2017 IL App (4th) 170432-U

NO. 4-17-0432

FILED
October 30, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re MARRIAGE OF KUK,	)	Appeal from
REBECCA J. KUK,	)	Circuit Court of
Petitioner-Appellee,	)	McLean County
and	)	No. 13D264
JOHN H. KUK,	)	
Respondent-Appellant.	)	Honorable
	)	Amy L. McFarland,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Presiding Justice Turner and Justice Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding respondent failed to show the trial court erred in its rulings in this dissolution proceeding.

¶ 2 In December 2015, the trial court entered a judgment for dissolution of marriage between petitioner, Rebecca J. Kuk, and respondent, John H. Kuk. In January 2017, the court entered an order requiring to John to pay child support and maintenance.

¶ 3 On appeal, John argues the trial court erred in (1) allocating the majority of parenting time and sole decision-making authority to Rebecca, (2) modifying child support, and (3) denying his petition to prevent Rebecca's relocation with their minor child. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In October 2002, Rebecca and John were married in Moline, Illinois. One child was born during the marriage—E.K., born in 2007. Rebecca filed a petition for legal separation

or, in the alternative, dissolution of marriage in May 2013. She also filed a petition for temporary relief, asking that John be required to pay temporary maintenance, contribute toward the expenses of the marital residence, and pay child support.

¶ 6 In June 2013, John filed an emergency motion for the immediate return of E.K. and equal parenting time. Therein, John alleged Rebecca left the marital residence with E.K. on May 17, 2013, and he was not permitted to see, or allowed access to, E.K. for approximately 18 days. John claimed Rebecca was terminally ill, was not supposed to drive long distances, and had occasional medical episodes threatening her consciousness. John argued Rebecca was not capable of facilitating a relationship between E.K. and him and it would be in E.K.'s best interest for him to have equal access to, and parenting time with, her. Following a hearing, the parties reached an agreement on various matters, including the marital residence and contact between E.K. and John.

¶ 7 The trial court entered a temporary order in December 2013, awarding Rebecca temporary sole custody of E.K. Along with temporary child support, the court also ordered John to pay temporary maintenance of $500 per month, commencing October 15, 2013. In December 2014, the court entered an order on child-related issues. The court awarded the sole care, custody, control, and education of E.K. to Rebecca. John was to receive parenting time every other weekend, every Wednesday, and every Monday evening until 6:30 p.m.

¶ 8 John filed a motion to reconsider, arguing the trial court erred in its December 2014 order awarding Rebecca sole custody of E.K. In May 2015, John filed a motion to modify, claiming a substantial change in circumstances had occurred when he was involuntarily terminated from his employment at State Farm Mutual Automobile Insurance Company. John asked the court to modify his various obligations, including child support and maintenance.

¶ 9 In September 2015, Rebecca filed a motion for modification of visitation. She noted John was fired from his job, and he refused to pay maintenance and child support. As she was unable to meet her financial needs and the needs of E.K., Rebecca stated she intended to move to Moline to be near her family and support network. She contended a revised visitation schedule for regular and holiday parenting time would be in E.K.'s best interest.

¶ 10 John filed a petition for a preliminary injunction in October 2015, asking the trial court to enjoin Rebecca's proposed removal of E.K. to Moline. He argued it was in E.K.'s best interest that the status quo and her continuity with her academics, extracurricular activities, and relationship with her father remain intact until a final adjudication.

¶ 11 In November 2015, the trial court entered an order on the remaining financial issues as well as John's petitions to modify child support and temporary maintenance due to the loss of his employment. The court ordered John to continue paying $500 per month in maintenance but reserved the future amount and duration until such time as John obtained permanent employment. As to John's child-support obligation, the court ordered the amount and any arrearage to be paid out of John's marital portion of a specified account.

¶ 12 In December 2015, the trial court entered the judgment of dissolution of marriage. The court also denied John's petition for a preliminary injunction. In denying the petition, the court stated Rebecca would be held responsible, if she chose to relocate to Moline, for transporting E.K. to and from Bloomington to facilitate John's parenting time.

¶ 13 Rebecca filed a motion to reconsider in January 2016, arguing the trial court erred in failing to find her $30,000 dissipation claim against John was proved and in determining a certain account was marital. Rebecca also filed a motion to set maintenance, claiming John had resumed working and maintenance should be based on his current or imputed income. In August

2016, John filed a petition for an order finding Rebecca abused his allocated parenting time, claiming he missed numerous visits with E.K. since the entry of the dissolution judgment.

¶ 14 In January 2017, the trial court entered an order granting Rebecca maintenance of $3,188 per month for a period of 6.4 years, retroactive to January 25, 2016, and set the amount of child support at $1,060.82 per month. The court stated the order was final for purposes of appeal and found no just cause for delay. Later that month, John filed a motion to reconsider, asking the court to modify the maintenance award.

¶ 15 The trial court entered a final order in May 2017. The court ordered John to receive $52,500 from the proceeds of the house sale, with the remainder and a separate account awarded to Rebecca. With the $52,500 offset, the court found all prior arrearages and orders were satisfied and each party was current as to child support and maintenance. The court noted all pending motions had been resolved. This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 A. Custody

¶ 18 In his *pro se* brief, John argues the trial court erred in allocating the majority of parenting time and sole decision-making authority to Rebecca. We find we lack jurisdiction to review this issue as the appeal is untimely.

¶ 19 "[A] permanent custody order is a final order, appealable without regard to the pendency of remaining issues in the dissolution proceeding." *In re Marriage of Harris*, 2015 IL App (2d) 140616, ¶ 16, 35 N.E.3d 1135; see also Ill. S. Ct. R. 304(b)(6) (eff. Feb. 26, 2010) (indicating custody judgments are immediately appealable without a special finding). According to Illinois Supreme Court Rule 303(a)(1) (eff. Jan 1, 2015), a party must file his notice of appeal either (1) within 30 days after the entry of a final judgment; or (2) if a timely postjudgment

motion directed against the judgment is filed, within 30 days after the order disposing of the postjudgment motion. Compliance with the deadlines for appeal under Rule 303 is jurisdictional, and this court is without jurisdiction to review an appeal that was not filed in a timely manner. *Tunca v. Painter*, 2012 IL App (1st) 093384, ¶ 23, 965 N.E.2d 1237.

¶ 20 In the case *sub judice*, the trial court entered its order as to custody and parenting time in December 2014. The court incorporated this order in the judgment of dissolution of marriage in December 2015. John filed a motion to reconsider, which the court denied in March 2016. John did not appeal this order within the applicable time frame. Thus, we have no jurisdiction to consider his argument.

¶ 21 B. Child Support and Maintenance

¶ 22 John argues the trial court erred in modifying child support based on Rebecca having the majority of parenting time with E.K. He also argues the court erred in ordering him to pay 6.4 years of maintenance starting January 25, 2016, without accounting for maintenance already awarded commencing on October 15, 2013.

¶ 23 Supreme court rules governing the contents of appellate briefs are not mere suggestions. *Niewold v. Fry*, 306 Ill. App. 3d 735, 737, 714 N.E.2d 1082, 1084 (1999). " 'The purpose of the rules is to require parties to proceedings before a reviewing court to present clear and orderly arguments so that the court may properly ascertain and dispose of the issues involved.' " *La Grange Memorial Hospital v. St. Paul Insurance Co.*, 317 Ill. App. 3d 863, 876, 740 N.E.2d 21, 32 (2000) (quoting *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095, 618 N.E.2d 771, 776 (1993)). A *pro se* litigant is not relieved of the duty to comply with supreme court rules. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8, 961 N.E.2d 475.

¶ 24 Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016) provides that an

appellant's brief shall contain "[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." "Bare contentions in the absence of argument or citation of authority do not merit consideration on appeal and are deemed waived." *Obert v. Saville*, 253 Ill. App. 3d 677, 682, 624 N.E.2d 928, 931 (1993); see also *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56, 4 N.E.3d 1 (stating the "[f]ailure to comply with the rule's requirements results in forfeiture"). Moreover, "an appellant forfeits points not raised in the initial brief and cannot argue them for the first time in the reply brief." *Sellers v. Rudert*, 395 Ill. App. 3d 1041, 1046, 918 N.E.2d 586, 591 (2009).

¶ 25 In this case, John offers only a single paragraph regarding his claim the trial court "made a mistake" in modifying child support and awarding maintenance and provides no case law in support of his argument. "[A] reviewing court is not simply a depository into which a party may dump the burden of argument and research." *E.R.H. Enterprises*, 2013 IL 115106, ¶ 56, 4 N.E.3d 1. We find John's brief fails to comply with Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016). Accordingly, this issue is forfeited.

¶ 26 C. Relocation

¶ 27 John argues the trial court erred in denying his petition to prevent Rebecca's relocation with E.K. Again, however, John has not provided an argument in compliance with Rule 341(h)(7), as he offers little more than conclusory statements that the court "did not fashion a reasonable allocation of parental responsibilities between the parents" and "did not consider minimization of the impairment to a parent-child relationship or factor the impact of the relocation of the child from the only home she knew since birth." See *Vancura v. Katris*, 238 Ill. 2d 352, 370, 939 N.E.2d 328, 340 (2010) (stating "[a]n issue that is merely listed or included in a

vague allegation of error is not 'argued' and will not satisfy the requirements of the rule"); *Wolfe v. Menard, Inc.*, 364 Ill. App. 3d 338, 348, 846 N.E.2d 605, 613 (2006) (stating "[a] conclusory assertion, without supporting analysis, is not enough" to avoid forfeiture). Thus, we find the issue forfeited and will not address it.

¶ 28 III. CONCLUSION

¶ 29 For the reasons stated, we affirm the trial court's judgment.

¶ 30 Affirmed.