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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

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| <i>In re</i> MARRIAGE OF KATHLEEN M. TABACZYK, |) | Appeal from the Circuit Court of Du Page County. |
| |) | |
| Petitioner-Appellee, |) | |
| |) | |
| and |) | No. 07-D-2219 |
| |) | |
| |) | Honorable |
| EDWARD J. TABACZYK |) | James J. Konetski and |
| |) | Neal W. Cerne, |
| Respondent-Appellant. |) | Judges, Presiding. |

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

ORDER

¶ 1 *Held:* (1) The trial court did not abuse its discretion in denying respondent's May 2010 petition to decrease his child support and maintenance obligations on the basis that respondent failed to meet his burden of establishing a substantial change in circumstances; (2) respondent failed to establish that the trial court erred in finding him in indirect civil contempt for failing to comply with his child support and maintenance obligations; (3) the trial court did not abuse its discretion in denying respondent's September 2012 petition to terminate maintenance; and (4) the trial court did not err in granting petitioner's April 2012 petition for rule to show cause and finding that respondent owed child support, maintenance, and other expenses for the period from April 2011 through February 2012.

¶ 2 The marriage of respondent, Edward J. Tabaczyk, and petitioner, Kathleen Tabaczyk (now Finan) was dissolved pursuant to a judgment of dissolution of marriage entered in

September 2009. Respondent now appeals from separate orders of the circuit court of Du Page County (1) denying his May 2010 petition to modify the judgment of dissolution to reduce his child support and maintenance obligations; (2) finding him in indirect civil contempt for failing to comply with his support obligations; (3) denying his September 2012 petition to terminate maintenance; and (4) granting petitioner's April 2012 petition for rule to show cause and determining that respondent owes petitioner \$93,000 for unpaid child support and maintenance and \$12,946.06 for the children's unreimbursed medical and extra-curricular expenses. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Respondent and petitioner were married on August 17, 1991. Three children were born of the marriage: (1) Olivia, born June 26, 1993; (2) Julia, born December 1, 1994; and (3) Gloria, born May 22, 1996. On October 1, 2007, petitioner filed a petition for dissolution of marriage. Pursuant to a joint parenting agreement and order entered on May 14, 2009, the parties were awarded joint custody of the children, with petitioner named as the residential parent. On September 1, 2009, the trial court, in accordance with a letter opinion dated June 12, 2009, and a follow-up letter dated July 17, 2009, entered a judgment of dissolution of marriage. An agreed order modifying the September 1, 2009, judgment was entered on October 5, 2009. As modified, the judgment made provision for child support and maintenance as follows:

“Based upon [respondent's] present gross earnings of \$500,000.00 per year, [respondent] shall pay [petitioner] the monthly sum of \$3,300.00 as and for maintenance, for 36 months, commencing on the 25th day of August and each and every 25th day of each month thereafter, until the 36th month, at which time, either party may file a petition requesting a review of said maintenance. [Respondent] shall pay \$7,200.00 per month as

and for child support, said payments shall commence August 25, 2009, and each and every 25th day of each month until the children reach 18 years of age, or, if in high school, when [the] child reaches 19 years of age.”

The judgment also required the parties to equally share “all cost of any and all unreimbursed medical, dental, orthodontia, counseling and optical expenses of the minor children.” In addition, the judgment provided that “during [the] children’s minority, the parties shall equally divide all educational and extra-curricular expenses related thereto.” Finally, the judgment provided that the parties “shall pay the trade school or college education expenses of the children *** to the best of their respective abilities, and in accordance with the provisions of section 513 of the [Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/513 (West 2008))], after the financial resources of the child, all scholarships, loans and grants have been applied to same.”

¶ 5 On May 13, 2010, respondent filed a two-count petition to modify the judgment of dissolution. Count I of the petition sought a decrease in respondent’s child-support obligation. Count II sought a decrease in respondent’s maintenance obligation. Respondent argued that a reduction in his support obligations was warranted based upon a substantial change in circumstances. See 750 ILCS 5/510(a)(1), (a-5) (West 2010). In particular, respondent alleged that although he had been earning an annual salary of \$500,000, his employment contract had not been renewed and attempts to secure other employment had been unsuccessful. On August 30, 2010, the trial court entered an order providing that “pending the hearing [on respondent’s petition to modify], it is hereby temporarily ordered that [respondent] shall pay \$7,750 for May 2010 and June 2010[;] thereafter, the sum of \$5,000 as [and] for child support and maintenance, this amount shall be allocated 2/3 child support [and] 1/3 maintenance.”

¶ 6 Meanwhile, petitioner filed several postdissolution petitions. On September 28, 2010, petitioner filed a petition for a rule to show cause. Petitioner alleged that respondent failed to timely comply with certain provisions of the judgment of dissolution, including his support obligations. On March 21, 2011, petitioner filed a petition for temporary relief pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2010)) alleging that certain assets were marital but were not addressed as such in the judgment of dissolution. On April 19, 2011, petitioner filed another petition for a rule to show cause, alleging that respondent owed her \$5,000 for unpaid child support and maintenance for the month of March 2011 and an additional \$500 for unreimbursed expenses related to the children. On May 10, 2011, petitioner filed a petition for contribution to college expenses for Olivia, the parties' oldest child. See 750 ILCS 5/513 (West 2010). On May 23, 2011, the trial court entered an order scheduling the following matters for hearing on June 22, 2011: (1) petitioner's rule to show cause filed on September 28, 2010; (2) petitioner's rule to show cause filed on April 19, 2011; (3) respondent's petition to modify the judgment of dissolution filed on May 13, 2010; (4) petitioner's section 2-1401 petition filed on March 21, 2011; and (5) petitioner's petition for contribution to college expenses filed on May 10, 2011.

¶ 7 At the evidentiary hearing held on June 22, 2011, respondent noted that pursuant to an order entered August 30, 2010, his combined support obligations were temporarily reduced to \$5,000 pending the hearing on his petition to modify. Respondent acknowledged that the last combined support payment he made was in February 2011 and that he has not tendered payments due for March, April, May and June 2011, resulting in an arrearage of \$20,000.

¶ 8 Respondent then testified regarding his employment situation since the entry of the judgment of dissolution. Respondent stated that he is an attorney and that, during the latter part

of the marriage, he worked on a contractual basis for United Financial of Illinois (United Financial), where he concentrated in commercial securities and mortgage-backed securities. Respondent earned an annual base salary of \$500,000 at United Financial. Prior to the entry of the judgment of dissolution, respondent was notified that his contract would not be renewed and his employment with United Financial would terminate in May 2009. Thereafter, respondent received a severance benefit from United Financial equal to one year's salary. The severance benefit was paid in biweekly installments between May 2009 and April 2010. Respondent also collected biweekly unemployment compensation of \$900 from May 2009 through October 2010. Respondent testified that following his termination, he "filed over 112 federal applications." These applications resulted in three interviews but no job offers.

¶ 9 In May 2010, after his unsuccessful attempts to secure employment, respondent commenced the process to become a franchisee for 7-Eleven stores. To this end, in November 2010, respondent and a partner purchased a 7-Eleven franchise. Respondent testified that his 50% share of the franchise fee was \$82,650, which he paid out of personal savings. Respondent testified that the one store he owns loses about \$1,400 per month. Once the store becomes profitable, however, respondent intends to buy two or three more stores. Respondent stated that he would use money from a personal investment account to pay the franchise fee for the additional stores.

¶ 10 Respondent testified that his gross weekly salary at 7-Eleven is \$400 and his net weekly salary is \$348.55. Respondent stated that excluding child support, maintenance, and other expenses related to the children, he incurs about \$4,600 in personal expenses each month. Respondent noted that his monthly expenses include \$438 for his condominium assessment, \$595 for real-estate taxes, \$300 for gasoline, \$200 for the children's medical insurance, \$368 for

his own medical insurance, and \$700 for “Seattle Sutton and groceries.” Respondent detailed his income and expenses in a comprehensive financial statement (CFS) he prepared dated June 22, 2011. Respondent attached to the CFS: (1) his pay stubs from 7-Eleven for the pay periods between March 2011 and June 2011 and (2) a three-page “Payroll Quarterly Earnings Ledger” that details his compensation at 7-Eleven for the pay periods from December 2010 through March 2011. The CFS was admitted into evidence and indicates that respondent’s monthly expenses excluding his support obligations, but including other expenses for the children, exceed his net monthly income by more than \$6,800.

¶ 11 Respondent testified that in order to meet his support obligations and living expenses and to purchase the 7-Eleven franchise, he depleted various investments, including an account with Kemper Fund (worth \$180,000 at the time of the divorce) and a certificate of deposit at Hinsdale Bank. Respondent stated that he still has about \$190,000 in his Morgan Stanley/Smith Barney account. He also has about \$37,000 in a savings account at Chase Bank and \$2,000 in a checking account at Chase Bank. Finally, respondent testified that he has approximately \$12,000 in an AIM Fund account and \$17,000 in a municipal bond fund account.¹ Respondent testified that other than some retirement accounts, he does not have any other bank or investment accounts, although he did purchase a three-bedroom condominium for \$350,000 in cash in November 2009.

¹ Respondent testified that the Morgan Stanley/Smith Barney account, the Chase Bank accounts, the AIM Fund account, and the municipal bond fund account are all retirement accounts. However, they are not listed as such in the June 22, 2011, comprehensive financial statement submitted to the trial court.

¶ 12 On cross-examination, respondent testified that he has been in the commercial securities field for 20 years. Respondent testified that prior to working for United Financial, he was a partner at the law firm Gardner, Carton & Douglas (Gardner), where he specialized in banking and finance. Prior to working at Gardner, he spent five years at another law firm. Respondent stated that the last time he looked for employment in the legal field was in November 2010.

¶ 13 Respondent further testified on cross-examination that he receives dividends from his non-retirement investment accounts. Regarding the expenses listed in his CFS, respondent admitted listing an expenditure of \$175 per month for a maid. He also listed \$197 per month for furniture and appliance repair or replacement, but acknowledged that in the two months prior to the hearing he had not replaced any furniture or appliances. Finally, respondent testified that he listed \$300 monthly on his CFS for vacations. He hoped to take his daughters on vacation to North Carolina. Respondent testified that in 2010, he took his daughters to Texas for ten days, he went on a “pilgrimage” to Rome for seven days, and he traveled to Vermont for a seminar.

¶ 14 Petitioner was called as respondent’s witness at the hearing, and her CFS dated June 15, 2010, was admitted into evidence. Petitioner testified that she was unemployed and in good health. At that point, the trial court asked respondent’s attorney the relevance of his questions. The court noted that the petition to modify filed by respondent references his change in circumstances, but does not allege anything about petitioner. Respondent’s attorney indicated that his questions “would go to the amount.” The court disagreed and excused petitioner from the witness stand.

¶ 15 Immediately after hearing evidence related to respondent’s petition to modify, the trial court held an evidentiary hearing on the petition for rule to show cause filed by petitioner on September 28, 2010. Petitioner testified that as of September 28, 2010, respondent owed her

\$48,782.17 for unpaid maintenance and child support, \$814.54 for unreimbursed medical and dental expenses for the children, and \$2,566.56 for the children's educational and extracurricular activities. Petitioner further testified that as of April 25, 2011, the amount of child support and maintenance owed to her from respondent had been reduced to \$25,855.01, due to a payment of \$23,804.67 made by respondent in November 2010 and a payment of \$10,500 made by respondent in March 2011. Petitioner's exhibit 1, a summary she prepared of child support and maintenance payments for the time period from August 25, 2009, through April 25, 2011, with copies of the checks attached, was admitted into evidence over respondent's objection. Also admitted into evidence were petitioner's exhibits 2, 3, 4, and 5, which were summaries of medical, dental, educational, and extracurricular expenses for the children for the time period from August 2009 through May 2011, with copies of bills and checks attached. Petitioner agreed that she had not submitted any expenses to respondent for June 2011.

¶ 16 Petitioner testified that she submitted the summaries to respondent on a regular basis accompanied by any supporting documents, and respondent never objected to any of the expenses. Counsel for petitioner then stated, "Now, I know we filed the rule September 28th of '10, but we've entered it and continued it until today's date; and we've given the Court and opposing counsel updates of all of these things that haven't been paid; isn't that correct?" Petitioner responded in the affirmative. Petitioner's attorney then requested an "addendum" to the petition for rule to show cause filed on September 28, 2010, which counsel believed "might also encompass a big part of the other rule" to show cause filed on April 19, 2011.²

² At a subsequent hearing, petitioner's attorney stated that the court reporter incorrectly transcribed his request and that he actually requested an "ad damnum," not an "addendum."

¶ 17 On cross-examination, respondent's attorney asked petitioner if she owed any money to respondent. Petitioner indicated that she owed respondent a portion of the proceeds from the sale of the marital home. Petitioner's attorney objected to this inquiry as beyond the scope. The trial court then stated as follows:

“First of all, this is a Petition for Rule to Show Cause alleging that [respondent] is in civil contempt of court, for failure to pay child support and maintenance, as I ordered, and as the order of August 30th of last year reduced the amount that you were paid—that you were even supposed to pay.

Then this year, for example, there were several months that you didn't even pay at all, okay.

That's what I'm going to hear—want to hear the explanation of.

Mr. Tabaczyk, I assure you today, that if I don't have a very good explanation for it, you're going to leave with the deputies today, okay.

Now, that's as simple as I can make it. The house thing is completely off to the side. It doesn't have anything to do with anything.

If—if you file a Petition for Rule to Show Cause against [petitioner]—and I'm going to say this to you, ma'am. If you haven't paid something at this late date, that you were ordered to pay him and have the financial ability to do, that's going to be a bad thing for you, too.”

The trial court then issued the rule to show cause. The court noted that the burden then shifted to respondent.

¶ 18 Respondent denied that he was in arrearage on his support obligations. According to respondent, petitioner owes him money from the sale of the marital residence which not only

extinguishes any arrearage in his support obligations, but results in petitioner owing him \$4,000. Respondent acknowledged that he has not paid any support obligations between March and June 2011. He added that he is unable to pay these obligations because he does not have the money. Respondent also testified that he did not pay any of the medical expenses submitted by petitioner because many of these costs are pending payment from the insurance company and he reimburses petitioner after the insurer pays its portion of the bill.

¶ 19 At the conclusion of respondent's testimony, the court noted that another petition for rule to show cause filed by petitioner was pending. Petitioner's attorney interjected, commenting, "Judge, I believe that by the latitude you just gave me, that's included." The court then announced that it was taking under advisement respondent's petition to modify the judgment of dissolution. The court then found respondent in indirect civil contempt of court for his "willful[]" failure to pay child support, maintenance, and other expenses. The court rejected respondent's claim that he did not have sufficient money to pay his obligations, finding that respondent had money "for—everything else that [he] wanted." The trial court determined that the amount of child support and maintenance outstanding was \$25,855.01 "as of 4-25-11." The trial court entered a mittimus for contempt and placed respondent in the custody of the Du Page County Sheriff "unless the Respondent shall purge himself *** of the said contempt by paying to the Clerk of the Circuit Court" the amount of the arrearage. The trial court also announced that it would take under advisement respondent's petition to modify the judgment of dissolution and that both the petition for contribution to college expenses and the section 2-1401 petition would be continued to a later date. The record indicates that respondent purged the contempt on June 22, 2011, by tendering the purge amount to the Du Page County Sheriff.

¶ 20 On June 27, 2011, the trial court entered an order providing in relevant part as follows:

- “1. That Respondent’s Petition to Modify *** is denied; Respondent did not provide sufficient proof of his current income; as a result it is impossible to determine whether a substantial change in circumstances has occurred since the last Order of Support herein;
2. That Petitioner’s Petition for Rule to Show Cause (September 28, 2010) was granted and Respondent was found in Civil Contempt of Court (per separate order) all other matters: (1) the calculation of child support and maintenance arrearages; and (2) unreimbursed medical and dental expenses; are set for hearing on July 22, 2011 at 9:30 a.m. in court room 309 without further notice;
3. That Petitioner’s petition for Rule to Show Cause (April 19, 2011) was withdrawn;
4. That Petitioner’s Petition for Contribution to College Expenses (May 10, 2011) is set for hearing on July 22, 2011 at 9:30 a.m. in court room 309 without further notice.”

¶ 21 On July 12, 2011, respondent filed a “Motion to Vacate Civil Contempt Ruling, Order, and Mittimus.” On the same date, respondent also filed a motion to reconsider the denial of his petition to modify the judgment of dissolution. On July 21, 2011, respondent filed a notice of appeal pursuant to Illinois Supreme Court Rule 304(b)(5) (eff. June 4, 2008). Respondent purported to appeal from (1) the mittimus for contempt entered on June 22, 2011, and (2) paragraph two of the order entered on June 27, 2011, granting petitioner’s rule to show cause. We docketed this appeal as No. 2-11-0696.

¶ 22 Meanwhile, the hearing scheduled for July 22, 2011, was stricken. On September 28, 2011, the trial court entered an order scheduling the following matters for hearing on October 24,

2011: (1) respondent's motion to reconsider the denial of his petition to modify the judgment of dissolution; (2) petitioner's petition for contribution to college expenses; (3) petitioner's section 2-1401 motion; (4) respondent's motion to vacate contempt; and (5) "completion of rule." At the hearing on October 24, 2011, respondent argued both his motion to reconsider the denial of his petition to modify the judgment of dissolution and his motion to vacate contempt. At the conclusion of the hearing, the trial court entered an order setting a hearing on December 2, 2011, for "balance of rule, college expenses under 513 [and] 2-1401 motion." Although the same order states that "the court has taken the motion to reconsider under advisement," it does not reference the status of the motion to vacate. In an order dated November 4, 2011, and file stamped November 7, 2011, the trial court denied the motion to reconsider its ruling on respondent's petition to modify the judgment of dissolution of marriage. The court found that respondent produced only the following evidence to support his alleged substantial change in circumstances: "(a) One 'United Financial of Illinois' statement dated April 17, 2010; (b) [respondent's] CFS dated June 22, 2011 with no supporting documentation; (c) '7 Eleven' statements from March 31, 2011 to June 9, 2011[; and] (d) 3 pages of a 'payroll quarterly earnings ledger.'" Based on this documentation, the court found that respondent failed to adequately substantiate his income to demonstrate a substantial change in circumstances since the entry of the judgment of dissolution in September 2009.

¶ 23 On November 29, 2011, pursuant to Illinois Supreme Court Rule 303 (eff. June 4, 2008), respondent filed a notice of appeal from the trial court's order entered June 27, 2011, denying his petition to modify the judgment of dissolution of marriage and from the trial court's order entered on November 4, 2011, denying his motion to reconsider the June 27, 2011, order. We

docketed respondent's second appeal as No. 2-11-1209. We subsequently allowed respondent's motion to consolidate appeal No. 2-11-1209 with appeal No. 2-11-0696.

¶ 24 Meanwhile, a hearing was held on December 2, 2011, regarding petitioner's petition for contribution to college expenses. Following that hearing, the court entered an order providing that the parties "shall equally share in their daughter['s] *** college education for Fall 2011 [and] Spring 2012." Also on December 2, 2011, the trial court (1) denied petitioner's section 2-1401 petition and (2) continued for status to January 25, 2012, petitioner's rule to show cause filed on April 19, 2011.

¶ 25 On January 25, 2012, petitioner filed another petition for rule to show cause, alleging that respondent has continued to refuse to pay the correct amount of support, thereby accruing an arrearage in the amount of \$123,000 as of December 25, 2011. The petition also provided that "[r]espondent's non-payment of his previous portion (prior to April 3, 2011) of non-reimbursed medical, dental and extra-curricular expenses on behalf of the minor children are [*sic*] pending appeal." Petitioner alleged that for the period from April 3, 2011, through December 31, 2011, respondent owes her \$2,917.90 for his 50% share of the children's unreimbursed medical, dental, and extra-curricular expenses.

¶ 26 On March 26, 2012, respondent filed another two-count petition to modify the judgment of dissolution. Respondent sought a reduction in his child-support and maintenance obligations based upon a substantial change in circumstances since June 22, 2011. Respondent alleged that although he had been earning an annual salary of \$500,000 at United Financial, his employment contract had not been renewed and his severance benefits had run out. Respondent further alleged that while he is employed, his gross income from all sources is only \$1,600 per month, that attempts to secure other employment have been unsuccessful, and that he has depleted his

non-retirement investment accounts from more than \$188,000 to only \$98,000. Respondent also stated that his monthly personal expenses exceed his monthly income by more than \$5,600, excluding his support obligations. On April 5, 2012, the trial court granted respondent leave to file his petition to modify.

¶ 27 On April 11, 2012, the trial court granted petitioner leave to amend her petition for rule to show cause filed on January 25, 2012, to reflect that petitioner was seeking the petition to cover the period from April 25, 2011, forward. Petitioner filed the amended petition on April 30, 2012. As amended, petitioner alleged that respondent was in arrears on his child support and maintenance obligations in the amount of \$103,000 for the period from April 25, 2011, through March 25, 2012. She further alleged that respondent had accrued an arrearage of \$3,316.05 for his 50% share of the children's unreimbursed expenses for the period from April 25, 2011, through April 12, 2012. On May 4, 2012, petitioner filed another petition for contribution of college expenses for Olivia.

¶ 28 On August 9, 2012, the trial court entered an agreed order pursuant to which respondent paid \$8,000 towards Olivia's college expenses. The agreed order also continued all pending motions and petitions to November 2012, including an anticipated motion by petitioner to extend maintenance and an anticipated motion by respondent to terminate maintenance. On August 22, 2012, petitioner filed a motion to extend maintenance. On September 12, 2012, respondent filed a petition to terminate maintenance.

¶ 29 A hearing on the pending motions was held on November 1 and 2, 2012. At the hearing, respondent testified in relevant part that he is an attorney licensed to practice law in the State of Illinois. Respondent stated that he spent most of his career representing financial institutions, although he also spent seven years working on government-sponsored energy contracts.

Respondent then reviewed his work history at United Financial and 7-Eleven. This testimony was essentially identical to respondent's testimony at the hearing held in June 2011. However, respondent noted that in July 2011, he purchased his partner's interest in the 7-Eleven franchise because he and his partner "were not compatible business partners." Pursuant to the terms of the buy-out, respondent paid his partner \$20,000 and made a \$15,000 capital contribution to the business. Respondent testified that his gross weekly salary at 7-Eleven was \$400 and his net weekly salary is approximately \$354.56. Respondent purchased a 2009 BMW in July 2012 because his old car broke and he needed a vehicle to go to work. Respondent financed the purchase of the vehicle, and his monthly car payment is \$592.72.

¶ 30 Respondent testified that he would eventually like to return to the legal field and that he looks for law-related jobs "every day." He stated that through Special Counsel, a temporary lawyer employment agency, he worked on a project at Walgreens from March 2012 through May 2012. He grossed \$32 per hour from Walgreens and worked no more than 40 hours per week. In addition, in October 2012, respondent was hired to teach business law at Benedictine University. Respondent will earn \$2,325 for the three-month academic period. Respondent testified that the position with Benedictine University is initially on a trial basis, but there is a possibility that the relationship will continue.

¶ 31 Respondent testified that he made a support payment of \$1,000 to respondent in January 2012. Beginning in February 2012, however, he reduced his monthly payment to \$500 because that is what he can afford. Respondent also acknowledged that he is supposed to reimburse petitioner for half of the children's medical costs. He admitted that he has not been doing that since January 2012 because he does not have adequate income.

¶ 32 Respondent submitted a CFS dated August 8, 2012, which was admitted into evidence. The CFS reflects gross income from all sources for 2011 as \$22,790. Respondent noted that the CFS reflects that his monthly expenses exceed his monthly income by \$4,757 each month, requiring him to withdraw money from his savings and investment accounts each month to cover the shortfall. Respondent's income for 2012 through August 8 totaled \$17,400. Respondent noted that the 7-Eleven store made some money in 2012, so this amount includes a \$5,000 draw from the business. Respondent testified that the CFS does not list the income he received while working at Walgreens because that income is not "current income" as he is no longer employed there. In addition, respondent did not include income from his teaching job because he was not hired for that position until after he completed the CFS.

¶ 33 Respondent noted that petitioner has a cosmetology license and is authorized to teach cosmetology seminars. Respondent also noted that prior to the parties' marriage, respondent worked as a credentialing coordinator at a hospital. Respondent testified that petitioner stopped working when Olivia was born. Respondent was not aware of any physical or mental disabilities or any other condition that would prevent petitioner from working. Respondent testified that the youngest of the parties' three children is a junior in high school and that all three children are capable of conducting themselves properly without their mother's supervision.

¶ 34 On cross-examination, respondent admitted that he did not make any support payments for the months of May or June 2011. Respondent further testified that he paid \$5,000 per month for support for the months of July, August, September, and October 2011. In November 2011, respondent paid \$1,000 for support. From December 2011 through September 2012, respondent paid \$500 per month for support. Respondent also acknowledged that since April 25, 2011, he

has not paid anything towards the children's extra-curricular, medical, or dental expenses because he cannot afford to do so.

¶ 35 On redirect examination, respondent testified that he did not have money to make the full support payments because he was using the money for the business and made only \$400 per week. He added that it was his understanding that the temporary support order, which required him to pay only \$5,000 per month, was still in effect.

¶ 36 Petitioner testified that she is in good health, both physically and mentally, and that she is capable of holding a full-time job. Petitioner testified that she has a cosmetology license, but has not sought employment since the divorce. Petitioner stated that she plans to look for work once her youngest child begins college. On cross-examination, petitioner testified that her highest annual salary was \$29,000, when she worked at the hospital. She stated that she last worked as a cosmetologist 32 years ago. Petitioner testified that she pays for living expenses with cash from the marital asset distribution. Admitted into evidence was petitioner's exhibit 10, which consisted of a "compilation" of child support, maintenance, and unreimbursed expenses allegedly due to petitioner from respondent.

¶ 37 Following the hearing, the court took the matters under advisement. The court issued its decision on December 17, 2012. The trial court denied respondent's request to terminate his maintenance obligation. The court based its decision on (1) the long-term nature of the marriage; (2) petitioner's role as a stay-at-home mother; and (3) respondent's failure to comply with his maintenance obligation. However, the court "warned" petitioner that "her lack of effort to seek employment is not a positive action and may be viewed negatively in the future when the award is reviewed." The court granted respondent's petition to modify the judgment of dissolution. Effective March 26, 2012 (the date the petition was filed), the court reduced respondent's child-

support obligation to \$240 per month and his maintenance obligation to \$150 per month. The court also ruled that maintenance is reviewable until August 25, 2015, subject to a petition being filed on or before that date by petitioner seeking a continuation of maintenance. In addition, the court granted petitioner's amended rule to show cause against petitioner relative to the non-payment of child support and maintenance for the time period from April 2011 through February 2012. The court calculated that the amount owing for that time period as \$93,000, allocating \$61,380 as child support and \$31,620 as maintenance. The court also granted the amended rule to show cause relative to the non-payment of reimbursable expenses for the time period from April 2011 until February 2012. The court determined that the amount owing for the reimbursable expenses is \$12,946.06. The court declined to order either party to contribute any further amounts to Olivia's college expenses, noting that with the severe decrease in respondent's income and the large amounts he owes for past-due support, the financial stability of the parties is at "great risk" and ordering them to pay for college expenses would add to their "precarious position."

¶ 38 Meanwhile, on December 21, 2012, we dismissed both of respondent's appeals. We determined that we lacked jurisdiction to consider the appeal from the trial court order finding respondent in civil contempt as the record did not establish that respondent's posttrial motion to vacate the contempt finding was resolved by the trial court. *In re Marriage of Tabaczyk*, 2012 IL App (2d) 110696-U, ¶ 18. We also determined that we lacked jurisdiction to consider respondent's appeal from the trial court order denying respondent's petition to modify the judgment of dissolution with respect to respondent's support obligations where there remained pending in the trial court at the time the notice of appeal was filed other postdissolution motions

and the trial court's ruling did not contain a finding pursuant to Illinois Supreme Court Rule 304(a) (eff. June 4, 2008). *In re Marriage of Tabaczyk*, 2012 IL App (2d) 110696-U, ¶¶ 30-32.

¶ 39 On December 31, 2012, respondent filed an "Emergency Motion to Abandon/Withdraw His July 12, 2011 Post-Judgment Motion to Vacate Civil Contempt Ruling, Order and Mittimus." On January 7, 2013, the trial court granted respondent's emergency motion.

¶ 40 On January 14, 2013, respondent filed a notice of appeal from: (1) the mittimus for contempt entered on June 22, 2011; (2) the portion of the June 27, 2011, order denying respondent's May 2010 petition to modify the judgment of dissolution to reduce his child support and maintenance obligations; (3) the portion of the June 27, 2011, order granting petitioner's September 28, 2010, petition for rule to show cause; (4) the order entered on November 4, 2011, denying respondent's motion to reconsider his petition to modify child support and maintenance; (5) the portion of the December 17, 2012, order denying respondent's September 2012 petition to terminate maintenance; (6) the portion of the December 17, 2012, order granting petitioner's April 30, 2012, amended petition for rule to show cause relative to child support and maintenance; and (7) the portion of the December 17, 2012, order granting petitioner's April 30, 2012, amended petition for rule to show cause relative to the children's unreimbursed expenses.

¶ 41 II. ANALYSIS

¶ 42 A. May 2010 Motion to Decrease Child Support

¶ 43 Respondent first argues that the trial court erred when it denied his May 2010 petition to decrease his child support obligation. A petition to modify child support must be decided on the facts and circumstances of each case. *In re Marriage of Rash*, 406 Ill. App. 3d 381, 388 (2010). In considering a petition to modify child support, the trial court engages in a two-step process. *In re Marriage of Barnard*, 283 Ill. App. 3d 366, 370 (1996). Initially, the court determines

whether a substantial change in circumstances has occurred. 750 ILCS 5/510(a)(1) (West 2010) (providing that any judgment respecting child support may be modified upon a showing of a substantial change in circumstances); see also *In re Marriage of Sassano*, 337 Ill. App. 3d 186, 194 (2003); *In re Marriage of Turrell*, 335 Ill. App. 3d 297, 307 (2002); *In re Marriage of Eisenstein*, 172 Ill. App. 3d 264, 269 (1988) The burden of demonstrating a substantial change in circumstances is on the party seeking relief. *Sassano*, 337 Ill. App. 3d at 194; *In re Marriage of Singleteary*, 293 Ill. App. 3d 25, 34 (1997). If the petitioner meets his or her burden of establishing a substantial change in circumstances, then the court proceeds to consider whether to modify and by how much in accordance with the factors set forth in section 505(a)(2) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/505(a)(2) (West 2010)). *Rash*, 406 Ill. App. 3d at 388.

¶ 44 The trial court's decision as to modification of a party's child support obligation, including whether a substantial change in circumstances has occurred, will not be disturbed on appeal absent an abuse of discretion. *Sassano*, 337 Ill. App. 3d at 194; *Turrell*, 335 Ill. App. 3d at 307; *Carpenter*, 286 Ill. App. 3d 969, 974-75 (1997); *In re Marriage of Hardy*, 191 Ill. App. 3d 685, 690 (1989); but see *Barnard*, 283 Ill. App. 3d at 370 (applying a bifurcated standard of review whereby the first step of the process, *i.e.*, whether a substantial change in circumstances has occurred, is reviewed under the manifest-weight-of-the-evidence standard and the second step of the process, *i.e.* whether and how much to modify the support obligation, is reviewed for an abuse of discretion). An abuse of discretion occurs when no reasonable person would take the view adopted by the trial court. *In re Marriage of Deike*, 381 Ill. App. 3d 620, 630 (2008); *Carpenter*, 286 Ill. App. 3d at 973-74.

¶ 45 In this case, respondent noted in his May 2010 petition to modify the judgment of dissolution that modification of child support is appropriate when the payor's ability to pay child support is reduced. Respondent alleged that his ability to pay support had been reduced, and thus a substantial change in circumstances had occurred, because he had been earning an annual salary of \$500,000 at United Financial, his employment contract had not been renewed, and attempts to secure other employment had been unsuccessful. The trial court concluded that respondent failed to meet his burden of establishing a substantial change in his financial circumstances. In particular, the court noted that respondent produced only the following to substantiate his claim: (1) the check stub from United Financial dated April 17, 2010 (respondent's last severance payment); (2) the CFS dated June 22, 2011; (3) check stubs from 7-Eleven covering the payment periods from March 31, 2011, through June 9, 2011; and (4) three pages of a "Payroll Quarterly Earnings Ledger" from 7-Eleven (detailing respondent's wages at 7-Eleven between from December 2010 through March 2011). The court concluded that respondent "failed to adequately substantiate his income to demonstrate a substantial change in circumstances since entry of the Judgment for Dissolution of Marriage entered September 1, 2009." According to respondent, the trial court's refusal to find that a substantial change in circumstances occurred is based on a misapprehension of the law and record. Respondent insists that a substantial change in circumstances was established given his involuntary termination from United Financial and his unsuccessful job search.

¶ 46 It is undisputed that respondent lost his job at United Financial through no fault of his own and that this constituted a change in circumstances. See *In re Marriage of Brent*, 263 Ill. App. 3d 916, 922 (1994) (noting that an involuntary change or loss of employment *may* constitute a substantial change in circumstances warranting a modification of child support).

However, a change in circumstances of the obligor parent does not necessarily constitute a *substantial* change in circumstances for purposes of a modification of child support. *Rash*, 406 Ill. App. 3d at 388; see also *In re Marriage of Horn*, 272 Ill. App. 3d 472, 477-48 (1995) (concluding that labor strike does not necessarily justify reduction in support as strike may be of limited duration or obligor may have other assets sufficient to pay support). Here, although respondent had some financial misfortune as a result of losing his job, the trial court could have reasonably concluded that the loss of his employment did not affect respondent's ability to meet his support obligations and that it therefore did not constitute a substantial change in circumstances.

¶ 47 Indeed, the record establishes that after respondent stopped working at United Financial in May 2009, he had the financial ability to make considerable purchases. For instance, in November 2009, claimant purchased a condominium for \$350,000 in cash. In November 2010, after respondent filed the petition at issue, he purchased a 50% interest in a 7-Eleven franchise for \$82,650. Further, in 2010, respondent took a ten-day vacation with his daughters to Texas, he went to Rome for seven days, and he went to a seminar in Vermont. All of these expenditures were made without consideration that respondent had a court-ordered child support obligation. See *Deike*, 381 Ill. App. 3d at 631-32 (affirming trial court finding that the payor spouse failed to establish a substantial change of circumstances for purposes of modification of child support where he chose to open bar and grill and spend thousands of dollars renovating the business). We also point out that a review of the CFS respondent tendered to the court in June 2011, does not reflect a lifestyle threatened by the prospect of economic uncertainty. Although, respondent testified that his monthly expenses exceeded his income, this included \$175 per month for maid service, \$300 per month for vacations for himself, and \$700 per month for "Seattle Sutton and

groceries.” Moreover, despite the fact that his financial situation allegedly rendered him unable to meet his support obligations, respondent expressed a desire to purchase additional 7-Eleven stores with money from his personal investment account. In short, the evidence establishes that despite his loss of employment, respondent continued to expend considerable sums of money while ignoring in large part his child support obligation. Given this evidence, we cannot say that no reasonable person would take the view adopted by the trial court that respondent failed to adequately substantiate his income to demonstrate a substantial change in circumstances since entry of the Judgment for Dissolution of Marriage entered September 1, 2009.

¶ 48 Respondent also claims that the trial court overlooked evidence of his efforts to secure employment following the non-renewal of his contract at United Financial. The trial court did not reference respondent’s job search in its ruling, and respondent asserts that he was not obligated to seek employment commensurate with his prior position when his job change was involuntary. See *In re Marriage of Kowski*, 123 Ill. App. 3d 811, 816 (1984). Nevertheless, we are not convinced that the efforts respondent did make to secure employment were reasonable. Respondent testified at the June 2011 hearing that following the non-renewal of his contract at United Financial, he “filed over 112 federal applications,” which resulted in only three interviews and no job offers. Although respondent did not expressly indicate where he applied, his testimony suggests that, despite his extensive experience in banking and finance law at two large law firms, he limited his job search to federal government jobs and did not apply for any positions in the private sector. Accordingly, we do not find that this evidence mandates reversal of the trial court’s ruling.

¶ 49 Additionally, we find that the three cases cited by respondent in support of reversal (*In re Marriage of Gosney*, 394 Ill. App. 3d 1073 (2009), *Barnard*, 283 Ill. App. 3d 366 (1996), and *In*

re Marriage of Lavelle, 206 Ill. App. 3d 607 (1990)) are distinguishable. For instance, in *Gosney*, there was no dispute that the payor spouse established a substantial change in circumstances. *Gosney*, 394 Ill. App. 3d at 1077 (“Here, the trial court found that [the payor spouse] established a change in circumstances, and [the payee spouse] does not challenge that finding.”). Rather, the issue in that case was whether, in setting the new support obligation, the trial court erred in imputing an income of \$350,000 to the payor spouse based on his earning potential. *Gosney*, 394 Ill. App. 3d at 1077-79 (2009). Here, there is no claim that the trial court improperly imputed any income to respondent. In *Barnard*, 283 Ill. App. 3d at 371-75, the issue was whether the payor spouse’s *voluntary* employment change was undertaken in good faith. Thus, the issue in that case was distinct. In *Lavelle*, the payor spouse challenged the denial of his motion to modify child support. The reviewing court reversed, noting in part, that the trial court made its decision before the husband was allowed to complete his evidence. *Lavelle*, 206 Ill. App. 3d at 612. Respondent identifies no similar circumstances here.

¶ 50 B. May 2010 Motion to Decrease Maintenance

¶ 51 Respondent next claims that the trial court abused its discretion when it denied his motion to decrease his maintenance obligation. Section 510(a-5) of the Act (750 ILCS 5/510(a-5) (West 2010)) provides that maintenance may be modified or terminated only where the moving party can demonstrate a “substantial change in circumstances.” When deciding whether to modify or terminate maintenance, the trial court should consider the same factors it considered when it made the initial maintenance award, which are set forth in sections 504(a) and 510(a-5)(2) of the Act (750 ILCS 5/504(a), 510(a-5) (2) (West 2010)). See *In re Marriage of Hucker*, 259 Ill. App. 3d 551, 555 (1994). The decision whether to modify maintenance lies within the sound discretion of the trial court. *In re Marriage of Kocher*, 282 Ill. App. 3d 655, 660 (1996). As

such, a court of review will not disturb the decision of the trial court absent an abuse of that discretion. *Kocher*, 282 Ill. App. 3d at 660. An abuse of discretion occurs when no reasonable person would take the view adopted by the trial court. *Deike*, 381 Ill. App. 3d at 630; *Carpenter*, 286 Ill. App. 3d at 973-74.

¶ 52 The trial court found that respondent failed to establish a substantial change in circumstances with respect to the maintenance award for the same reason it rejected respondent's claim of a substantial change in circumstances with respect to child support. Respondent again argues that the trial court erred in failing to find a substantial change in circumstances, essentially reiterating the arguments made in support of his challenge to the trial court's finding with respect to his request for a modification of his child support obligation. We find respondent's arguments no more persuasive in the context of his request to modify his maintenance obligation and therefore reject them.

¶ 53 Respondent also claims that the trial court abused its discretion in denying him the opportunity to introduce petitioner's testimony regarding the statutory factors set forth in section 504(a) and 510(a-5) of the Act (750 ILCS 5/504(a), 510(a-5) (West 2010)). At the June 22, 2011, hearing, respondent's attorney elicited testimony from respondent regarding her employment status and her health. The trial court intervened and asked counsel the relevance of this testimony, noting that the petition to modify references changes in respondent's circumstances, but does not allege anything regarding petitioner. Counsel responded that the information "would go to the amount." The trial court, however, never addressed the amount of the modification because it determined that respondent failed to meet his burden of establishing a substantial change in circumstances. Thus, even assuming the trial court erred, we fail to see

how respondent was prejudiced by the exclusion of any such testimony. We therefore find no error.

¶ 54 C. Contempt Finding

¶ 55 Respondent next argues that, for various reasons, the trial court erred in finding him in contempt of court for failure to comply with his support obligations. Prior to addressing respondent's claims, we briefly review some principles relating to contempt proceedings. "Generally, civil contempt occurs when a party fails to do something ordered by the trial court, resulting in the loss of a benefit or advantage to the opposing party." *Cetera v. DiFilippo*, 404 Ill. App. 3d 20, 41 (2010). Contempt occurring outside of the presence of the trial court is classified as indirect contempt. *Bank of America, N.A. v. Freed*, 2012 IL App (1st) 113178, ¶ 20. As this court noted in *Pancotto v. Mayes*, 304 Ill. App. 3d 108, 111 (1999), civil contempt proceedings have two fundamental attributes—the contemnor must be capable of taking the action sought to be coerced and no further contempt sanctions are imposed upon the contemnor's compliance with the pertinent court order. In other words, the contemnor must have an opportunity to purge himself of contempt by complying with the pertinent court order. *Pancotto*, 304 Ill. App. 3d at 111. Noncompliance with an order to pay maintenance constitutes *prima facie* evidence of contempt, and after nonpayment is shown, the burden shifts to the obligor spouse to show that he or she is unable to pay. *In re Marriage of Ingram*, 185 Ill. App. 3d 395, 399 (1989).

¶ 56 Respondent first claims that the trial court's contempt order should be vacated because he did not receive proper notice of the charges against him. According to respondent, at the June 22, 2011, hearing, the trial court considered "alleged wrongful acts or omissions that occurred

after the filing of Petitioner's first Petition for Rule to Show Cause (filed September 28, 2010)."

As such, he claims that he was denied due process and equal protection.

¶ 57 The contemnor in an indirect civil contempt proceeding must be afforded due process of law. *City of Quincy v. Weinberg*, 363 Ill. App. 3d 654, 664 (3006). However, only minimal due process is required for such proceedings, consisting of notice and an opportunity to be heard. *In re Marriage of Cummings*, 222 Ill. App. 3d 943, 948 (1991). Initially we find that respondent has forfeited his claim that he was not provided with proper notice of the charges against him. A court order may be void *ab initio* for lack of due process, but a defect in notice can be forfeited. *Williamsburg Village Owners' Ass'n, Inc. v. Lauder Associates*, 200 Ill. App. 3d 474, 479 (1990). To preserve an issue for review, a party must make an appropriate objection in the trial court. *Williamsburg Village Owners' Ass'n, Inc.*, 200 Ill. App. 3d at 479. Here, respondent did not object to the proceedings on the basis of improper notice when petitioner was questioned regarding alleged arrearages occurring after the date of the first petition for rule to show cause. In fact, respondent's attorney expressly asked petitioner about respondent's compliance with his support obligations, including questions about respondent's compliance after she filed her initial petition for rule to show cause. In addition, during cross-examination of respondent, petitioner's attorney elicited testimony that respondent was not in full compliance with his support obligations, respondent expressly testified about events following the date of petitioner's initial petition for rule to show cause, and respondent's attorney never objected to this line of questioning. Therefore, respondent forfeited any objection to any defects in notice.

¶ 58 Forfeiture notwithstanding, we would still not grant respondent the relief he requests as he has not established any prejudice. See *GMB Financial Group, Inc. v. Marzano*, 385 Ill. App. 3d 978, 983 (2008). As noted above, respondent expressly testified about events following the

date of petitioner's initial petition for rule to show cause. More important, the record establishes that respondent actually benefitted from consideration of events occurring after the date respondent filed her initial petition for rule to show cause as this evidence resulted in a reduction in the amount of the arrearage. Petitioner testified that as of September 28, 2010, respondent owed her \$48,782.17 for unpaid maintenance and child support. She noted, however, that as of April 25, 2011, the amount of the arrearage had been reduced to \$25,855.01, as a result of payments made by respondent after September 2010. If the trial court were to adopt respondent's argument, it would theoretically be unable to consider any payments respondent made after the date petitioner filed her initial rule to show cause. Therefore, we reject respondent's claim that he failed to receive proper notice of the charges against him.

¶ 59 Respondent also claims that the trial court improperly "prejudged" him to be in civil contempt of court. In support of this claim, respondent directs us to the trial court's comments at a sidebar during respondent's attorney's cross-examination of petitioner. At that time, the trial court noted that there was evidence that respondent had not been paying his support obligations. The court then stated, "Mr. Tabaczyk, I assure you today, that if I don't have a very good explanation for [the failure to meet his support obligation], you're going to leave with the deputies today, okay." We find nothing improper about the trial court's comment. The court merely remarked that respondent would be found in contempt if he failed to provide a reasonable explanation for his failure to meet his support obligation. This is the law. See *Deike*, 381 Ill. App. 3d at 633 (noting that the failure to pay child support is *prima facie* evidence of contempt and the alleged contemnor is obligated to show his failure to comply was not willful). As such, we find no error on this ground.

¶ 60 Respondent also complains that the trial court's orders do not specifically advise him of "what [he] failed to do and what he was required to do to purge himself." We find no merit in respondent's claim. First, both the trial court and the mittimus for contempt expressly advised claimant of what he failed to do. The court found respondent in contempt for failure to comply with his support obligations. The mittimus provided that respondent was ordered to pay \$10,500 per month for child support and maintenance beginning August 25, 2009, and that respondent had willfully refused to comply with the support order, thereby causing an arrearage of \$25,855.01 as of April 25, 2011. Second, both the court and the mittimus expressly advised claimant of what he was required to do to purge himself. In this regard, the court informed respondent at the conclusion of the June 22, 2011, hearing that "[t]here's a way for him to pay [the arrearage] and then—and then be released." Further, the mittimus provided that respondent shall "be taken into custody by the Sheriff of DuPage County and held until further of Court [*sic*], unless Respondent shall purge [himself] of the said contempt by paying to the Clerk of the Circuit Court the sum of \$25,855.01 for the benefit of petitioner." In a related argument, respondent also claims that the trial court was "confused as to what amount to hold respondent in contempt for." The record simply does not support this claim. The trial court clearly set forth \$25,855.01 as the amount of the child support and maintenance arrearage.

¶ 61 Respondent further complains that the trial court improperly reopened proofs and questioned petitioner after its ruling. Respondent's claim centers around the following colloquy between petitioner and the trial court, which occurred immediately after the trial court found respondent in contempt:

"THE COURT: So my understanding was that the—as of 4/25/11, for child support and maintenance, there was outstanding the sum of \$25,855.01; is that—

[Petitioner]: Correct.

THE COURT: That's what you're saying. Well—and that did not include May or June; correct?

[Petitioner]: Correct.”

Thereafter, the trial court entered the mittimus for contempt and remanded respondent to the custody of the sheriff. According to respondent, he was denied the opportunity to question petitioner regarding her additional testimony about the amount of child support and maintenance owed. We disagree. First, we note that respondent did not object to the court's inquiry and therefore forfeited this argument. See *Williamsburg Village Owners' Ass'n, Inc.*, 200 Ill. App. 3d at 479 (noting that to preserve an issue for review, a party must make an appropriate objection in the trial court). Moreover, the trial court did not reopen proofs, it merely sought to confirm the amount of child support and maintenance allegedly owed to petitioner by respondent. We note that petitioner testified to this amount during direct examination and respondent's attorney expressly cross-examined her about it. Thus, we find no error.

¶ 62 Finally, respondent argues that the trial court did not allow him the opportunity to purge the contempt. We disagree. As noted above, the mittimus for contempt directs respondent to be taken into the custody of the sheriff of Du Page County and held until further order of the court, “unless the Respondent shall purge [himself] of the said contempt by paying to the Clerk of the Circuit Court the sum of \$25,855.01 for the benefit of the petitioner.” Further, prior to the entry of the mittimus, the trial court expressly informed respondent at the conclusion of the June 22, 2011, hearing that “[t]here's a way for him to pay [the arrearage] and then—and then be released.” Thus, the trial court clearly provided respondent the opportunity to purge himself of contempt by complying with the court order. In fact, respondent's claim is belied by the fact that

the record shows that respondent purged the contempt on June 22, 2011, by tendering the purge amount to the Du Page County Sheriff. We therefore find this claim meritless.

¶ 63 D. September 2012 Petition to Terminate Maintenance

¶ 64 Respondent next argues that the trial court erred in denying his September 2012 petition to terminate his maintenance obligation. Pursuant to the judgment of dissolution of marriage entered on September 1, 2009, respondent was obligated to pay petitioner maintenance for a period of thirty-six months, after which time either party could file a petition to review the maintenance award. On September 12, 2012, respondent filed a petition to terminate maintenance. In his petition, respondent alleged that he paid maintenance for a sufficient amount of time to enable petitioner to become self sufficient, that petitioner has the skills and training as a licensed cosmetologist to secure reasonable employment, that petitioner has refused to seek reasonable employment, that petitioner failed to make a good-faith effort to work towards becoming self sufficient, that petitioner's physical and mental health do not impose an impediment on her earning capacity, and that a substantial change in respondent's circumstances has occurred in that his income and assets have decreased. The trial court denied respondent's request to terminate maintenance. The court based its decision on "the long term nature of the marriage, [petitioner] being a stay-at-home mother, and that the maintenance payments have not been fully paid." Although the court denied respondent's motion to terminate, it did grant respondent's separate petition, filed in March 2012, to modify the judgment of dissolution and reduced respondent's maintenance obligation to \$150 per month.

¶ 65 Petitions to terminate maintenance are governed by the same principles applicable to petitions to modify. 750 ILCS 5/510(a-5) (West 2010); *In re Marriage of Krupp*, 207 Ill. App. 3d 779, 790 (1990). As noted above, section 510(a-5) of the Act (750 ILCS 5/510(a-5) (West

2010)) provides that maintenance may be modified or terminated only where the moving party can demonstrate a “substantial change in circumstances.” When deciding whether to modify or terminate maintenance, the trial court should consider the same factors it considered when it made the initial maintenance award, which are set forth in sections 504(a) and 510(a-5)(2) of the Act (750 ILCS 5/504(a), 510(a-5) (2) (West 2010)). Among these factors are: (1) the financial resources of each party, including his or her marital property; (2) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties; (3) the standard of living established during the marriage; (4) the duration of the marriage; (5) the age and physical and emotional condition of both parties; (6) the efforts, if any, made by the party receiving maintenance to become self-supporting and the reasonableness of those efforts; (7) the duration of the maintenance payments previously paid relative to the length of the marriage; and (8) the increase or decrease in each party’s income since the prior judgment or order. 750 ILCS 5/504(a), 510(a-5)(2) (West 2010); *In re Marriage of Hupe*, 305 Ill. App. 3d 118, 123 (1999). The decision to terminate maintenance lies within the sound discretion of the trial court and therefore will not be disturbed absent an abuse of that discretion. *Kocher*, 282 Ill. App. 3d at 660. An abuse of discretion occurs when no reasonable person would take the view adopted by the trial court. *Deike*, 381 Ill. App. 3d at 630; *Carpenter*, 286 Ill. App. 3d at 973-74.

¶ 66 In this case, the crux of respondent’s argument is that the trial court’s finding should be vacated because petitioner has not attempted to seek employment outside the home. However, the employment or potential employment of a spouse is only one factor to be considered in making a decision regarding maintenance. *In re Marriage of Carpel*, 232 Ill. App. 3d 806, 830 (1992). In this case, the trial court, in its order of December 2012, acknowledged petitioner’s “lack of effort to seek employment” and warned her that her conduct “is not a positive action and

may be viewed negatively in the future when the award is reviewed.” Nevertheless, the court found it inappropriate to terminate maintenance given the duration of the marriage, petitioner’s role as a stay-at-home parent, and the fact that respondent had not been in compliance with his maintenance obligation. Based on the record before us, we cannot say that no reasonable person would take the view adopted by the trial court. Accordingly, we find no abuse of discretion and affirm the trial court order denying respondent’s September 2012 petition to terminate maintenance.

¶ 67 E. April 2012 Rule to Show Cause

¶ 68 Respondent next challenges the trial court’s ruling on petitioner’s April 30, 2012, amended petition for rule to show cause. In that petition, petitioner alleged that respondent has accrued an arrearage in his child support and maintenance obligations in the amount of \$103,000 for the period from April 25, 2011, through March 25, 2012. Petitioner further alleged that respondent owed her \$3,316.05 for his 50% share of the children’s unreimbursed medical, dental, and extra-curricular expenses for the period from April 25, 2011, through April 12, 2012. A hearing on the petition for rule to show cause was held early in November 2012, along with the hearing on all other pending matters. During that hearing, petitioner’s group exhibit 10 was admitted into evidence without objection. That exhibit indicates that respondent was \$173,500 in arrears on his child support and maintenance payments for the period from April 25, 2011, through October 25, 2012, and \$12,946.06 in arrears for his share of the children’s unreimbursed extra-curricular, medical, and dental expenses for the same time period.

¶ 69 On December 17, 2012, the trial court granted petitioner’s amended petition for rule to show cause, ruling in relevant part as follows:

“C. The request of [petitioner] for a Rule to Show Cause against [respondent] relative to the non-payment of child support and maintenance for the time period from April, 2011 until February, 2012 is granted. A Rule to Show Cause shall issue for the non-compliance.

- i. The Rule is discharged as the actions of [respondent] were not contemptuous.
- ii. The amount owing for that time period is \$93,000. Of that amount \$61,380 is child support and \$31,620 is maintenance.

D. The request of [petitioner] for a Rule to Show Cause against [respondent] relative to the non-payment of reimbursable expenses for the time period from April, 2011 until February, 2012 [*sic*] is granted. A Rule to Show Cause shall issue for the non-compliance.

- i. The Rule is discharged as the actions of [respondent] were not contemptuous.
- ii. The amount owing for expenses to be reimbursed to [petitioner] is \$12,946.06.”

Respondent initially argues that the trial court abused its discretion in ruling that he owes petitioner \$12,946.06 for unreimbursed medical, dental, and extra-curricular expenses because this amount is more than petitioner requested in her April 2012 amended petition for rule to show cause. Respondent notes that the amount of unreimbursed expenses awarded by the trial court is based on petitioner’s exhibit 10 and includes expenses incurred after petitioner filed her April 2012 petition for rule to show cause.

¶ 70 Respondent essentially argues that he was not provided with proper notice of the charges against him. However, respondent did not object to the admission to petitioner's group exhibit 10 or when petitioner's attorney questioned her regarding the exhibit. As such, we conclude that respondent has forfeited any claim that he was not provided with proper notice of the charges against him. See *Williamsburg Village Owners' Ass'n, Inc.*, 200 Ill. App. 3d at 479 (noting that to preserve an issue for review, a party must make an appropriate objection in the trial court). Moreover, we fail to see how respondent was prejudiced. Petitioner testified at the hearing that she submitted the bills in question to respondent, and respondent admitted that he did not pay them, explaining that he did not have sufficient funds to do so. See *GMB Financial Group, Inc.*, 385 Ill. App. 3d at 983.

¶ 71 Alternatively, respondent argues that he should not be responsible for any of the expenses for extra-curricular activities incurred by Olivia after June 26, 2011, when she turned 18. In support of this argument, respondent notes that paragraph 2b of the October 5, 2009, agreed order modifying the September 1, 2009, judgment, provides that "during the children's *minority*, the parties shall equally divide all educational and extra-curricular expenses related thereto." (Emphasis supplied by respondent). Respondent complains that the trial court's order, however, requires him to pay for Olivia's extra-curricular activities following the date of her emancipation. Respondent argues that the trial court had no authority to order him to pay for Olivia's extra-curricular expenses following her emancipation in light of the agreed order. Respondent has forfeited this issue for two reasons. First, he did not argue at trial that he was not responsible for extra-curricular activities incurred by Olivia after her emancipation. Instead, he simply contended that he did not pay for any of the children's extra-curricular expenses because he could not afford to do so. See *Haudrich v. Howmedica, Inc.*, 169 Ill. 2d 525, 536 (1996) ("It is

well settled that issues not raised in the trial court are deemed waived and may not be raised for the first time on appeal.”) Moreover, the record establishes that respondent was aware that petitioner was requesting reimbursement for Olivia’s extra-curricular expenses. Petitioner referenced at least one such expense in an attachment to her amended petition for rule to show cause. Further, petitioner’s attorney asked respondent about the activities in which Olivia participated and, without objection from his attorney, respondent noted that Olivia was in the university orchestra. The failure of respondent to object to this line of questioning provides an independent basis for forfeiture. See *Williamsburg Village Owners’ Ass’n, Inc.*, 200 Ill. App. 3d at 479 (noting that to preserve an issue for review, a party must make an appropriate objection in the trial court).³

¶ 72 Respondent also contends that the trial court abused its discretion when it considered “subsequent evidence relative to child support and maintenance at the hearing.” Respondent explains as follows. At the hearing, the trial court admitted into evidence petitioner’s group exhibit 10, as noted above, included a summary of the child support and maintenance allegedly due from respondent for the time period from April 25, 2011, through October 25, 2012. The trial court’s December 17, 2012, order specifically found that “[respondent] has not paid the full amount of child support and maintenance since April, 2011. Through October, 2012 he is \$173,500 in arrears.” According to respondent, the trial court erred in “allow[ing] facts occurring after April 30, 2012, in its December 17, 2012, order *** as there was no petition

³ Respondent also alleges that the trial court miscalculated the amount of unreimbursed expenses for the period from April 2011 through February 2012. However, having concluded that the trial court properly awarded unreimbursed expenses through October 2012, we find this claim moot.

pending seeking relief from the trial court for the time period April 25, 2011, to and including October 25, 2012.” We note that respondent did not object to the admission of testimony regarding the admission of this evidence. In fact, respondent’s attorney questioned respondent regarding his failure to comply with his support obligations after April 2012.

¶ 73 In any event, we fail to see how respondent was prejudiced. Although petitioner’s group exhibit 10 calculated that respondent was \$173,500 in arrears on his child support and maintenance payments for the period from April 25, 2011, through October 25, 2012, the trial court did not order respondent to tender this amount to petitioner. Instead, the court granted respondent’s petition to modify his child support and maintenance obligations effective March 2012. Further, while it did issue a rule to show cause for respondent’s non-compliance with his child support and maintenance obligations, it determined that the amount owing for the period from April 2011 through February 2012 was \$93,000. This amount is *less* than the \$103,000 petitioner requested in her April 2012 amended petition for rule to show cause. Accordingly, we find no error with respect to the trial court’s December 17, 2012, ruling on child support and maintenance.

¶ 74

V. CONCLUSION

¶ 75 For the reasons set forth above, we affirm the judgment of the circuit court of Du Page County.

¶ 76 Affirmed.