or Cook County Circuit Court General Order No. 05 D 1. Respondent admittedly had an income of \$1,900 per month. Based on this income information, his annual income is around \$22,800 per year, which is above the financial eligibility for *in forma pauperis* status in 2014. See The Department of Health and Human Services (HHS) Poverty Guidelines, 79 Fed. Reg. 3593 (Jan. 22, 2014) (setting the poverty level at \$11,670 per year for a single individual).

¶ 50 For the foregoing reasons, we affirm the circuit court's order dismissing respondent's amended petition.

¶ 51 Affirmed.