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2016 IL App (3d) 150347-U

Order filed February 1, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2016

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
MICHELE MCQUILLAN,)	Will County, Illinois,
)	
Plaintiff-Appellee,)	
)	Appeal No. 3-15-0347
and)	Circuit No. 13-D-329
)	
DANIEL P. MCQUILLAN,)	
)	Honorable David Garcia
Defendant-Appellant.)	Judge, Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Presiding Justice O'Brien and Justice Carter concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate record is insufficient to address the issue raised on appeal.
- ¶ 2 Respondent Daniel McQuillan (Daniel) filed a 2014 petition to abate child support, which the court denied on February 6, 2015. More than 30 days later, Daniel filed a subsequent motion to reduce child support based on the same grounds. When ruling on the 2015 motion to reduce child support, the court instructed Daniel's counsel to order a transcript of the February 6, 2015,

hearing, because the court's findings had not changed since ruling on the 2014 petition to abate child support. On May 22, 2015, Daniel filed the notice of appeal. We affirm.

¶ 3

BACKGROUND

¶ 4

On April 18, 2011, a judgment was entered dissolving the marriage of petitioner Michele McQuillan (Michele) and Daniel and incorporating the parties' marital settlement agreement into the judgment. Pursuant to the agreement of the parties, Daniel was ordered to pay child support to Michele in the amount of \$1,475 per month.¹

¶ 5

Daniel filed a petition to abate child support on September 30, 2014. The 2014 petition to abate child support alleged Daniel's employer placed Daniel on an unpaid suspension after Michele initiated charges against him for an alleged violation of an order of protection. The court denied Daniel's 2014 request to abate child support on February 6, 2015.² The court's order dated February 6, 2015, directed Daniel to pay an arrearage of \$1,946 for past-due child support from unreported income from his 2014 tax refund, and also directed him to pay the amount of arrearage established by the Illinois Department of Healthcare and Family Services as previously ordered. Daniel did not file a notice of appeal in the next 30 days concerning the court's February 6, 2015, order.³

¶ 6

Thereafter, Daniel filed a motion to reduce child support on April 17, 2015. This motion raised the same factual allegations that were contained in Daniel's previous 2014 petition to abate child support.

¹On January 23, 2014, the court modified the child support to \$1,026.22 per month.

²The court also addressed several cross-motions for contempt filed by both parties at this hearing.

³On March 6, 2015, Michele filed a contempt petition against Daniel for non-payment of child support and arrearages as ordered on February 6, 2015.

¶ 7 The court held a hearing on all pending pleadings on April 22, 2015. The court denied Daniel’s 2015 motion to reduce child support on the grounds that the factual issues were previously raised and addressed in Daniel’s 2014 petition to abate child support, which the court denied on its merits on February 6, 2015. In addition, the court instructed Daniel’s attorney to order the transcripts of the February 6, 2015, hearing, since those transcripts included the court’s specific findings and reasons why the court did not previously adjust or abate the amount of child support.⁴

¶ 8 On April 22, 2015, the court also addressed Michele’s pending petition for rule to show cause and held Daniel in indirect civil contempt of court based on Daniel’s failure to pay past-due child support from October 14, 2014, to the date of the hearing as ordered on February 6, 2015. The court sentenced Daniel to serve 180 days’ imprisonment in the Will County detention facility, but stayed the sentence until a scheduled status hearing on June 25, 2015.

¶ 9 On May 18, 2015, Michele filed a petition for rule to show cause against Daniel for non-payment of child support arrearages out of his 2014 tax refund as required by the order dated February 6, 2015. On May 22, 2015, Daniel filed this notice of appeal.

¶ 10 ANALYSIS

¶ 11 Daniel raises one issue on appeal. Daniel challenges the court’s decision denying his motion to reduce child support entered on April 22, 2015. Daniel did not timely appeal the court’s earlier order denying his request to abate child support, or file a timely postjudgment motion, concerning the order dated February 6, 2015. See Rule 303(a) (eff. Jan. 1, 2015); 750 ILCS 5/505(d) (West 2012); see also *In re Application of the County Treasurer*, 214 Ill. 2d 253, 261 (2005). Rather, after the passage of more than 30 days, Daniel filed a subsequent request to

⁴The transcript from the February 6, 2015, hearing detailing the court’s specific findings is not included as part of the appellate record.

reduce child support on the same grounds previously addressed and resolved by the court on February 6, 2015.

¶ 12 Specifically, Daniel's 2015 motion to reduce child support alleged his child support should be reduced because his income was impacted by the pending violation of an order of protection. On April 22, 2015, the trial court addressed Daniel's motion to reduce child support obligation by finding his 2015 motion was essentially a request to revisit the court's February 6, 2015, ruling concerning Daniel's 2014 request to abate child support.

¶ 13 The court denied the 2015 motion to reduce child support and stated the denial was based on the same grounds announced by the court when it previously denied the 2014 petition to abate child support. In addition, the court directed Daniel's counsel to order a transcript of the February 6, 2015, hearing for the court's specific findings and reasoning concerning the April 22, 2015, order.

¶ 14 It is well established that "an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Daniel has not provided this court with a transcript of the trial court's findings of record on February 6, 2015, and we are unable to address his contention of error concerning the April 22, 2015, ruling without this transcript. We conclude that the record on appeal is insufficient to address the court's findings and reasons for denying the 2015 request for a reduction of child support without the transcript from the February 6, 2015, hearing wherein the court stated its findings, which were adopted once again by the court on April 22, 2015.

¶ 15

CONCLUSION

¶ 16

For the foregoing reasons, we affirm the trial court's denial of Daniel's motion to reduce child support.

¶ 17

Affirmed.