THIRD DIVISION
Order filed February 16, 2011
Modified on Denial of Rehearing March 23, 2011

No. 1-10-1289

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re MARRIAGE OF REBECCA REYES, Petitioner-Appellee and Cross-Appellant, and JOSEPH REYES, Respondent-Appellant and Cross-Appellee.	))))))))))	APPEAL FROM THE CIRCUIT COURT OF COOK COUNTY Nos. 08 D 4072 08 D 4080 HONORABLE RENEE G. GOLDFARB, JUDGE PRESIDING.

JUSTICE STEELE delivered the judgment of the court.

Presiding Justice Quinn and Justice Murphy concurred in the judgment.

O R D E R

HELD: Where both parties failed to present an adequate record for appellate review, the judgment of the circuit court is affirmed.

Respondent Joseph Reyes appeals aspects of the circuit court of Cook County's judgment for the dissolution of his marriage to petitioner Rebecca Reyes. Joseph claims: (1) the circuit court judges hearing his case were prejudiced against him; (2) the circuit court abused its

discretion by excluding evidence to impeach Rebecca's credibility; (3) the circuit court's grant of custody of the parties' daughter, E.R., to Rebecca was not in E.R.'s best interests; (4) the circuit court's division of property was against the manifest weight of the evidence; and (5) the circuit court erred by refusing to let Joseph contest the grounds of the divorce. Rebecca cross-appeals, arguing that the circuit court erred in ruling that Joseph could take the parties' daughter to church services during his visitation. We conclude that both Joseph and Rebecca failed to present an adequate record for appellate review and affirm the judgment of the circuit court.

BACKGROUND

The record on appeal discloses the following facts. On April 25, 2008, Rebecca and Joseph each filed petitions for dissolution of marriage. Rebecca's petition alleged irreconcilable differences and extreme and repeated mental cruelty. Joseph's petition alleged extreme and repeated mental cruelty, adultery and irreconcilable differences.

The petitions were consolidated in the circuit court. The parties contested child custody and visitation regarding their daughter, E.R. (born in 2006), in pretrial proceedings. On August 31, 2009, following a conference on the matter, the circuit court granted temporary sole custody of E.R. to Rebecca.

On December 4, 2009, Rebecca filed a petition for a restraining order and preliminary injunction. Rebecca alleged that Joseph had E.R. baptized, despite the couple having married in the Jewish faith and having agreed to raise E.R. as Jewish. Rebecca sought to have the circuit court bar Joseph from taking E.R. to church or other actions inconsistent with E.R.'s Jewish upbringing.

On December 11, 2009, the circuit court granted Rebecca's petition for a restraining order and preliminary injunction. Joseph filed an interlocutory appeal to this court, seeking a temporary restraining order. On December 22, 2009, this court denied Joseph's request for a temporary retraining order. Joseph then appealed the matter to the Illinois Supreme Court, which denied leave to appeal on February 26, 2010. However, a final judgment on the issue of whether Joseph could take E.R. to church remained for trial.

On January 12, 2010, following a pretrial conference stipulation and a bench trial, the circuit court entered an order: (1) granting sole custody of E.R. to Rebecca; (2) finding that irreconcilable differences were proven; and (3) leaving the petition for dissolution pending further proceedings.

On January 21, 2010, Rebecca filed a verified petition for adjudication of indirect criminal contempt and for other relief. Rebecca alleged that, in violation of the court's prior order, Joseph took E.R. to Holy Mass at Holy Name Cathedral on January 17, 2010, and invited the local CBS news affiliate to record the event. Rebecca attached as an exhibit to the petition an article from the local CBS news website about the event, in which Joseph reportedly said that if he was thrown in jail, voters should remember on election day that the judge in his case was a former head of the Decalogue Society (the Jewish bar association). The petition was assigned a criminal number and tried separately from the underlying custody proceedings.

On April 19, 2010, following a continued trial of the matter, the circuit court entered a judgment for dissolution of marriage. On the issue of visitation, following a discussion of Illinois statutory and case law, the circuit court concluded that Joseph may take E.R. to church

services during his visitation. The judgment also ordered that Joseph would have visitation with E.R. every Christmas and Easter.

The judgment further states that there were two marital debts in dispute: (1) Joseph's student loan debt; and (2) $108,000 provided by Rebecca's father, apparently for a down payment on the marital residence. Regarding the first issue, the circuit court found Joseph's testimony unsupported and ruled there was no proof the student loan was a marital debt.

As for the second issue, the circuit court found that Joseph gave contradictory testimony about whether he and Rebecca had agreed to use $100,000 in settlement funds from Joseph's first marriage for the down payment. Rebecca testified that her father told her the money he provided was a loan, not a gift, and she relayed this message to Joseph. Joseph testified Rebecca's father had called the money a gift, but had them sign a promissory note to avoid gift tax implications; Rebecca denied her father made the statement. The parties' loan application stated that none of the down payment was borrowed. Rebecca's father testified that he had the parties sign the promissory note as evidence of the debt, which he believed would be a bridge loan to be repaid from the sale of Joseph's condominium. Based on the testimony, the circuit court concluded the $108,000 was a marital debt.

The circuit court also found that Joseph failed to contest Rebecca's claim of dissipation regarding various credit card bills. The circuit court awarded Rebecca marital property and debt totaling $19,707. The circuit court awarded Joseph marital property and debt totaling $24,712.64 and ordered the return of certain items or reimbursement of $5,000 to Rebecca.

Furthermore, the circuit court denied Joseph's claim for maintenance. The circuit court also rejected Joseph's request that Rebecca contribute to his attorney fees. The circuit court ordered Joseph to pay Rebecca's legal fees for prior proceedings in which Joseph was held in indirect civil contempt.

The judgment ordered the parties' marriage dissolved, granting Rebecca sole custody of E.R., with detailed provisions for Joseph's visitation. The judgment also provides that Joseph shall pay Rebecca 20% of his net income as child support until E.R. graduates from college or reaches age 23.

On May 11, 2010, Joseph filed a timely notice of appeal to this court. On May 18, 2010, Rebecca filed a notice of cross-appeal.

DISCUSSION

I. Joseph's Appeal

On appeal, Joseph claims: (1) the circuit court judges in this case were prejudiced against him; (2) the circuit court abused its discretion by excluding evidence to impeach Rebecca's credibility; (3) the circuit court's grant of custody of E.R. to Rebecca was not in E.R.'s best interests; (4) the circuit court's division of property was against the manifest weight of the evidence; and (5) the circuit court erred by refusing to let Joseph contest the grounds of the divorce.

Rebecca responds that Joseph's brief fails to comply with the following provisions of Illinois Supreme Court Rule 341:

"(6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal, e.g., R. C7, or R. 7, or to the pages of the abstract, e.g., A. 7. Exhibits may be cited by reference to pages of the abstract or of the record on appeal or by exhibit number followed by the page number within the exhibit, e.g., Pl. Ex. 1, p. 6.

(7) Argument, 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. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal or abstract, if any, where evidence may be found. Citation of numerous authorities in support of the same point is not favored. Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.

***

(9) An appendix as required by Rule 342." Ill. S. Ct. R. 341(h)(6), (7), (9) (eff. July 1, 2008).

Our supreme court's rules are mandatory rules of procedure, not mere suggestions. *People v. Garstecki*, 382 Ill. App. 3d 802, 811, 890 N.E.2d 557, 564 (2008), *aff'd on other grounds*, 234 Ill. 2d 430, 917 N.E.2d 465 (2009). A party's failure to abide by Rule 341 makes appellate review of his or her claim more onerous (*In re Marriage of Cerven*, 317 Ill. App. 3d 895, 900, 742 N.E.2d 343, 348 (2000)) and may result in waiver (*E.g.*, *People v. Universal Public Transportation, Inc.*, 401 Ill. App. 3d 179, 198, 928 N.E.2d 85, 101 (2010); *Gomez v. The*

Finishing Co., 369 Ill. App. 3d 711, 723, 861 N.E.2d 189, 201 (2006)). Moreover, the law is well settled that the appellant bears the burden of presenting a sufficiently complete record to support his claims of error, and any doubts arising from the incompleteness of the record will be resolved against him. *E.g.*, *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958, 959 (1984). When the appellant fails to present this court with a complete record, the reviewing court must indulge in every reasonable presumption favorable to the judgment and will presume the trial court followed the law and had a sufficient factual basis for its ruling. *Foutch*, 99 Ill. 2d at 391-92, 459 N.E.2d at 959. We further note that Joseph filed a *pro se* brief in this court and that the judgment of dissolution of marriage refers to Joseph attending law school. "While reviewing courts are open to all persons who seek redress of their grievances, a party's decision to appear *pro se* does not relieve that party from adhering as nearly as possible to the requirements of the rules of practice enunciated by our supreme court." *Peeples v. Village of Johnsburg*, 403 Ill. App. 3d 333, 335, 932 N.E.2d 612, 616 (2010) (quoting *McCutcheon v. Chicago Principals Ass'n*, 159 Ill. App. 3d 955, 960, 513 N.E.2d 55, 58 (1987)).

In this case, Joseph's statement of facts contains a number of references to exhibits and transcripts which Joseph failed to include in the record on appeal. His statement of facts occasionally refers to orders which are included in the record, none of which are the focus of the claims he makes on appeal. Joseph failed to provide an appendix to his brief, which would include an index to the record on appeal, although Rebecca's brief on cross-appeal includes an index. Although these inadequacies would justify waiving Joseph's claims on appeal under Rule 341(h), we briefly address them here.

Joseph's claim of judicial bias refers to the December 11, 2009, order granting Rebecca's petition for a restraining order and preliminary injunction and quotes from the judgment for dissolution. However, Joseph's argument contains no citations to evidence that the circuit court was biased or incorrect in its findings or rulings. Joseph cites only one authority, *People v. Hattery*, 183 Ill. App. 3d 785, 799, 539 N.E.2d 368, 378 (1989), for a general definition of prejudice. In *Hattery*, this court noted that the defendant claiming judicial bias failed to move for a substitution of judge. *Hattery*, 183 Ill. App. 3d at 803, 539 N.E.2d at 380-81. The failure to identify any action by Joseph to substitute judge appears to be the main similarity of *Hattery* to this case.

Joseph's claim that the circuit court abused its discretion by excluding evidence to impeach Rebecca's credibility relies on a trial exhibit and transcript Joseph failed to include in the record on appeal. Moreover, as Rebecca notes, Joseph failed to identify any offer of proof regarding the allegedly excluded evidence.

Joseph claims that granting custody of E.R. to Rebecca is not in E.R.'s best interests. However, his argument on this point contains not a single citation to the record on appeal, except for a footnote quoting the judgment that does not support his claim. Rebecca states that Joseph agreed Rebecca should be awarded sole custody. The January 12, 2010, order granting Rebecca sole custody was entered pursuant to a pretrial conference stipulation, but is not specifically titled an agreed order. On this point, Joseph's *pro se* brief states that one of the issues presented for review is whether E.R.'s best interests "require a vacation of the agreed parenting order."

Regarding the division of marital property and the circuit court rulings on marital debt, Joseph again fails to cite to any part of the record on appeal.

Lastly, Joseph claims that the trial court erred in excluding evidence regarding the grounds for divorce. Joseph fails to cite to any part of the record regarding the purported rulings. Joseph does not point to any part of the record to show he made an offer of proof regarding the excluded evidence. Moreover, as Rebecca notes, both she and Joseph filed petitions for dissolution alleging irreconcilable differences.

In short, Joseph failed to present a sufficiently complete record to support his claims of error, and any doubts arising from the incompleteness of the record are resolved against him. We presume the trial court followed the law and had a sufficient factual basis for its ruling. *Foutch*, 99 Ill. 2d at 391-92, 459 N.E.2d at 959. Accordingly, we conclude that Joseph's appeal fails to show reversible error by the circuit court.

II. Rebecca's Cross Appeal

In her cross-appeal, Rebecca makes several related arguments, all challenging the circuit court's ruling that Joseph could take E.R. to church services during his visitation time. Rebecca also argues that the record on appeal, which includes a supplemental record Rebecca submitted addressing Jewish and Catholic religious doctrine, but not other transcripts "for certain extra-judicial, non-monetary reasons," is nevertheless adequate for *de novo* review as an issue of statutory interpretation.

The circuit court's ruling – and Rebecca's attacks thereon – are based on the interpretation of sections 607(c) and 608(a) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/607(c), 608(a) (West 2008)). Section 608(a) of the Act provides:

> "Except as otherwise agreed by the parties in writing at the time of the custody judgment or as otherwise ordered by the court, the custodian may determine the child's upbringing, including but not limited to, his education, health care[,] and religious training, unless the court, after hearing, finds, upon motion by the noncustodial parent, that the absence of a specific limitation of the custodian's authority would clearly be contrary to the best interests of the child." 750 ILCS 5/608(a) (West 2008).

Section 607(c) of the Act provides in relevant part:

> "[T]he court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral[,] or emotional health." 750 ILCS 5/607(c) (West 2008).

Rebecca argues that section 608(a) of the Act unambiguously intends the sole custodian to be the "sole arbiter of a child's religious education, training and experiences." Rebecca's position is contradicted by the plain language of section 608(a) in at least four respects. First, the statute refers to religious training, not to the totality of the child's experiences with religion.[1]

---

[1] In her petition for rehearing, Rebecca argues that "religious training" must refer to the totality of the child's experiences with religion, just as "health care" must refer to the totality of the child's health care experiences. The analogy is unpersuasive. The custodial parent's power

Second, as Rebecca ultimately acknowledges in her brief, the parties may agree to less than sole responsibility for religious training, although such is certainly not evident in this case.

Third, Rebecca overlooks that section 608(a) confers authority on the sole custodian '[e]xcept *** as otherwise ordered by the court." 750 ILCS 5/608(a) (West 2008). Rebecca interprets section 608(a) as empowering the court to act only pursuant to a motion by the noncustodial parent. However, this court has recognized the authority of Illinois courts to decide issues of religious training on the motion of the custodial parent. *In re Marriage of Minix*, 344 Ill. App. 3d 801, 804, 801 N.E.2d 1201, 1203 (2003). Indeed, in this case, Rebecca sought judicial rulings regarding E.R.'s religious training before and after becoming the permanent sole custodial parent.

Moreover, "[w]e must construe the statute so that each word, clause, and sentence, if possible, is given a reasonable meaning and not rendered superfluous." *Sylvester v. Industrial Comm'n*, 197 Ill. 2d 225, 232, 756 N.E.2d 822, 827 (2001). If the court was limited to ruling on a motion by the noncustodial parent, the "except as otherwise ordered by the court" language would be superfluous, despite the legislature emphasizing the exception by placing it before the

---

over the child's healthcare does not necessarily preclude the noncustodial parent from taking the child along to the noncustodial parent's doctor appointment during visitation. Similarly, the custodial parent's power over the child's education does not necessarily bar the noncustodial parent from exposing the child to any situation or experience where the child might learn something during visitation.

general rule. Accordingly, we conclude that the plain language of section 608(a) grants the court authority to enter an order regarding the allocation of parental responsibility for the religious training of a child in cases where the custodial parent seeks a judicial determination of the scope of his or her authority.

In her petition for rehearing, Rebecca correctly notes that the circuit court was addressing the scope of Joseph's visitation, pursuant to section 607(c) of the Act. However, the plain text of section 607(c) of the Act requires Rebecca to show the visitation "would endanger seriously the child's physical, mental, moral[,] or emotional health." 750 ILCS 5/607(c) (West 2008). Rebecca made no such argument on appeal. Moreover, in citing *Minix* and *In re Marriage of Tisckos*, 161 Ill. App. 3d 302, 514 N.E.2d 523 (1987), Rebecca necessarily concedes that Illinois courts have the authority to resolve disputes of the sort presented in her cross-appeal. Rebecca argues that the custodial parent's authority under section 608(a) of the Act controls every such dispute. Accordingly, this court addressed itself to Rebecca's interpretation of section 608(a) of the Act and the flaws in that interpretation.

Having concluded the circuit court acted within its statutory authority and that section 608(a) of the Act does not control every case of this sort as a matter of law, we revisit Rebecca's assertion that the record is adequate for review of the circuit court's ruling. We begin with the express language in the trial court's ruling on this issue:

> "Joseph stated that he understood, when he agreed on January 12, 2010 to Rebecca being awarded sole custody of [E.R.], that under Illinois law, Rebecca would decide [E.R.]'s religious training and upbringing. (750 ILCS 5/608(a)) As such, this court

> does not find, *at this time*, that it would be in the best interest of [E.R.] to restrict Joseph's visitation. He can *take [E.R.] to church services* during his visitation time if he so chooses. This court will also order that Joseph have visitation with [E.R.] every year on Christmas and Easter." (Emphases added.)

The judgment is also highly critical of Joseph's unilateral baptism of E.R., noting that Joseph's "lack of candor with his own priest in his own place of worship may be indicative that Joseph's own practices may be someday harmful to [E.R.]" The court later expressed the hope:

> "that Joseph's love for [E.R.] will, in the future, temper poor decision-making so that no court will ever again be faced with having to decide whether to impose supervised visitation or restricted visitation with his daughter."

Rebecca's brief suggests that exposing E.R. to different religions is no different than choosing a religion. Rebecca argues that Joseph taking E.R. to be baptized represented an attempt to indoctrinate her into Roman Catholicism. She rhetorically asks if her request would have been granted had Joseph sent E.R. to Catholic Sunday School, or had her make a confession or take Holy Communion. These concerns are addressed by the narrow and cautionary language of the judgment. Thus, the question here is whether there is an adequate record for meaningful appellate review of this narrow ruling in the judgment for dissolution.

In this case, Rebecca supplemented the record on appeal with a transcript of testimony from Rabbi Aaron Mark Petchowski addressing the doctrinal differences between Judaism and Catholicism. However, a review of the judgment of dissolution shows that the trial court's decision was not solely based on that testimony. The text from the judgment of dissolution

shows that the circuit court considered Rebecca's testimony, explaining her fear of conversion and possible future harm to E.R. The judgment also indicates the trial court considered Joseph's testimony that the baptism was not an attempt to convert E.R. Both parties failed to include the testimony of the parties in the record on appeal. Given the personal and sensitive nature of the issue, and the wide discretion afforded the trial court in deciding the issue (see, *e.g.*, *Minix*, 344 Ill. App. 3d at 803, 801 N.E.2d at 1203 (and cases cited therein)), we conclude that a record missing the parties' testimony is inadequate for appellate review in this case. Absent a complete record of the testimony and evidence presented on the issue at trial, we presume the trial court followed the law and had a sufficient factual basis for its ruling. *Foutch*, 99 Ill. 2d at 391-92, 459 N.E.2d at 959. Accordingly, we conclude that Rebecca's cross-appeal fails to show reversible error by the circuit court.

CONCLUSION

In sum, we conclude that Joseph and Rebecca both failed to present this court with a sufficiently complete record for meaningful review of the claims presented in their appeals. Accordingly, we presume the trial court followed the law and had a sufficient factual basis for its ruling. Both Joseph and Rebecca failed to show the circuit court committed reversible error in this case. For all of the aforementioned reasons, the judgment of the circuit court of Cook County is affirmed.

Affirmed.