FIRST DIVISION
September 14, 2015

No. 1-14-1933

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MAUREEN COSGROVE,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellee,	)	Cook County.
	)	
v.	)	No. 92 D 16412
	)	
THOMAS G. COSGROVE,	)	Honorable
	)	Mark J. Lopez,
Respondent-Appellant.	)	Judge Presiding.

PRESIDING JUSTICE LIU delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

O R D E R

¶ 1 *Held*: Appeal dismissed for lack of jurisdiction.

¶ 2 This case arises from an agreed order between respondent, Thomas Cosgrove, and his former spouse, petitioner Maureen Cosgrove, regarding his responsibility for the undergraduate expenses of their son, Ryan. The circuit court denied respondent's motion to abate the payment of Ryan's post high school expenses and in this court, respondent, *pro se*, challenges the propriety of that ruling. Petitioner has not filed a brief in response, however, we may consider

the merits of this appeal under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976). *People v. Cosby*, 231 Ill. 2d 262, 285 (2008).

¶ 3 The record shows that on May 2, 1995, the circuit court entered a judgment for dissolution of the marriage of the parties. On October 12, 2012, they entered into an agreed order whereby respondent would be responsible for 65% of Ryan's undergraduate educational expenses and pay petitioner $1,100 each month until he had paid the entire 65% obligation.

¶ 4 On October 1, 2013, respondent filed a petition for abatement of his obligation under the agreed order. Respondent asserted that at the time that order was entered, he was employed by the Federal Defender of the District of Puerto Rico; however, on April 5, 2013, he resigned that position and returned to Chicago, in part because of the requirement that federal employees take furlough days, which made it impossible for him to afford to remain in Puerto Rico. Respondent further asserted that he has been unable to secure employment in Chicago since his return, and that his solo law practice has yet to yield any income of consequence.

¶ 5 On November 13, 2013, the trial court entered a written order abating respondent's monthly obligation with accrual, and also ordered respondent to turn over any state or federal tax refunds to petitioner toward the ongoing monetary obligation. The case was then continued to February 19, 2014, for status on respondent's employment and payments made toward his monthly obligation.

¶ 6 On that date, the trial court entered a written order denying respondent's motion. The court found that respondent "filled out a financial disclosure statement pursuant to Rule 13.3" that included his income and his household expenses, and that he has regular ongoing gift income from his current spouse pursuant to *In re Marriage of Rogers*. The court determined that

respondent left his employment voluntarily and in bad faith, which substantially reduced his income, and concluded that respondent's obligation of $1,100 should be reinstated, based on his current income, including gift income from all sources.

¶ 7 On March 13, 2014, respondent filed a motion to reconsider that ruling. Respondent asserted that the court's finding was "without benefit of knowledge of" his spouse's income, and against the manifest weight of the evidence. He further contested the court's finding that he voluntarily left his employment, and argued that the court improperly applied *Rogers* in determining that he received gift income from his current spouse.

¶ 8 On April 1, 2014, the trial court continued the case to April 24, 2014, for status on respondent's motion. On April 24, 2014, the trial court ordered that the cause be continued to May 22, 2014, for a hearing on respondent's motion, and on May 21, 2014, petitioner filed a response to respondent's motion to reconsider.

¶ 9 The record indicates that the next filing took place on June 18, 2014, when respondent filed a notice of appeal from the trial court's orders of February 19, 2014, and May 22, 2014; however, no order, notation, or report of proceedings from May 22, 2014, is evident or included in the record filed on appeal. On August 25, 2014, respondent filed an amended notice of appeal, indicating that he was appealing from the judgment dated August 18, 2014; however, there is also no order from that date included in the record filed on appeal.

¶ 10 In the statement of facts in his brief, respondent explains that on May 22, 2014, the parties appeared before the trial court and the court sustained his objection to exclude petitioner's answer to his motion to reconsider, which was filed outside the 21-day time limitation. When the court started to question respondent about his motion to reconsider, he requested that a court reporter be present if there was to be a hearing that day. The court told him that it was too late

because the hearing had already commenced, and overruled his objection. Respondent then summarized the contents of his motion to reconsider and the trial court denied his motion and stated that a written order would follow.

¶ 11 Respondent further states in his brief that because the trial court had not issued its written order by June 18, 2014, 27 days after the denial of his motion, he filed a notice of appeal in order to safeguard his appeal rights before the 30-day period for filing a notice of appeal expired. He also states that on August 18, 2014, the trial court issued a written order denying his motion to reconsider the order entered on February 19, 2014, and on August 25, 2014, he filed an amended notice of appeal from the order of August 18, 2014.

¶ 12 On appeal, respondent contends that the trial court erred in denying his motion to abate post high school expenses without holding a hearing. He maintains that the court refused to hear evidence regarding his financial status and the reasons he left his employment and entered the order without sufficient knowledge of petitioner's financial information. He also contends that the trial court's finding that he left his employment in bad faith was against the manifest weight of the evidence, and, thus, the court erred in denying his motion to reconsider.

¶ 13 Before we can consider the merits of respondent's claims, we must first determine whether we have jurisdiction to hear this appeal. To vest this court with jurisdiction, a party must file a notice of appeal within 30 days after the entry of an order disposing of a timely post-judgment motion. *Goral v. Kulys*, 2014 IL App (1st) 133236, ¶ 20; Ill. S. Ct. R. 303(a)(1) (eff. June 4, 2008). In addition, "[w]hen a timely postjudgment motion has been filed by any party, *** a notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion *** becomes effective [only] when the order disposing of said motion *** is entered." Ill. S. Ct. R. 303(a)(1) (eff. June 4, 2008). The effective date of a final judgment is

when the court's action is publicly expressed, in words, and at the situs of the proceeding, *i.e.*, when it is filed with the clerk of the court. *Keener v. City of Herrin*, 235 Ill. 2d 338, 343, 347 (2009), citing *Granite City Lodge No. 272, Loyal Order of the Moose v. City of Granite City*, 141 Ill. 2d 122, 126-27 (1990).

¶ 14 In this case, the common law record filed on appeal shows that the circuit court entered an order denying respondent's motion to abate his payment of Ryan's post high school expenses on February 19, 2014, and on March 13, 2013, respondent filed a timely motion to reconsider that order. The case was continued to April 1, 2014, and then to April 24, 2014, and on that date the court again continued the matter to May 22, 2014, for a hearing on respondent's motion to reconsider. In his brief, respondent states that the court denied his motion to reconsider on May 22, 2014, but did not file a written order with the clerk of the court until August 18, 2014. We observe, however, that no such order, notation, or report of proceedings showing that the court denied his motion for reconsideration on either date appears in the record on appeal. Although respondent has included in his appendix a written order from the circuit court denying his motion for reconsideration that is file-stamped August 18, 2014, the order is not properly before this court (*People v. Lutz*, 103 Ill. App. 3d 976, 979 (1982)) because parties are not permitted to supplement the record by attaching documents that are not included in the record on appeal to their briefs or appendices. (*In re Parentage of Melton*, 321 Ill. App. 3d 823, 826 (2001)).

¶ 15 It is the responsibility of respondent, as appellant, to provide an adequately complete record of the proceedings that is sufficient for reviewing the issues raised on appeal. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Respondent has not done so here.

¶ 16 Respondent's statement of facts contains factual allegations unsupported by references to pages in the record on appeal and is a mixture of fact, argument, and comment, in violation of

Supreme Court Rule 341(h)(6) (Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013)). *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 824 (2010). As such, the statement of facts falls outside the record, and, under Supreme Court Rule 323 (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)), may not be considered on appeal. *American Savings Bank v. Robinson*, 183 Ill. App. 945, 948 (1989).

¶ 17 More importantly, defendant has made no record showing that the court denied his motion for reconsideration, and parenthetically notes in his brief that "(This does not appear to be part of the record)." Without a final order disposing of respondent's timely filed motion to reconsider this court lacks jurisdiction to consider his appeal. *D'Agostino v. Lynch*, 382 Ill. App. 3d 639, 641-42 (2008); *Texaco, Inc. v. Barnes*, 60 Ill. App. 3d 696, 698-99 (1978). Consequently, we find that we must dismiss respondent's appeal for lack of jurisdiction.

¶ 18 Appeal dismissed.