2015 IL App (2d) 140042-U
No. 2-14-0042
Order filed March 26, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF SUSAN R. MORRIS,	)	Appeal from the Circuit Court
	)	of DuPage County.
	)	
Petitioner-Appellee,	)	
	)	
and	)	No. 01-D-3049
	)	
MICHAEL R. MORRIS,	)	Honorable
	)	Robert A. Miller,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Hudson and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not abuse its discretion in ordering respondent to contribute toward the college expenses, including future expenses, for his children following the dissolution of his marriage to petitioner. Further, any error that resulted from the trial court's determination to exclude a comprehensive financial statement from petitioner during the hearing was harmless. Thus, we affirmed.

¶ 2 In June 2002, the trial court entered an order dissolving the marriage between petitioner, Susan Morris, and respondent, Michael Morris. Two children were born of the marriage. The

dissolution order incorporated a marriage settlement agreement, which provided that the parties agreed to "divide the costs of post[-]high school education of their children equally *** ."

¶ 3 On July 27, 2010, the trial court entered an order requiring respondent to contribute $8,000 toward the college education for the parties' oldestdaughter, who was attending Purdue University. On August 29, 2013, respondent filed a "motion for modification." Respondent argued that a substantial change of circumstances had occurred, including that the parties' daughter declined a full scholarship to the College of DuPage, which respondent was not aware of during the prior hearing. Respondent requested that the trial court reverse the prior order. On October 24, 2013, the trial court entered an order providing that "[t]he court's order of [July 27, 2010] shall stand."

¶ 4 On November 21, 2013, petitioner filed a petition for contribution to college education. Count 1 requested that respondent contribute $5,557.84 for their daughter's college education, which would be in addition to the $8,000 he had already been ordered to contribute. Count 2 requested that respondent contribute $2,220.40 per semester toward the tuition for the parties' younger son to attend Northern Illinois University. On November 22, 2013, respondent filed a motion for modification, requesting that the trial court modify the 2002 dissolution order by removing both parties' obligation to contribute to the children's college expenses. Respondent also filed a motion for modification of award for college expenses, requesting that the trial court modify its July 27, 2010, order that ordered him to contribute $8,000 toward tuition for the parties' daughter. On December 9, 2013, respondent filed a response to petitioner's November 21, 2013, petition. On December 20, 2013, following an evidentiary hearing, the trial court granted petitioner's petition. The trial court ordered respondent to contribute an additional $5,557.84 toward the tuition for the parties' daughter to attend Purdue University. That amount,

combined with the prior $8,000, constituted the "entire balance" for the daughter's college education. The trial court further ordered respondent to contribute $2,613 toward the freshman year tuition for the parties' son at Northern Illinois University. The trial court ordered each party to contribute $2,200 per semester for their son's sophomore-through-senior year tuition at Northern Illinois University, "[a]bsent a substantial change in circumstances." The trial court ordered a withholding order, which required respondent to pay petitioner $500 per month for five years. Respondent timely appealed, contending that the trial court erred by (1) ordering him to contribute 50% to their children's college educations; (2) ordering him to pay for his son's future college expenses; and (3) refusing to admit into evidence petitioner's comprehensive financial statement dated September 22, 2013; which respondent would have been used for impeachment.

¶ 5 In this case, we see no abuse of discretion in the trial court's determination that respondent contribute 50% to the children's respective college educations. See *In re Marriage of Thomsen*, 371 Ill. App. 3d 236, 243 (2007) ("A trial court's decision to award educational expenses will not be reversed absent an abuse of discretion"); *In re Marriage of Micheli*, 2014 IL App (2d) 121245, ¶20 (noting that an abuse of discretion occurs only when no reasonable person would take the view adopted by the trial court). A trial court has authority to modify provisions of a marital settlement agreement pertaining to college expenses. *In re Marriage of Deike*, 381 Ill. App. 3d 620, 627 (2008). " 'The pertinent question *** is the same as that on a petition to modify any other support term. That is, whether [the moving party] has shown a substantial change in circumstances.' " *Id.* (*quoting In re Marriage of Loffredi*, 232 Ill. App. 3d 709, 712 (1992)). Courts can consider the parties' financial resources, including the financial status of a current spouse, and financial resources include "all money or property to which the parent has

access." *Deike*, 381 Ill. App. 3d at 627. Further, financial resources means money or property that can be converted to meet needs. *Id.* at 628.

¶ 6 Here, the trial court did not err in concluding that respondent failed to establish a substantial change in circumstances. The record reflects that respondent's child support payments, totaling almost $900 per month, ended in June 2013. Respondent and his new wife, Lisa, earn a combined income of approximately $120,000 per year, and Lisa receives an additional $700 per month in child support. In early 2013, respondent and Lisa leased a 2013 Acura, for which they pay $526 per month. As the trial court opined, respondent decided to take on other obligations, which included paying for housing and utilities for Lisa and her children, but respondent did that knowing that his marital settlement agreement required him to pay 50% of the his daughter's and son's college educations. The trial court noted that respondent's $500 monthly payment for college expenses is less than his nearly $900 monthly child support payment that ended in June 2013, and that respondent and Lisa could have leased a cheaper vehicle to help offset respondent's monthly college-expenses payment. Based on this evidence, the trial court could have concluded, as it did, that both respondent and petitioner have the resources to pay for 50% of their children's college expenses. Therefore, we see no abuse of discretion in the trial court's determination to require respondent to pay 50% of the college expenses for his children, including his son's future college expenses. See *Deike*, 381 Ill. App. 3d at 630 (holding that the trial court did not abuse its discretion in ordering the respondent to pay for 50% of his daughter's post-high-school education expenses, despite the respondent's reduction in income); *In re Marriage of Dieter*, 271 Ill. App. 3d 181, 182, 191 (1995) (holding that the trial court did not abuse its discretion in ordering the respondent to pay up to $16,000 per year toward his child's future college expenses).

¶ 7 Finally, respondent's contention that the trial court erred by not admitting petitioner's comprehensive financial statement dated September 22, 2013, which respondent would have used for impeachment purposes, is unpersuasive. Evidentiary rulings will not be overturned absent a clear abuse of discretion, and in order to warrant reversal, "an evidentiary ruling must have been substantially prejudicial and affected the outcome of the case." *In re Marriage of Roepenack*, 2012 IL App (3d) 110198, ¶ 44. In this case, even if the trial court had erred in refusing to admit the statement, that error would not have affected the outcome. As noted above, testimony in the record reflected that respondent and Lisa earn a combined income of $120,000 per year, respondent's child support payments of nearly $900 per month ended in June 2013, and respondent and Lisa leased a luxury automobile. The trial court could have relied on this evidence when concluding that respondent failed to establish a substantial change in circumstances; and therefore, he should be responsible for 50% of the children's college expenses. See *id.* ¶ 46 (holding that, even if the trial court erred in admitting evidence, that error was harmless due to other evidence in the record). Thus, the trial court's decision to exclude the September 22, 2013, comprehensive financial statement did not affect the outcome of the case and reversal is not warranted.

¶ 8 For the foregoing reasons, we affirm the judgment of the circuit court of DuPage County.

¶ 9 Affirmed.