

No. 1-19-1480

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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BARBARA ANDERSEN f/k/a Barbara Gimbel,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellant,	)	Cook County
	)	
v.	)	No. 09 D 1514
	)	
RICK GIMBEL,	)	The Honorable
	)	Matthew Link,
Respondent-Appellee.	)	Judge Presiding.

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JUSTICE PIERCE delivered the judgment of the court.  
Presiding Justice Griffin and Justice Hyman concurred in the judgment.

**ORDER**

¶ 1 *Held:* We lack jurisdiction to consider the portion of petitioner’s appeal from the circuit court’s contempt order where no sanction was imposed, and her appeal from another contempt order is moot where she purged herself of contempt. Petitioner forfeited her argument that the circuit court should have granted her motion for substitution of judge for cause. The judgment of the circuit court holding petitioner in indirect civil contempt for failing to reimburse respondent, as required by a previous court order, is affirmed.

¶ 2 Petitioner, Barbara Andersen, an attorney representing herself, appeals from three orders of the circuit court finding her in contempt, as well as from an order denying her motion for substitution of judge for cause. For the following reasons, we affirm in part and dismiss in part.

¶ 3

## I. BACKGROUND

¶ 4 In *Andersen v. Gimbel*, 2019 IL App (1st) 190159-U (*Andersen I*), Barbara appealed numerous portions of the circuit court's judgment following a bench trial in these postdissolution of marriage proceedings. In relevant part, the circuit court ordered Barbara to transfer Bright Start 529 education savings accounts (Bright Start accounts) to respondent Rick Gimbel, and to reimburse Rick \$1500 for fees he paid for the trial testimony of Phyllis Amabile, M.D., the court-appointed child evaluator. *Id.* ¶ 21. We affirmed the circuit court's judgment in all respects after finding that Barbara forfeited all her appellate arguments. *Id.* ¶ 35.

¶ 5 While *Andersen I* was pending in this court, Rick filed simultaneous separate petitions for rules to show cause as to why Barbara should not be held in contempt for failing to reimburse him for Dr. Amabile's fees and for failing to transfer the Bright Start accounts to him. Barbara responded to the petitions. On July 22, 2019, the circuit court held a hearing and, with respect to Dr. Amabile's fees, held Barbara in indirect civil contempt and ordered her to pay \$1500 to Rick to purge the contempt. The circuit court also held Barbara in direct criminal contempt with respect to the Bright Start accounts after she testified during the hearing that she would not transfer the accounts to Rick. The circuit court subsequently entered an order *sua sponte* on July 31, 2019, clarifying that Barbara was held in direct civil contempt relative to the Bright Start accounts. The circuit court did not enter a sanction on the Bright Start contempt finding but instead ordered Barbara to bring monthly statements for the accounts to court on August 1, 2019. Barbara filed the original notice of appeal in this case on July 22, 2019, from the contempt judgment.

¶ 6 On July 30, 2019, Barbara filed a motion for substitution of judge for cause against Judge Matthew Link. Barbara advanced a litany of complaints against Judge Link and other court staff. She asserted that (1) the circuit court staff was rude to her; (2) Judge Link denied her request to

transfer the case “to the post-judgment courtrooms;” (3) Judge Link allowed Rick’s contempt petition to proceed despite Barbara’s objections; (4) Judge Link allowed Rick’s counsel to prepare the July 22, 2019, order without allowing Barbara to edit it; (5) Judge Link refused to take the bench when Andersen disputed aspects of the July 22, 2019, draft order; and (6) Barbara was harassed, intimidated, and yelled at by sheriff’s deputies in the courtroom. Barbara’s motion for substitution was heard by Judge Gregory E. Ahern, Jr., and denied on August 1, 2019. The record does not contain any transcript of the proceedings that took place before Judge Ahern.

¶ 7 On August 1, 2019, the circuit court entered an order staying the contempt proceedings due to the pendency of *Andersen I*. Consequently, the circuit court did not enter any sanction on its finding of direct civil contempt for failing to transfer the Bright Start accounts. On August 5, 2019, Barbara filed an amended notice of appeal, identifying the date of judgment as “July 22, 2019 (order of contempt against Andersen), July 31, 2019 and August 1, 2019 (further orders relative to contempt).” The only relief she identified in her notice of appeal was “Revers[al] of the trial court’s entry of contempt findings against [Barbara].”<sup>1</sup>

¶ 8 On September 9, 2019, Rick filed a second petition for rule to show cause regarding the Bright Start accounts, alleging that Barbara had failed to provide any information regarding those accounts to Rick. Barbara filed a written response. On November 4, 2019, the circuit court found Barbara in indirect civil contempt, committed Barbara to the Cook County jail—which was stayed until December 3, 2019—and provided that Barbara could purge the contempt by producing written evidence about the Bright Start accounts at a hearing on December 3, 2019. We allowed Barbara leave to amend her notice of appeal to include the November 4, 2019, finding of contempt and the imposition of a sanction.

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<sup>1</sup>On Barbara’s motion, the current appeal was consolidated with the appeal in *Andersen I*, but we subsequently entered an order severing the two appeals.

¶ 9 Barbara did not appear in court on December 3, 2019, and the circuit court continued the matter, ordering that if Barbara did not appear at the next hearing, a body attachment might issue. On December 9, 2019, we denied Barbara’s motion to further amend her notice of appeal to include the circuit court’s December 3, 2019, order. Barbara filed a new notice of appeal, docketed in this court as No. 1-19-2497, from the December 3, 2019, order.

¶ 10 On December 17, 2019, the circuit court entered an order reflecting that Barbara testified in open court that the Bright Start accounts had zero balances and finding that Barbara’s testimony purged her of the contempt finding entered on November 4, 2019. Barbara voluntarily dismissed appeal No. 1-19-2497. The only orders that are before us in this appeal are the circuit court’s orders dated July 22, 2019, July 31, 2019, August 1, 2019, and November 4, 2019.

¶ 11 **II. ANALYSIS**

¶ 12 On appeal, Barbara identifies three issues for our review: whether the circuit court erred by (1) finding her in contempt for failing to reimburse Rick for Dr. Amabile’s fees; (2) finding her in contempt relative to the Bright Start accounts; and (3) denying her motion for substitution of judge for cause.

¶ 13 At the outset, we find that we lack jurisdiction over Barbara’s challenge to the portion of the circuit court’s July 22, 2019, order finding her in contempt for failing to transfer the Bright Start accounts to Rick. The circuit court found Barbara in contempt but did not impose any sanction. Instead, on August 1, 2019, the circuit court stayed the contempt proceedings due to the pendency of *Andersen I*. “[A] contempt order is not final or appealable until the party in contempt has been sanctioned or committed.” *In re Marriage of Sanchez & Sanchez-Ortega*, 2018 IL App (1st) 171075, ¶ 24 (citing *In re Marriage of Dianovsky*, 2013 IL App (1st) 121223, ¶ 33). There are two reasons we lack jurisdiction to consider the contempt findings related to the Bright Start

accounts. First, there was no final judgment relative to the July 22 contempt finding regarding the Bright Start accounts. A “final judgment” for the purposes of appeal is one that fixes absolutely and finally the rights of the parties in a lawsuit, and determines the litigation on the merits so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment. *In re Marriage of Verdung*, 126 Ill. 2d 542, 553 (1989). Second, Illinois Supreme Court Rule 304(b)(5) (eff. Mar. 8, 2016) allows an immediate appeal in contempt proceedings without any special finding where the circuit court has imposed “a monetary or other penalty.” Here, the circuit court never imposed a sanction on Barbara regarding the July 22, 2019, contempt finding relative to the Bright Start accounts, and we therefore have no jurisdiction to consider that contempt finding.

¶ 14 We next find that any challenge to the November 4, 2019, contempt finding relative to the Bright Start accounts is moot because Barbara purged herself of contempt by testifying that the accounts were empty. We lack jurisdiction where there is no longer any real controversy. *In re Marriage of Benjamin*, 2017 IL App (1st) 161862, ¶ 28 (citing *In re Estate of Wellman*, 174 Ill. 2d 335, 353 (1996)). Barbara’s testimony fully purged the November 4, 2019, contempt finding, rendering the issue moot. *Id.*

¶ 15 We therefore find that we have no jurisdiction to consider any of Barbara’s challenges to the circuit court’s contempt orders of July 22, 2019, and November 4, 2019, relative to the Bright Start accounts.

¶ 16 We next turn to Barbara’s argument that the circuit court erred by denying her motion for substitution of Judge Link for cause. Rick has filed a motion to strike the portion of Barbara’s appellate brief regarding the denial of her motion for substitution of judge. He argues that Barbara’s notice of appeal was strictly confined to the circuit court’s contempt orders because Barbara’s amended notice of appeal states in relevant part “Date of Judgment[:] July 22, 2019

(order of contempt against Andersen), July 31, 2019 and August 1, 2019 (further orders relative to contempt).” In other words, Rick contends that by specifically identifying the circuit court’s contempt order, Barbara forfeited her ability to challenge the circuit court’s order denying her motion for substitution of judge. We ordered that Rick’s motion to strike be taken with the case and we now deny his motion.

¶ 17 To the extent that Rick is asserting that we lack jurisdiction to consider the August 1 order denying Barbara’s motion for substitution of judge because Barbara’s notice of appeal did not specifically identify that ruling, we disagree. Our supreme court has explained

“[W]hile a notice of appeal is jurisdictional, it is generally accepted that such a notice is to be construed liberally. [Citations.] The purpose of a notice of appeal is to inform the prevailing party in the trial court that the other party seeks review of the judgment. [Citations.] ‘Accordingly, notice should be considered as a whole and will be deemed sufficient to confer jurisdiction on an appellate court when it fairly and adequately sets out the judgment complained of and the relief sought, thus advising the successful litigant of the nature of the appeal.’ [Citation.]” *People v. Smith*, 228 Ill. 2d 95, 104-05 (2008).

Where a notice of appeal specifically identifies certain portions of the judgment to be appealed, we lack jurisdiction to consider other, unspecified aspects of the judgment. *Atkinson v. Atkinson*, 87 Ill. 2d 174, 177-78 (1981).

¶ 18 Here, Barbara’s notice of appeal identifies the August 1 order only in the context of the circuit court’s contempt rulings, and the only relief she identified was reversal of the circuit court’s contempt orders. Her notice of appeal does not make any mention of the denial of her motion for substitution of judge. While this would ordinarily be fatal to our jurisdiction, we note that the only

other order entered in the contempt proceedings on August 1 granted Barbara's motion for a stay of those proceedings. Therefore, the only August 1 order that Barbara could appeal was the order denying her motion for substitution of judge. Liberally construing Barbara's notice of appeal and viewing it in the context of the record, we find that we have jurisdiction to consider the August 1 order denying Barbara's motion for substitution of judge for cause.

¶ 19 While we have jurisdiction to consider the August 1 order, we find that Barbara has forfeited her argument by failing to cite to the record on appeal or to any authority to support her contention, in violation of Illinois Supreme Court Rule 341(h)(6), (7) (eff. May 25, 2018), that Judge Ahern abused his discretion by denying her motion for substitution of judge. Furthermore, Barbara has not provided a transcript of the proceedings that took place on her motion for substitution of judge. As the appellant, it was Barbara's burden to supply this court with a sufficiently complete record to support her claim of error. *Wells Fargo Bank, N.A. v. Hansen*, 2016 IL App (1st) 143720, ¶ 15 (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)). Absent a transcript or a bystander's report, we cannot discern what evidence the circuit court heard or considered in reaching its judgment. "Without this information, we must presume that the trial court did not act arbitrarily but within the bounds of reason, keeping in mind relevant legal principles." *Id.* (citing *Foutch*, 99 Ill. 2d at 391-92). Barbara has not provided us with a sufficiently complete record to support her contentions of error, nor has she adequately briefed this issue. We have no basis from which to conclude that the circuit court committed any reversible error by denying her motion for substitution of judge for cause.

¶ 20 Finally, we consider Barbara's argument that the circuit court erred by holding her in indirect civil contempt for her failure to reimburse Rick for Dr. Amabile's fees. She contends in relevant part that Rick's petition did not cite any relevant legal authority and made no assertion

that she was able to pay. She argues that the circuit court erred by requiring her “disprove contempt without any showing by [Rick]<sup>[2]</sup> as to why [he] was seeking such an extreme remedy in the first place.” She makes the ironic assertion that Rick is, on appeal, “barred from offering legal precedent to support [his] contempt petition pursuant to [Illinois Supreme Court] Rule 341(h)(7).”

¶ 21 “[W]hether a party is guilty of contempt is a question of fact for the trial court,” and we “will not disturb the finding unless it against the manifest weight of the evidence or the record reflects an abuse of discretion.” *In re Marriage of Logston*, 103 Ill. 2d 266, 286-87 (1984).

¶ 22 Barbara’s appellate brief does not cite to the record in support of any of her arguments and she does not cite to any relevant legal authority to support her claims of error, in violation of Rule 341(h), once again resulting in forfeiture of her arguments. Regardless, the record reflects that the circuit court heard testimony from Barbara on whether she had paid the required \$1500 to Rick and whether she had the means to do so. She testified that she had no income because she was in the process of recovering fees on her litigation cases, and that she had been borrowing money to pay condominium assessments and real estate taxes. She testified that she borrowed over \$100,000 in 2017, and that she had not attempted to secure employment other than working as a solo practitioner. She testified that she sold her house in late 2018, which, after paying off the mortgages, netted her about \$70,000. She also testified that she had recently spent around \$400 on a trip to New Mexico. After hearing Barbara’s testimony, the circuit court concluded that Barbara had not demonstrated an inability to reimburse Rick the \$1500 as ordered.

¶ 23 On appeal, Barbara asserts that she lacks the financial resources to comply with the reimbursement order, but in doing so, merely reargues facts that were considered by the circuit

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<sup>2</sup>Throughout her appellate brief, Barbara repeatedly refers to Rick’s counsel by name, which is unnecessary. Rick’s counsel is not a party to this litigation, and we therefore refrain from adopting Barbara’s convention of naming Rick’s counsel when discussing this litigation.

court in reaching its judgment. She does not develop or advance any cogent argument showing that the circuit court's judgment is against the manifest weight of the evidence. We have not been presented with any basis to disturb the circuit court's contempt finding, and we affirm the circuit court's judgment.

¶ 24

### III. CONCLUSION

¶ 25 For the foregoing reasons, we lack jurisdiction to review the circuit court's July 22, 2019, and November 4, 2019, contempt findings regarding the Bright Start accounts, and we affirm the circuit court's judgments denying Barbara's motion for substitution of judge for cause and finding Barbara in indirect civil contempt for failing to reimburse Dr. Amabile's fees to Rick, as ordered by the circuit court.

¶ 26 Affirmed in part and dismissed in part.