

NOTICE
Decision filed 02/07/19. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2019 IL App (5th) 180152-U

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

NO. 5-18-0152

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the
)	Circuit Court of
RANDY ANSON,)	Williamson County.
)	
Petitioner-Appellant,)	
)	
and)	No. 11-D-403
)	
KRISTIE ANSON,)	Honorable
)	Brian D. Lewis,
Respondent-Appellee.)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Justices Chapman and Cates concurred in the judgment.

ORDER

¶ 1 *Held:* We find that the trial court did not abuse its discretion in entering an order setting child support and determining college expense arrearage and child support arrearage without holding a separate evidentiary hearing on these issues where the record indicated that these issues were pending throughout the case but had been reserved until the petitioner father submitted the necessary financial documents in support of his income calculations, and where he did not request a hearing or object to the respondent mother's calculations on these pending issues. Also, we modify the court's order to correct a miscalculation of the child support arrearage.

¶ 2 The petitioner, Randy Anson, appeals the order entered by the circuit court of Williamson County, which ordered him to pay \$1535 per month in child support to the

respondent, Kristie Anson, and \$750 per month toward their oldest daughter's college education expenses. The court also determined that Randy was in arrearage for child support in the amount of \$24,040.74. He argues that the hearing from which the order was entered was exclusively a hearing on sanctions with no evidence offered for the purpose of setting child support, determining arrearage, and setting college support payments. Thus, he requests that the order be reversed and the matter remanded for a hearing on those issues. For the following reasons, we affirm as modified.

¶ 3 Randy and Kristie were married on September 23, 1995, and a dissolution of the marriage was entered on May 11, 2012. They had four children, Briana Anson, born May 13, 1996; Taylor Anson, born February 11, 1999; Nicholas Anson, born August 30, 2000; and Zachary Anson, born November 5, 2003. They entered into a marital settlement agreement (MSA), which required Randy to pay monthly child support in the amount of \$788 and reserved the issue of college expenses.

¶ 4 On July 10, 2012, Kristie filed a petition for rule to show cause against Randy for his failure to pay the ordered child support and failure to pay his portion of the minor children's health insurance and medical bills. On July 16, 2012, Randy *pro se* filed a petition to decrease his child support obligation, arguing that there had been a substantial change in his circumstances in that his income had changed from \$1970 per month to \$265 per month. Thereafter, the trial court entered an order to show cause and set a

hearing date for August 22, 2012. On that date, the court made a docket entry that stated, "AGREED ORDER TO BE SUBMITTED. REVIEW 30 DAYS."¹

¶ 5 On August 31, 2012, an agreed modification of the judgment of dissolution of marriage was filed, which indicated that the parties had reached an agreement regarding payment of arrearage owed for child support and payment of the minor children's medical expenses and insurance. The agreed judgment indicated that Randy was currently \$2496.51 in arrears for child support and medical insurance premiums and \$366.80 in arrearage for the minor children's medical expenses. The judgment ordered Randy to pay \$350 for the medical expenses arrearage, \$788 in child support, \$44.17 for the minor children's insurance premiums, \$250 per month for the child support and medical insurance arrearages, and \$450 for Kristie's attorney fees.

¶ 6 On August 6, 2013, Randy filed a petition for change of custody, requesting that he be awarded custody of the minor children. On November 25, 2013, Randy filed a petition for modification of child support, arguing that there had been a substantial change in circumstances in that his employment and wages had significantly changed. On February 25, 2014, the trial court made a docket entry, which indicated that an *in camera* hearing was held at which the parties reached an agreement that Randy would have custody of Taylor after school concluded in the spring.² On March 6, 2014, Kristie filed a motion to modify the MSA and judgment of dissolution of marriage, requesting

¹There is no transcript of the August 22, 2012, hearing in the record on appeal.

²While the Illinois Marriage and Dissolution of Marriage Act changed the term "custody" to "allocation of parental responsibility" in January 2016, we will use the term "custody" here because this order was entered prior to the amendment.

that the court set a due date for Randy to pay his portion of the children's medical expenses and extracurricular activity expenses.

¶ 7 An April 2, 2014, docket entry indicated that the child support issue was to be briefed by the parties by May 16, 2014. Thereafter, a "support hearing" was scheduled for August 6, 2014.

¶ 8 On August 4, 2014, Kristie filed a motion to modify the judgment of dissolution of marriage, noting that the issue of payment of college expenses for Briana had been reserved, that she had been accepted into Southeastern University in Lakeland, Florida, and that, after deducting all the grants and scholarships, her expenses for the fall semester totaled \$7962.25. The motion requested that Randy be ordered to pay one-half of the college expenses, arguing that he had not been consistently paying child support since November 2013 and that Kristie could not afford the college expenses on her own. Also on August 4, Kristie filed a petition for rule to show cause against Randy for his failure to pay child support and his portion of the medical expenses, medical insurance, and the expenses associated with the minor children's extracurricular activities. The petition alleged that Randy currently owed \$3019.45 for child support, \$745.88 for his portion of the children's medical bills, \$680.01 for health insurance premiums, and \$237.50 for extracurricular activities. The petition also alleged that Randy had not yet provided Kristie's attorney with proof of his income. The trial court entered an order to show cause on August 5, 2014, and set the hearing for August 26, 2014.

¶ 9 On August 13, 2014, Kristie filed a motion to modify the judgment of dissolution of marriage, again requesting that Briana's college expenses be split equally between the

parties. On August 20, 2014, a notice to appear and produce was filed, which demanded that Kristie produce her paystubs and W-2 for the last year at the hearing scheduled for August 26. That hearing was thereafter rescheduled to September 23, 2014. A September 23 docket entry stated as follows: "Exhibits. RTSC & MOTION TO MODIFY ARGUED & TAKEN UNDER ADVISEMENT."³

¶ 10 On October 20, 2014, the trial court entered an order on the petition to modify child support and rule to show cause. With regard to Randy's not paying his portion of the minor children's medical expenses and extracurricular activities, the court, noting that Randy's practice "was to question and demand EOB's and explanations of extracurricular activities, rather than forward his half upon receipt of paid bills or notices," ordered Randy to pay his portion of these expenses within 14 days of receipt.

¶ 11 As for child support, the trial court noted that Randy had relocated and obtained different employment but that his current income remained a "mystery." The court noted that Randy testified that he "cleared \$10,000," but his tax return entered into evidence indicated that for 2013, he "cleared a little over \$20,000," and he and his wife received almost a \$3700 refund. The court further noted that Randy "apparently took it upon himself to adjust his child support downward for a period of time, and then stopped making payments at all, believing he had a credit. He may have a credit, he may owe money. There is insufficient evidence to determine what his income is." Thus, the court concluded that the previous child support order remained in effect until modified, as a party cannot unilaterally modify a child support obligation previously ordered by the

³There is no transcript of the September 23, 2014, hearing in the record on appeal.

court, and ordered Randy to submit all records of income to date for the purpose of determining his net income for child support purposes.

¶ 12 Thereafter, the trial court held a hearing on all pending motions and child support on February 11, 2015. A February 11 docket entry stated as follows:

"ATTYS TO BRIEF & SUBMIT EVIDENCE W/IN 14 DAYS-COURT TO RULE ON PENDING ISSUES; COLL. EXPENSES CURRENT C/S PAST C/S ATTY FEES RE; CONTEMPT ISSUE REVIEW 2-27-15. AGREEMENT RE; REFUND-PET SHALL NOT SPEND REFUND IF RECEIVES SAME, UNTIL FURTHER ORDER OF COURT."

¶ 13 On February 24, 2015, Randy submitted a letter to the trial court in which he argued that his child support obligation should be reduced to \$254.52 per month based on his current annual net income being \$10,908. Disagreeing with the amount of deductions taken by Kristie, he then argued that Kristie's income as reflected on her 2013 federal income tax returns was inaccurate and that her actual net income was \$40,284.96. Calculating child support based on the new net income, he argued that Kristie should be ordered to pay \$671.41 per month. He also argued that he should not be responsible for paying one-half of Briana's college expenses because she chose to attend a more expensive out-of-state college when a local college offered a similar program. He instead argued that he should be obligated to pay one-third of the cost of attendance to John A. Logan, a local community college, because the costs should be divided between him, Kristie, and Briana. In the alternative, he argued that he should only be responsible for one-sixth of the costs of the out-of-state college. Attached to the letter was Randy's February 5, 2015, financial affidavit, which indicated that his gross income was \$1440

monthly (\$910 net monthly income) and Kristie's 2013 federal income tax returns, which showed her adjusted gross income was \$49,128.

¶ 14 On February 27, 2015, Kristie filed her memorandum, arguing that the statutory guideline amount for child support decreased from 40% of Randy's income to 28% as Briana had turned 18, and Randy had been awarded custody of Taylor. Kristie noted that Randy's February 5, 2015, financial affidavit indicated that his total net income was \$2012 per month, which represented his net income of \$910 per month plus his wife's net income of \$1102 per month. Based on his current income as stated in his financial affidavit, his child support obligation should be \$563.36 per month. She argued that, based on her monthly net income of \$1123.36, her child support obligation was \$224.67 per month for one child. As the difference in the parties' obligation amounts equaled \$338.69 per month, Randy's child support obligation should be reduced to that amount. Kristie also argued that Randy was in arrearage for child support in the amount of \$2409.02 and requested that he be ordered to pay an additional \$100 per month for past due child support until the arrearage was paid in full. She also requested that Randy be ordered to provide her with all of his income documentation showing his actual net income as the only documents that he had provided were the February 5, 2015, financial affidavit and his 2013 federal tax returns. She further requested that Randy be ordered to pay one-half of Briana's college expenses and medical expenses, which totaled \$4172.33, and to pay \$1246.24, which represented the amount that he owed for the minor children's medical expenses, extracurricular activity fees, and health insurance premiums.

¶ 15 Thereafter, on March 6, 2015, the trial court entered an order by docket entry, which stated as follows:

"AFTER CONSIDERATION AND REVIEW, THE COURT FINDS THAT PETITIONER IS IN ARREARAGE FOR CHILD SUPPORT IN THE AMOUNT OF \$2,409.02. CURRENT OBLIGATION IS \$338.69 PER MONTH, EFFECTIVE FEBRUARY, 2015. HE SHALL PAY AN ADDITIONAL \$100.00 PER MONTH ON THE ARREARAGE UNTIL [SATISFIED], AND SHALL PAY TO RESPONDENT ONE HALF [OF] ANY REFUND RECEIVED FOR 2014 INCOME TAXES. REGARDING COLLEGE EXPENSES, PETITIONER SHALL PAY ONE HALF OF REASONABLE COLLEGE EXPENSES, AS PER STATUTE, W/TUITION AND FEES AT JOHN A. LOGAN AS THE EXPENSES FOR TUITION AND FEES. HE SHALL ALSO BE RESPONSIBLE FOR 1/2 THE ROOM, AND BOARD EXPENSES, EVEN IF THE CHILD WERE LIVING W/HER MOTHER, AND ATTENDING JOHN A. PETITIONER WOULD BE RESPONSIBLE FOR HER SHARE OF ROOM AND BOARD. I DO NOT FIND THAT THE CHILD'S AUTOMOBILE EXPENSES ARE NECESSARY COLLEGE EXPENSES AT THIS TIME, WERE SHE LIVING AT HOME, AND ATTENDING JOHN A., THAT WOULD BE A DIFFERENT MATTER. IN THIS TIME, THE PHONE IS A NECESSARY EXPENSE, AND PETITIONER SHALL BE RESPONSIBLE FOR 1/2 THE COST OF THE CHILD'S PHONE SERVICE. MEDICAL COSTS OF THE CHILDREN ARE COVERED IN THE MSA, EACH PARTY SHALL FORWARD A COPY OF OUT OF POCKET OR UNCOVERED EXPENSES TO THE OTHER PARTY W/IN 7 DAYS OF RECEIPT AND THE OTHER PARTY SHALL PAY OR REIMBURSE W/I 7 DAYS OF RECEIPT."

¶ 16 On April 7, 2015, Kristie again filed a petition for rule to show cause for Randy's failure to pay his portion of the minor children's medical expenses, extracurricular activities, and Briana's college expenses, noting that he owed her \$12,725.81, and his failure to pay her one-half of his income tax refund. Thereafter, on April 13, 2015, the trial court entered an order to show cause and set the hearing for June 10, 2015. The hearing was subsequently continued and was held on August 5. Following the hearing, on August 20, 2015, the court entered an order, finding that the "problematic issue with this case has always been [the] determination of [Randy's] income." The court noted that

Randy's income was still a "mystery," that he had only provided the court with his own computer-generated documents as evidence of his income, and that he had not provided a clear itemization of how he calculated that net income. The court further noted that Randy had changed his employment and was currently underemployed. The court stated, "If he worked for minimum wage, \$8.25 per hour, he would earn over \$17,000 per year. Basically what he claims for gross income for 2014. However, he would net a lot more than \$9,000." The court then set the matter for further hearing to determine sanctions on the rule to show cause and Randy's "total failure" to comply with the MSA and previous court orders. The August 27, 2015, docket entry stated as follows: "CASE SET FOR SANCTIONS-SEND NOTICE."

¶ 17 On October 7, 2015, the trial court entered a docket entry, which stated as follows: "PETITIONER HAS PAID A TOTAL OF \$5138.15, STILL HAS ARREARAGE AND EXTRACURRICULAR & ED. & MED EXPENSES. PETITIONER ORDERED TO COMPLETE 5 JOB APPLICATIONS PER WEEK, KEEP LOG & WILL RE-SET IN 60 DAYS W/NOTICE."

¶ 18 On October 30, 2015, Randy filed a petition to terminate all college expenses associated with Briana, arguing that his obligation to pay one-half of her college expenses should be terminated because Kristie has failed to keep him apprised of Briana's progress and status in school. Another docket entry dated December 11, 2015, stated as follows:

"PET. TO PAY OFF *** \$1500 ARREARAGE IN 30 DAYS. COLL EXPENSE ISSUE STILL BEING DISCUSSED W/VIS. & EXTRA-CURRICULAR EXPENSE. PENDING PETITIONS ARE W/DRAWN. PARTIES TO MEET IN JANUARY TO ATTEMPT SETTLEMENT. EITHER PARTY MAY RE-FILE IF NOT RESOLVED."

¶ 19 A March 30, 2016, docket entry stated as follows: "ATTY CAVANESS REPORTS ALL ISSUES EXCEPT ARREARAGE ARE NOT SETTLED-PENDING PETITIONS ARE [RE]INSTATED."

¶ 20 On December 1, 2016, the trial court held a hearing "primarily" on sanctions (this is the hearing at issue in this appeal). Before hearing testimony, the court noted that it met with counsel in chambers to determine what was still pending and what needed to be done at the hearing. The court also noted that, at one point, it was reported that everything had been settled and all pending petitions were withdrawn but then it "became unsettled" and all pending motions were reinstated. The court further noted that there were pending motions regarding college expenses and modifying visitation but "that primarily what we're doing today is a sanctions hearing which had been continued." The court noted that in October 2015, Randy had paid a total of \$5138.15, but he still had an arrearage in extracurricular, educational, and medical expenses.

¶ 21 The trial court then heard Randy's testimony; he was the only witness to testify at this hearing. Randy testified that he was 46 years old, lived in Delton, Michigan, and was a self-employed real estate appraiser. He testified that his 2015 business gross receipts were \$34,900 and his taxable income was \$17,913. His 2015 federal tax returns were entered into evidence, which indicated that his total household income was \$44,372. He estimated that his 2016 taxable income would be "almost double," approximately \$32,000 to \$34,000. He acknowledged that he owed Kristie for college contribution expenses and that he had attempted to obtain a loan to pay that debt but was denied. He then paid Kristie \$500 per month from October through December for the college

expenses. He testified that he was in arrearage in child support at the end of last year, but he was currently up to date on his child support payments. In November, he paid Kristie \$384 for Briana's medical expenses, \$79.85 for the minor children's recurring expenditures (cell phone and medications), \$881.48 for Briana's cell phone, and \$3749.39, which represented the amount he owed for the children's medical expenses. He testified that he was current on everything but Briana's college expenses and requested that he be ordered to pay \$500 per month until current.

¶ 22 On cross-examination, Randy testified that Kristie calculated that he owed \$27,077.40 for his portion of Briana's college expenses but that he believed he owed "significantly less" than that. He acknowledged that the October payment was the first payment that he made toward her college expenses. However, he disagreed with Kristie's calculation of his portion of the college expenses because he believed that the expenses should be calculated using the in-district tuition rates at John A. Logan College, not the out-of-district tuition rates, which Kristie used in her calculation. The trial court then questioned him about his business expenses listed on his 2015 tax return.

¶ 23 After testimony, Randy's counsel argued that Randy should be ordered to pay Kristie \$500 per month until current for his portion of Briana's college expenses. He also argued that Randy should be required to provide information on his 2016 income. Kristie's counsel requested that Randy be ordered to pay \$1000 per month plus interest for the college expenses. Counsel also requested that Randy be ordered to give Kristie his tax refund.

¶ 24 Thereafter, the trial court questioned the parties about the amount of child support that Randy was currently paying and Briana's college expenses. Kristie indicated that Briana was a junior in college, and the court noted that John A. Logan's tuition rates would no longer apply to her. Kristie agreed, noting that those tuition rates would not have applied in her sophomore year either because Briana had completed all of her general education requirement credits in her freshman year. She also noted that the tuition rates at Briana's college were comparable to Southern Illinois University.

¶ 25 After questioning the parties, the trial court then stated as follows:

"[W]hat I have always been missing in this case, and at this juncture is one of the reasons I don't think at this point in time I could put [Randy] in jail, I have his income from last year. I have a statement as to what his income is this year. But other than the claimed business expenses, I have nothing. I don't have any bank account records. I don't know what he's got in the bank. I don't know how it fluctuates. I don't know what's put in each month. I don't know what his living expenses are, and I don't think *** I can actually send someone to jail unless I can show they had a financial wherewithal to do what they were obligated to do and did not. So if you could provide those to me over the last—give me copies of bank statements, maybe *** a financial affidavit as to personal expenses."

¶ 26 Counsel then indicated that he would have Randy fill out a financial affidavit with his listed assets, expenses, income, and debts. The trial court then ordered Randy to fill out the financial affidavit and provide 12 months of his bank records and indicated that then "we need to come back to hear it." The court then stated that it would reserve judgment on the sanctions until it received the requested information from Randy.

¶ 27 A docket entry dated December 1, 2016, stated the following:

"AFTER CONFERENCE W/COUNSEL, HEARING ON SANCTIONS IS CONDUCTED. PETITIONER SWORN AND TESTIFIES PET EX 2 ADMITTED-3 & 4 ADMITTED-RESP 1 ADMITTED PET TO PROVIDE 1/5 TAX RETURN & PROOF OF INCOME FOR 1/6 BY 1-15-17; TO FILE 1/6

TAX RETURN BY 3-15-17; CONT TO BE PROVIDED RECORD OF CHILD SUPP PD-TAKEN UNDER ADVISEMENT."

¶ 28 On December 27, 2016, Randy filed an updated financial affidavit, which indicated that his total gross monthly income was \$8200, and his net monthly income was \$3919.31 (his monthly deductions totaled \$4280.69). Attached to the financial affidavit was his 2015 federal joint income tax return, which indicated that his and his wife's (Rena's) total gross income was \$44,372 (their adjusted gross income was \$42,919). He also attached some of his business account statements from January 2016 through November 2016, a self-prepared 2016 business checking deposit statement, which indicated a total deposit amount of \$90,968; a self-prepared 2015 estimated profit and loss business statement for his appraisal company, which indicated that his total income was \$95,000, his expenses totaled \$48,522.42, and his net income minus self-employment tax totaled \$39,993.96; and a self-prepared itemization of his household and business expenses totaling \$35,594.38.

¶ 29 On March 27, 2017, Kristie filed a petition for contribution toward post high school education for Taylor, requesting that the trial court allocate Taylor's post high school education expenses between the parties.

¶ 30 On March 30, 2017, Kristie filed a memorandum, arguing that, based on Randy's December 2016 financial affidavit, his child support obligation should be increased to \$1535 and should continue in that amount until May 31, 2017, when Taylor (the child whom he received child support for) graduated from high school. At that time, his child support should increase to \$1941 because he would no longer receive child support from

Kristie. In calculating child support, she questioned some of Randy's business expenses as being reasonable and necessary, arguing that the "unexplained" deductions listed on his financial affidavit were not deductible from his income for the purpose of calculating child support, regardless of whether they were proper deductions for tax purposes. Thus, she calculated Randy's net income as being \$83,203 annually and based her child support calculations on this net income. She calculated her child support obligation as being \$406 per month based on her net income of \$24,366.

¶ 31 With regard to the child support arrearage, Kristie argued that because Randy underestimated his income for 2016, he was in arrears in child support in the amount of \$24,040.74, which represented \$19,232.59 for 2016 plus \$4808.15 for January through March 2017, because he had only been paying \$338.69 per month since January 1, 2016. She calculated the arrearage by subtracting the amount he had been paying (\$338.69) from the amount that he should have been paying based on his 2016 income (\$1941).

¶ 32 Kristie also argued that Randy's portion of Briana's college expenses should be at least \$750 per month because of the increased cost of college and the fact that he was in arrearage for his portion of those expenses. Kristie asked the trial court to find that Randy was currently in arrearage for child support in the amount of \$24,040.74, order him to pay \$500 per month until current, order him to turn over any tax refund monies that he received, order him to pay child support in the amount of \$1535 until May 31, 2017, and then increase it to \$1941 thereafter. Attached to the memorandum was Kristie's 2016 W-2, which indicated that her gross annual income was \$34,938. Also attached to the memorandum was an itemized household and business expense list

created by Kristie from Randy's financial affidavit, which provided a breakdown of Randy's business expenses and made conclusions as to which expenses were necessary for the production of income; a breakdown of Briana's college expenses created by Kristie, which indicated the tuition rate owed; and a printout of Briana's college expenses from Southeastern University.

¶ 33 On March 31, 2017, Randy filed a position statement, arguing that he was current on child support, that he had paid over \$3747.39 in medical expenses, and that he had paid all of the money due for his portion of Briana's phone bill. He requested that he be ordered to pay \$500 per month toward his portion of Briana's college expenses, noting that his net income minus child support was \$3920 per month and that he had \$14,850 in out-of-pocket medical expenses. Randy did not respond to Kristie's arguments concerning her calculation of his child support obligation based on his December 2016 financial affidavit and the child support arrearage, nor did he object to any of the attachments to Kristie's memorandum.

¶ 34 On April 25, 2017, the trial court entered the following order by docket entry. The court, after reviewing all exhibits, position papers, memorandum in support, and the testimony, found that Randy had "grossly underestimated" his income when testifying and adopted Kristie's position stated in her memorandum. The court ordered him to pay \$750 per month for Briana's college education expenses and \$1535 per month for child support, noting that any modification in June 2017 shall only be entered after evidence is heard at the next hearing. The court also found that Randy was \$24,040.74 in arrears in child support and ordered him to pay Kristie \$500 per month toward the arrearage until

satisfied. The court also ordered him to pay Kristie's reasonable attorney fees and costs totaling \$1250.

¶ 35 On August 2, 2017, the trial court entered a written order, which reiterated its decision set forth in the April 25, 2017, docket entry.

¶ 36 On August 29, 2017, Randy filed a motion to reconsider, arguing that the trial court's order should be vacated because the court based its decision on evidence that was not offered at the December 1 sanctions hearing. Randy argued that the court adopted Kristie's calculations in determining his net income, setting child support, and determining his portion of the college expenses without holding an evidentiary hearing, thus denying him an opportunity to present evidence supporting his own income calculations and denying him an opportunity to cross-examine Kristie about her figures. Randy identified the following issues with Kristie's memorandum: that it offered attachments, which incorrectly calculated his portion of the college expenses because it was based on John A. Logan's out-of-district tuition rates (instead of in-district tuition rates) and did not account for any grants; made new arguments challenging his business income deductions as not being reasonable and necessary; and calculated an increased amount of child support based solely on his December 2016 financial affidavit and her own calculation of his net income. Thus, Randy requested that the court vacate its previous order and give him a full and meaningful hearing where he could present evidence in support of his net income calculation and his calculation for his portion of the college expenses. Thereafter, the trial court denied Randy's motion to reconsider by docket entry. Randy appeals.

¶ 37 In general, issues of child support and the determination of child support arrearages are reviewed for an abuse of discretion. *In re Marriage of Schomburg*, 2016 IL App (3d) 160420, ¶ 19. The trial court's decision to award educational expenses is also reviewed for an abuse of discretion. *People ex rel. Sussen v. Keller*, 382 Ill. App. 3d 872, 877 (2008). Further, issues concerning the admission of evidence will not be reversed absent an abuse of discretion. *Clayton v. County of Cook*, 346 Ill. App. 3d 367, 377 (2003). An abuse of discretion occurs where no reasonable person would take the view adopted by the trial court. *In re Marriage of Brooks*, 138 Ill. App. 3d 252, 263 (1985).

¶ 38 Randy argues that the trial court erred by modifying child support, setting his college contribution amount, and calculating child support arrearage solely based on Kristie's March 30, 2017, memorandum and attached exhibits and his December 27, 2016, financial affidavit because it deprived him of the opportunity to have a fair and meaningful hearing on these issues. Although he acknowledges that these issues were pending at the time of the December 1, 2016, sanctions hearing, he argues that the purpose of that hearing was to determine the appropriate amount of sanctions, not modify child support and determine child support and college expense arrearages. Thus, he argues that the court should have limited its order to an appropriate sanction amount, as the evidence offered at the sanctions hearing could not support a finding on child support, educational expenses, and arrearages. He clarifies that he is not asking this court to determine the appropriate child support and arrearage amounts but is instead requesting

that we reverse and remand the matter for an additional hearing where he can have a fair and meaningful opportunity to defend against Kristie's calculations.

¶ 39 In support of his argument that he was entitled to a hearing on these issues, Randy cites *Regan v. Regan*, 38 Ill. App. 2d 383, 384 (1962), for the proposition that a party is entitled to a meaningful hearing, which includes the right to have witnesses appear and be cross-examined, before the court grants the opposing party's requested relief, and *People v. Barham*, 337 Ill. App. 3d 1121, 1129 (2003), for the proposition that the concept of fair play requires that all parties be given a fair opportunity to confront and to rebut any evidence that can be damaging to their position.

¶ 40 In *Regan*, the father pled an inability to make his court-ordered child support payments after the mother filed a petition for rule to show cause as to why he should not be held in contempt for his failure to comply with the support order. *Regan*, 38 Ill. App. 2d at 384. He also filed a cross-petition for reduction in the weekly support payments. *Id.* The trial court found him in arrears in the amount of \$1920 and, thereafter, held a hearing on his petition for a reduction in support payments. *Id.* At the hearing, the court, observing that the father had hired a court reporter, denied his petition to reduce on the theory that if he could afford to hire a court reporter, he could afford to make the weekly support payments. *Id.* There was no testimony as to the mother's finances and almost none as to the father's financial condition. *Id.* The appellate court reversed the trial court's order, finding that the father was entitled to a full hearing, which included the right to have witnesses appear and be cross-examined. *Id.* The court further concluded that courts must provide a hearing when it is requested. *Id.*

¶ 41 The present case is distinguishable from *Regan* in that, throughout the duration of the case, Randy had ample opportunity to be heard concerning the determinations of child support, child support arrearage, and his portion of Briana's college expenses. A review of the record evidences several hearings where Randy had an opportunity to have witnesses appear and be cross-examined and for him to present evidence on child support and arrearage calculations. At these hearings, the trial court made repeated attempts to determine Randy's net income for the purpose of setting child support and determining the total amount of arrearages. The court twice stated that Randy's income was a "mystery" because he had only provided his own computer-generated documents in support of his net income calculation. In October 2014, the court, noting that there was insufficient evidence to determine his net income, ordered that the previous child support order remain in effect until Randy's income could be ascertained. The court also ordered Randy to submit all records of income for the purpose of determining his net income for the child support amount determination. In August 2015, the court noted that Randy was currently underemployed and that there was no clear itemization for how he calculated his net income. More than 13 months later, on the day of the sanctions hearing, the court, again frustrated with Randy's refusal to provide the supporting financial documents, ordered him to fill out a financial affidavit and to provide 12 months of his business bank statements as he still had an arrearage for his portion of the extracurricular activities, educational, and medical expenses. The court did not rule on the issue of sanctions at this time because it could not determine Randy's actual net income.

¶ 42 As all of the trial court's previous orders were based on financial documents created by Randy, the court's first opportunity to make child support and arrearage determinations based on his actual current income was after he submitted his updated financial affidavit and 2016 business account statements in December 2017. After receiving these financial documents, the court determined that Randy had underpaid child support in 2016 and for three months in 2017, which created an arrearage. The court also determined that he was still in arrears for his portion of the college expenses. Thus, the issues of child support, child support arrearage, Randy's portion of the college educational expenses, extracurricular activities arrearage, and sanctions were all unresolved at the time that the court entered its August 2016 order. The court, after reviewing Kristie's memorandum and exhibits, which included Randy's financial affidavit, and Randy's response, found that Randy had been "grossly underestimating" his income. It then determined child support and the arrearages amounts based on his financial documents and Kristie's calculations. There is nothing preventing the court from addressing all of these pending issues at one time; Randy has cited no case law suggesting that the court has to parse out these issues.

¶ 43 Accordingly, after carefully reviewing the entire record, we cannot say that the court abused its discretion in modifying Randy's child support obligation and in determining the child support and educational expenses arrearage amounts without holding a separate hearing on these issues. Although we acknowledge that the record reflects that the December 1 hearing was primarily a sanctions hearing, the sanctions issue concerned Randy's failure to pay his court-ordered obligations; therefore, he had an

opportunity to testify at this hearing about any of these pending issues. In addition, as we previously noted, it is apparent from the record that these issues had been reserved until Randy finally complied with the court's orders to provide supporting financial documentation for his net income calculation.

¶ 44 Moreover, in his response to Kristie's memorandum, Randy did not object to Kristie's child support calculations and also did not object to any of the documents that she relied on in preparing her calculations. We also note that at no time after the memorandum and response were filed did he request a hearing on these pending issues. Accordingly, we find that the trial court did not abuse its discretion when it determined child support and the arrearage amounts without holding a separate hearing on these issues.

¶ 45 However, even though we find that the trial court did not abuse its discretion in resolving all pending issues in its August 2017 order, we do find that the court's calculation of the child support arrearage amount is in error. The court, adopting Kristie's calculation of the arrearage, determined that the child support arrearage totaled \$24,040.74. This amount was calculated by subtracting the amount that Randy had been paying each month (\$338.69), which accounts for the offset of Kristie's child support, from the amount of child support that he should have been paying (\$1941 per month), which does not account for the offset of Kristie's child support. Thus, this calculation does not take into account Kristie's child support obligation of \$406 per month. The total arrearage amount should instead be calculated by subtracting \$338.69 from \$1535 (his child support obligation of \$1941 less Kristie's child support obligation of \$406).

Therefore, the 2016 child support arrearage amount should be \$1196.31 monthly (\$14,355.72 for the year), and the child support arrearage for January through March 2017 should be \$3588.93. In total, the child support arrearage amount is \$17,944.65, not \$24,040.74. Accordingly, pursuant to Illinois Supreme Court Rule 366(a)(3) (eff. Feb. 1, 1994), we modify the trial court's August 2, 2017, order to reflect a total child support arrearage of \$17,944.65.

¶ 46 For the foregoing reasons the judgment of the circuit court of Williamson County is hereby affirmed as modified.

¶ 47 Affirmed as modified.