2019 IL App (1st) 172727-U
No. 1-17-2727

SECOND DIVISION
September 30, 2019

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE THE MARRIAGE OF MARCIA O'HARA,	)	Appeal from the Circuit Court
	)	of Cook County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 11 D 17400
	)	
RICHARD O'HARA,	)	
	)	The Honorable
Respondent-Appellant.	)	Myron F. Mackoff,
	)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Justices Lavin and Coghlan concurred in the judgment.

ORDER

¶ 1 *Held:* Where the respondent failed to preserve his contentions on appeal with respect to the trial court's award of attorney's fees to petitioner, the contentions were waived. Even if respondent had not waived his contentions on appeal, he failed to demonstrate reversible error.

¶ 2 Respondent, Richard O'Hara, appeals from the trial court's award of attorney's fees to petitioner, Marcia O'Hara, under Supreme Court Rule 137 (eff. July 1, 2013) and section 508(b) of the Illinois Marriage and Dissolution of Marriage Act ("Act") (750 ILCS 5/508(b) (West 2016)). For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 The parties' marriage was dissolved pursuant to a judgment of dissolution in November 2008. Seven years later, respondent filed a petition for rule to show cause, arguing that petitioner had failed to provide an accounting of a bank account that was to be divided between the parties pursuant to the judgment of dissolution. Petitioner responded that she had provided the required accounting and account statements to respondent's various counsel over the years. She also argued that the account at issue was closed three years prior to respondent's demand for an accounting, so his claim was barred by the doctrine of *laches*.

¶ 5 While respondent's petition for rule to show cause was pending, petitioner filed an "Emergency Petition for Temporary Restraining Order and Mandatory Injunction" in which she alleged that respondent recorded an improper real estate lien against a property purchased individually by petitioner after the parties' divorce. As a result of that lien, the closing of a pending sale on the property was threatened. Respondent opposed petitioner's emergency petition on the basis that the trial court lacked jurisdiction over the issue, because the lien related to a collection matter that was pending in a different court and because the dispute was not governed by the Illinois Marriage and Dissolution of Marriage Act. The trial court disagreed with respondent, granted petitioner's emergency petition, and ordered respondent to execute a lien release. When respondent failed to comply with the directive to release the lien, the trial court directed the recorder to expunge the lien on petitioner's property.

¶ 6 On November 4, 2016, following a trial on respondent's petition for rule to show cause, the trial court denied respondent's petition, finding that petitioner had complied with her obligations related to the accounting of the parties' bank account and that, even if she had not, respondent's claim was barred by *laches*.

¶ 7 In December 2016, petitioner filed an amended petition for attorney's fees and costs under section 508(b) of the Act and Supreme Court Rule 219(b) (eff. July 1, 2002) and sanctions under Rule 137 ("fee petition"). Petitioner sought the fees and sanctions from both respondent and his former counsel, Fahey & Associates ("Fahey"). In the fee petition, petitioner argued that following the parties' divorce, respondent had engaged in a pattern of harassment of her, including filing the petition for rule to show cause, recording false liens, attempting to subpoena bank records of petitioner that were unrelated to the proceedings, denying certain requests to admit that he later contradicted during testimony, and bringing the petition for rule to show cause to relitigate previously resolved issues. Petitioner alleged that as a result of respondent's actions, she incurred a total of $61,627.45 in attorney's fees and costs.

¶ 8 Respondent argued in response that petitioner's fee petition was an attempt by petitioner and her counsel to make money, as evidenced by their failure to bring the allegedly problematic pleadings to respondent's attention and by engaging in the litigation not to demonstrate petitioner's lack of contempt but to ensnare respondent. At the hearing on petitioner's fee petition, respondent also argued that his behavior was non-sanctionable behavior typical of litigation and that petitioner bore the burden of proving that respondent's denials of requests to admit were false and material. When asked by the trial court if those were the only arguments that he wanted to make, respondent's counsel answered that it was.

¶ 9 Following arguments by the parties, the trial court found that defendant had violated section 508(b) of the Act and Rule 137 not only by his frustration of the accounting issue in not conducting sufficient research into whether he received the accounting documents from petitioner, but also by filing fraudulent liens against petitioner's property and then opposing petitioner's attempts to resolve the liens, including lying to his attorneys to induce them to file a

brief in opposition of petitioner's emergency petition. Accordingly, the trial court awarded petitioner the entire amount that she sought--$61,627.45.

¶ 10 After the trial court announced its ruling, counsel for respondent asked that he be permitted to inspect or come to an agreement regarding the reasonableness of the claimed fees and costs. The trial court noted that the amended petition identified the amount of fees and costs sought and stated that if respondent wanted to inspect the bills or challenge the reasonableness of the fees and costs, the time for doing so was when he filed a response to the amended petition.

¶ 11 Respondent filed a motion to reconsider, which raised a number of contentions, including that the trial court's findings were against the manifest weight of the evidence, the trial court was not clear on what evidence it considered and did not specify which fees and costs directly resulted from the allegedly untrue allegations, the trial court should have held an evidentiary hearing on the fee petition, the trial court should have specified which pleadings violated Rule 137, the trial court should have considered only respondent's actions at the time of the litigation at issue and not his history of actions, and respondent should have been afforded the opportunity to challenge the reasonableness of the claimed fees and costs. A month later, respondent filed a memorandum in support of his motion to reconsider. In it, respondent not only raised some of the same contentions raised in his motion to reconsider, but also argued that the fee petition was not supported by affidavits or evidence, the fee petition did not establish a connection between the claimed fees and the litigation at issue, the trial court ignored respondent's Due Process rights to cross-examine witnesses and present evidence, Rule 137 did not apply to liens, the trial court improperly considered liens that were filed 10 years prior, petitioner failed to establish the falsity of the allegations in respondent's petition for rule to show cause and to establish the reasonableness of the claimed fees, and the entries on petitioner's attorney's fees bills were

vague and block billing. The trial court denied respondent's motion to reconsider, after which respondent instituted this appeal.

¶ 12 ANALYSIS

¶ 13 On appeal, respondent argues that the trial court erred in (1) awarding petitioner attorney's fees and costs without holding an evidentiary hearing, (2) awarding the attorney's fees as a punishment without determining which fees were directly caused by respondent's alleged misconduct, and (3) awarding attorney's fees that were unreasonable. We conclude that all of respondent's contentions are waived and otherwise without merit.

¶ 14 Before addressing respondent's contentions, we pause to discuss an issue raised by petitioner with respect to the record on appeal. Petitioner correctly observes that respondent failed to include in the certified reports of proceedings transcripts of the hearings on his petition for rule to show cause, petitioner's fee petition, and his motion to reconsider. Although there are photocopied copies of the transcripts of the hearings on the petition for rule to show cause and the fee petition attached to other pleadings in the record, they were not certified and submitted to the clerk of the circuit court by the court reporter for inclusion in the appellate record as contemplated by Supreme Court Rule 323 (eff. July 1, 2017). Nowhere in the record is there any transcript of the hearing on respondent's motion to reconsider; instead respondent included a copy in his appendix on appeal, which is improper. See *Oruta v. B.E.W.*, 2016 IL App (1st) 152735, ¶ 32 (documents that are included in the appellant's appendix but not in the record on appeal must be disregarded). It is the appellant's burden to present an adequate record on appeal to allow us to conduct a meaningful review of the contentions on appeal, and the failure to present such a record will typically require us to assume that the trial court acted properly in its determinations. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) ("[A]n 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."). Here, because we are able to address respondent's contentions with only minimal reference to the transcript from the hearing on petitioner's fee petition and because petitioner does not make any contention that respondent's failure to comply with Rule 323 impacted the accuracy of the transcripts found in the common law record, we do not find respondent's failure to present a properly certified report of proceedings an impediment to our review. We advise respondent and respondent's counsel, however, that in the future, they should endeavor to comply more strictly with the rules governing appellate procedure, as it is unlikely that such missteps will be overlooked under other circumstances.

¶ 15 Evidentiary Hearing

¶ 16 Respondent first argues that the trial court erred in awarding attorney's fees and costs to petitioner without conducting an evidentiary hearing. According to respondent, the trial court was required to conduct an evidentiary hearing and its failure to do so deprived respondent of his right to present evidence and cross-examine witnesses and also made it impossible to determine which evidence the trial court relied on in making its determination to award fees. Respondent also suggests that the lack of an evidentiary hearing resulted in a lack of evidence on the work performed, the reasonableness of the fees, and the connection between those fees and respondent's alleged misconduct. We conclude that respondent has waived these contentions and, even if he had not, he failed to establish any reversible error.

¶ 17 With respect to an evidentiary hearing, respondent waived any claim to an evidentiary hearing by failing to request one at any point in the trial court. See, *e.g.*, *County Line Nurseries*

& Landscaping, Inc. ex rel. Bankruptcy Trustee v. Glencoe Park District, 2015 IL App (1st) 143776, ¶ 46 (where the appellant did not request an evidentiary hearing on the issue of attorney's fees or raise the issue in response to the fee petition, its objection to the lack of an evidentiary hearing was waived); *Hupe v. Hupe*, 305 Ill. App. 3d 118, 127 (1999) (failure to request an evidentiary hearing on attorney's fees results in waiver of the hearing); *In re Marriage of McHenry*, 292 Ill. App. 3d 634, 642 (1997) (the trial court is not required to conduct a hearing on the issue of attorney's fees unless requested by one of the parties); *In re Marriage of Blazis*, 261 Ill. App. 3d 855, 871 (1994) ("[I]f a party does not request a hearing before the trial court on attorney fees, then the right to that hearing is waived."). Despite the facts that petitioner filed her fee petition in December 2016, respondent filed a written response in January 2017, and the hearing on the fee petition was not held until May 2017, at no point did respondent make any attempt to request that the matter be set for an evidentiary hearing. Even during the hearing on the matter, respondent never objected to the fact that the trial court sought only to take arguments of the parties, never requested the opportunity to present evidence or witness testimony, and never argued that petitioner failed to present adequate evidence in support of her petition. Rather, it appears that respondent's entire strategy in defending against petitioner's fee petition was to argue that petitioner was simply trying to better her financial position at the expense of respondent and that he had not done anything that warranted a fee award. It was not until respondent filed his motion to reconsider that respondent indicated in any respect that he felt an evidentiary hearing necessary. Under these circumstances, there is no conclusion to be drawn other than that respondent waived his right to an evidentiary hearing and only seeks one now in an attempt to avoid the trial court's adverse decision. See *County Line Nurseries*, 2015 IL App (1st) 143776, ¶ 46; *Blazis*, 261 Ill. App. 3d at 871; see also *Caywood v. Gossett*, 382 Ill. App. 3d

124, 134 (2008) ("[A]rguments raised for the first time in a motion for reconsideration in the circuit court are waived on appeal.").

¶ 18 Likewise, to the extent that respondent intends to make a distinct argument that petitioner failed to present sufficient evidence to support her claim for fees, he failed to make any argument regarding the adequacy of the evidence in his written response or at the hearing on the fee petition. Again, he did not raise this issue until his motion to reconsider—after the trial court had ruled against him. Accordingly, we conclude that respondent waived this contention. See *In re Marriage of Cheger*, 213 Ill. App. 3d 371, 381-82 (1991) (husband's argument that wife failed to present sufficient evidence in support of her claim for attorney's fees was waived for his failure to raise the issue in the trial court).

¶ 19 Even if respondent had not waived these contentions, he has failed to sufficiently demonstrate on appeal that any such errors—if they were, in fact, errors—warrant reversal. Although evidentiary hearings on fee petitions are appropriate under some circumstances, they are not required as a matter of course. See, *e.g.*, *Raintree Health Care Center v. Illinois Human Rights Commission*, 173 Ill. 2d 469, 495 (1996) (noting that an evidentiary hearing is not required to make an award of attorney's fees); *County Line Nurseries*, 2015 IL App (1st) 143776, ¶ 46 ("[T]rial courts faced with fee petitions are not required to hold evidentiary hearings as a matter of course."); *Aurora East School District v. Dover*, 363 Ill. App. 3d 1048, 1058 (2006) ("A full evidentiary hearing is not always necessary in order to determine reasonable attorney fees. [Citation.] Illinois courts frequently award attorney fees without discovery by the party charged with paying them and without holding an evidentiary hearing. [Citation.] A nonevidentiary proceeding is proper so long as the decision maker can determine

from the evidence presented, including a detailed breakdown of fees and expenses, what amount would be a reasonable award and the opposing party has an opportunity to be heard.").

¶ 20 Although respondent attempts to paint a picture of a complete dearth of evidence regarding the claimed fees sought by petitioner, he acknowledges in his brief that in March 2017, over two months before the hearing on petitioner's fee petition, petitioner submitted her attorney's time sheets to the trial court. Petitioner claims that these timesheets were not "filed, authenticated, or introduced into evidence," but, again, he did not object to any of this at any point in the trial court, and he even requested—after the trial court ruled against him—the opportunity to inspect the records. Moreover, before ruling, the trial court indicated that it had read everything that had been submitted to it on the issue of petitioner's fee petition. Other than this, respondent does not make any argument as to why the trial court could not have determined the fee petition based on the pleadings, arguments, and evidence before it, such that an evidentiary hearing was required. Moreover, respondent makes no argument about what evidence or witnesses he was deprived of presenting by the lack of an evidentiary hearing or what effect such evidence or witnesses would have had on the trial court's determination. See *Cairns v. Hansen*, 170 Ill. App. 3d 505, 511 (1988) ("Where it appears that an error did not affect the outcome below, or where the reviewing court can see from the entire record that no injury has been done, the judgment will not be disturbed. [Citation.] A party is not entitled to reversal based on rulings on evidence unless the error was substantially prejudicial and affected the outcome of the trial. [Citation.] The burden is on the party seeking reversal to establish prejudice."). Because of this, we have no basis on which to conclude that the failure to conduct an evidentiary hearing warrants reversal.

¶ 21 Causal Connection

¶ 22 Respondent next argues that the trial court erred in awarding the attorney's fees as a punishment without determining which fees were directly caused by respondent's alleged misconduct. According to respondent, under Rule 137, the trial court failed to limit the award of fees to those causally connected to respondent's proven misconduct. Respondent also argues that because the award of attorney's fees was the equivalent of imposing criminal sanctions, it was incumbent on the trial court to limit the fee award to those caused by respondent's contumnacious behavior. Again, respondent has waived these contentions and, even if he had not, he has failed to demonstrate reversible error.

¶ 23 Respondent's contentions are waived for failing to raise them in a timely fashion. First, respondent did not raise the issue of a lack of causal connection between the claimed fees and his alleged misconduct until he filed his motion to reconsider. *Caywood*, 382 Ill. App. 3d at 134 ("[A]rguments raised for the first time in a motion for reconsideration in the circuit court are waived on appeal."). With respect to his claim that the fee award was the functional equivalent of a criminal contempt sanction, respondent never raised it in the trial court at any point, instead raising it for the first and only time here on appeal. Issues not raised in the trial court are waived and cannot be raised for the first time on appeal. *Cambridge Engineering, Inc. v. Mercury Partners 90 BI, Inc.*, 378 Ill. App. 3d 437, 456 (2007) ("An appellant may not raise an issue for the first time on appeal; issues not raised below are considered waived.").

¶ 24 Even putting waiver aside, respondent has failed to demonstrate reversible error. Although he makes conclusory allegations that the trial court failed to limit its award to fees directly caused by his misconduct, he does not explain how he reached this conclusion or cite anything in the record to support it. Rather, we can only surmise that respondent bases his

contention on the fact that the trial court did not specifically address, line by line, the causal connection between respondent's misconduct and each of the charges by petitioner's counsel. Yet, respondent cites absolutely no authority that required the trial court to delineate each and every charge that it found to be causally connected to respondent's misconduct. See Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017) (requiring that the argument section of appeals briefs "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"); *Sakellariadis v. Campbell*, 391 Ill. App. 3d 795, 804 (2009) ("The failure to assert a well-reasoned argument supported by legal authority is a violation of Supreme Court Rule 341(h)(7) [citation], resulting in waiver."). Importantly, we also note that at no point has respondent identified any charges, fees, or costs that he claims are not causally related to his alleged misconduct. As the reviewing court, we under no obligation to sift through the record in an attempt to find evidence supportive of respondent's contention. *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986) ("A reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented. The appellate court is not a depository in which the appellant may dump the burden of argument and research.").

¶ 25 Finally, we make one other observation. Respondent's brief on appeal included the following paragraph:

> "Courts are well aware that the nature of contempt and sanctions involve a common purpose: '[T]he awards of attorney's fees for bad faith serve[s] the same purpose as a remedial fine imposed for civil contempt.' *Bagwell*, 512 U.S. at 827-28. An award of attorney's fees for bad faith that serves the same 'punitive' purpose as criminal contempt should be treated in the same manner.' "

The purported quote from *International Union, Union Mine Workers of America v. Bagwell*, 512 U.S. 821 (1994), that respondent included in this paragraph is nowhere to be found in *Bagwell*. We would like to give respondent's counsel the benefit of the doubt and presume that this blatant misrepresentation was a result of a careless and mistaken citation and not an attempt to deliberately mislead this Court and bolster respondent's contention with false authority. The latter would be a gross and unethical misstep by counsel that could warrant the imposition of sanctions. However, because we cannot say for certain how this misrepresentation came to be, we will simply advise counsel to be more careful in the future regarding his citations of authority to this court. Along those same lines, we recommend that counsel review the requirements of Supreme Court Rules 6 and 341(h)(7), which require that citations in appellate briefs include a pincite. See *Menard v. Illinois Workers' Compensation Commission*, 405 Ill. App. 3d 235, 238 (2010). In attempting to review and verify respondent's contentions on appeal, this Court could not help but notice that on multiple occasions, it was forced to search the caselaw for the proposition for which respondent cited the authority. This burden belongs to the respondent and respondent's attempts to shift it to this Court will not be tolerated in the future.

¶ 26 Reasonableness of Fees

¶ 27 Finally, respondent argues that the trial court erred in awarding attorney's fees that were unreasonable. Respondent contends that neither he nor the trial court had the opportunity to assess petitioner's counsel's time records and to exclude any unrelated or excessive fees. He then goes on to argue that vague, ambiguous, and duplicative entries, block billing, time spent on research, and costs related to overhead and Westlaw should not be allowed. As with his other contentions, respondent has waived this argument and, even if he did not, he failed to establish reversible error.

¶ 28 As previously discussed, at no point prior to or during the hearing on the fee petition did respondent make any challenge to the reasonableness of petitioner's claimed fees. Despite his attempts to argue that neither he nor the trial court had any opportunity to review petitioner's counsel's time records, he readily admits on appeal that he and the trial court received the time sheets in early March 2017, more than two months before the hearing on the fee petition. Although respondent had already filed his written response to the fee petition by the time that he received the time sheets, it appears from the record that respondent made no attempt to file a supplemental response addressing the alleged deficiencies in the time sheet entries. Moreover, there is nothing in the record that supports respondent's claim that the trial court was unable to review the timesheets. The trial court specifically stated at the hearing on the fee petition that it had reviewed everything submitted to it. In addition, when respondent suddenly attempted to raise the reasonableness issue after the trial court issued its ruling, the trial court told respondent that the fees sought were known and that respondent should have raised the issue earlier. For these reasons, we conclude that respondent has waived any contention in this respect. *Caywood*, 382 Ill. App. 3d at 134 ("[A]rguments raised for the first time in a motion for reconsideration in the circuit court are waived on appeal.").

¶ 29 Furthermore, even if respondent had not waived his contention in this respect, he has failed to establish any reversible error. Although he contends that the submitted timesheets contain a number of unreasonable, vague, duplicative, or otherwise impermissible entries, he does not cite to the record where these entries appear, nor does he identify them by date or any other identifying information. It is unclear to us how respondent expects us to review his contentions if he does not point us to the entries that he claims should have been disallowed. Again, it is not our duty or place to comb through the record in search of support for

respondent's contentions. That burden belongs to respondent, and he has failed to meet it. See Ill. S. Ct. R. 341(h)(7) (requiring that the argument section of appeals briefs "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"); *Sakellariadis*, 391 Ill. App. 3d at 804 ("The failure to assert a well-reasoned argument supported by legal authority is a violation of Supreme Court Rule 341(h)(7) [citation], resulting in waiver."); *Thrall Car Manufacturing Co.*, 145 Ill. App. 3d at 719 ("A reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented. The appellate court is not a depository in which the appellant may dump the burden of argument and research.").

¶ 30 Waiver

¶ 31 Perhaps recognizing the number of waiver arguments that would be made in this case, respondent, in his opening brief, argues that his contentions on appeal are not waived because he and Fahey disputed the amount of fees claimed by petitioner, the causal connection between the fees and respondent's behavior, and the reasonableness of those fees. He also argues that because petitioner failed to present any documentary evidence or testimony in support of her claim, she failed to carry her burden of proof and respondent was under no obligation to object to the lack of evidence. We disagree with both of these contentions.

¶ 32 First, respondent's claim that he disputed the amount of petitioner's fees, the causal connection between those fees and his behavior, and the reasonableness of the fees is plainly false. As discussed in the previous sections of this decision, respondent did not raise these issues in his written response to the fee petition or at the hearing on the fee petition, instead choosing to raise the issues, if at all, in his motion to reconsider. Had respondent disputed these issues in the trial court as he contends, we would not have found the issues waived and he would not have felt

the need to include in his opening brief a preemptive discussion on why his contentions should not be considered waived. Moreover, we observe that, once again, respondent failed to cite any pages of the record evidencing his claims that he disputed these issues in the trial court. See Ill. S. Ct. R. 341(h)(7) (requiring that the argument section of appeals briefs "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"). For instance, despite claiming that he "sharply disputed" the amount of claimed fees, respondent offers no record citation at all evidencing such a claim. In support of his claim that he disputed the causal connection between the fees and his behavior and the reasonableness of the fees, respondent cites to a page of Fahey's written response to petitioner's fee petition. Obviously, Fahey's response has no relevance to the question of what issues respondent disputed in the trial court, as Fahey no longer represented respondent and did not file the response on behalf of respondent. Moreover, the page cited by respondent does not, as respondent contends, dispute the causal connection between the claimed fees and respondent's behavior or the reasonableness of the fees. Accordingly, respondent's argument that "[t]hese contested facts were squarely in issue before the [trial] court" is utterly without merit.

¶ 33 Likewise, respondent's claim that petitioner's failure to present sufficient evidence in support of her fee petition trumps any waiver by him, such that his failure to raise the issues in the trial court did not result in waiver, is also without merit. In support of this proposition, respondent relies on *In re Marriage of Douglas*, 195 Ill. App. 3d 1053 (1990). There, the husband challenged the trial court's award of $3,100.00 in attorney's fees to the wife on the basis that the wife failed to prove that the fees were reasonable and necessary. *Id.* at 1060. The wife argued that the husband waived that contention by failing to object to her offer of proof at trial. *Id.* The Fifth District held that because the burden of proof belonged to the wife, the husband

"was not required to insist that she produce additional evidence in the event she failed to meet her burden of proof." *Id.*

¶ 34 We believe respondent's reliance on *Douglas* is misplaced. First, although the decision in *Douglas* indicates that the husband did not specifically argue that the wife failed to carry her burden of proof, the decision does not indicate whether the husband generally contested the reasonableness and necessity of the claimed fees. Here, not only did respondent fail to argue that petitioner did not carry her burden of proof, but he also failed to contest in any respect the causal connection between the claimed fees and his behavior and the reasonableness of the claimed fees. Even if we were to agree with the proposition that respondent did not have to insist on additional proof from petitioner until she met her burden, we do not believe that respondent was entitled to sit back and play opossum with respect to these issues, offering no contest or argument against them at all, and then pounce on appeal.

¶ 35 Moreover, as petitioner points out, the notion that a claim of insufficient evidence cannot be waived by failing to raise it in the trial court has repeatedly been rejected since the issuance of the decision in *Douglas*. See *In re Madison H.*, 215 Ill. 2d 364, 378-79 (2005) (failure to raise sufficiency-of-the-evidence claim in the trial court or intermediate appellate court resulted in its waiver in the supreme court); *Board of Managers of Eleventh Street Loftominium Ass'n v. Wabash Loftominium, L.L.C.*, 376 Ill. App. 3d 185, 188 (2007) (refusing to consider appellant's claims regarding a lack of evidence because issues were not presented to or considered by the trial court); *Cheger*, 213 Ill. App. 3d at 381-82 (husband's argument that wife failed to present sufficient evidence in support of her claim for attorney's fees was waived for his failure to raise the issue in the trial court). Accordingly, respondent's arguments that he did not waive his contentions on appeal are unavailing.

¶ 36 CONCLUSION

¶ 37 For the foregoing reasons, the judgment of the Circuit Court of Cook County is affirmed.

¶ 38 Affirmed.