2014 IL App (2d) 140181-U
No. 2-14-0181
Order filed November 20, 2014

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF ENZA HILL, Petitioner-Appellant, and RICHARD HILL, Respondent-Appellee.	))))))))))	Appeal from the Circuit Court of McHenry County. No. 06-DV-425 Honorable Mark R. Gerhardt, Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not abuse its discretion in granting respondent's petition to reduce his obligation to pay college expenses.

¶ 2 Petitioner, Enza Hill, appeals the trial court's order granting respondent's, Richard Hill's, petition to reduce his obligation to pay college expenses. Petitioner argues that the court erred in: (1) denying full discovery into respondent's current wife's financial circumstances; (2) failing to consider respondent's current lifestyle; (3) failing to consider that respondent may be voluntarily underemployed; and (4) failing to require proof of respondent's alleged dissipation of

assets. For the following reasons, we conclude the trial court did not abuse its discretion and, therefore, affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Dissolution and Marital Settlement Agreement

¶ 5 The parties married in 1991 and had one child, Victoria (born August 10, 1994). In 2007, a dissolution judgment was entered, dissolving the marriage and incorporating the parties' marital settlement agreement (MSA). The MSA required respondent to carry Victoria on his health insurance. Further, the MSA settled each party's required contribution to Victoria's post-high school educational expenses. Specifically, the agreement provided that petitioner, respondent, and Victoria would each be responsible for 1/3 of Victoria's college-education expenses, and, further, that the total obligation would not exceed what was then being charged for in-state tuition by the University of Illinois in Champaign-Urbana (although Victoria was not required to attend that school).

¶ 6 After the parties' dissolution, respondent lost his employment and health benefits. The parties agreed that petitioner would carry Victoria on her health plan, and respondent would reimburse her.

¶ 7 In 2012, Victoria began attending Elmhurst College. Around that time, on September 13, 2012, respondent married Judy Lorenz Hill.

¶ 8 B. Respondent's Petition to Modify Support

¶ 9 About one year later, on August 27, 2013, respondent petitioned to modify his contributions to Victoria's health insurance and college expenses. Petitioner responded and issued a subpoena requesting Judy to produce specified financial information. Judy filed a motion to quash portions of the subpoenaed information.

¶ 10 The court granted only part of Judy's motion to quash, and it did not require her to produce, as requested by petitioner, "cop[ies] of any trusts held in your name or on your behalf, including but not limited to, the Judy A. Lorenz Trust, including any/all attachments thereto." However, the court *denied* Judy's motion to quash as to all other information petitioner subpoenaed. In addition to allowing petitioner to take Judy's deposition, the court ordered Judy to produce: (1) statements from all accounts and assets in which Judy and respondent were joint owners; (2) statements from September 1, 2012, forward, for any bank, credit card, mutual fund, or trust accounts in which respondent was an authorized user or signer; (3) any documents that evidenced any monies, accounts, funds, assets or anything of value that respondent had transferred to Judy, the Judy A. Lorenz Trust, or any other trust or entity from June 19, 2007, forward; (4) "any documents of any nature whatsoever that evidence any monies, accounts, funds, assets or anything of value that have been transferred by Judy Hill or her trust to the Richard W. Hill Trust or to any other trust [respondent] has created at any time, or to any other entity in which [respondent] has an interest at any time from June 19, 2007, through to the present time"; (5) receipts or invoices relating to dental implants respondent received; (6) Judy's 2012 federal and state income tax returns; (7) Judy's paystubs for the last three pay periods from any and all employers; (8) copies of any checks Judy wrote, from August 2012 to the present, and from any account, to respondent or on behalf of respondent, his business Hillcrafters or Hillcrafters, LLC, and any other entity or trust in which respondent held any interest; (9) receipts, invoices, credit card statements, and any other document that evidenced any and all payments made by Judy, from August 2012 forward, for household utilities, appliances, supplies, gifts, real estate taxes, assessments, insurance premiums of every kind, phone service, auto and auto repairs, food and groceries, liquor, clothing, entertainment, attorney fees, court costs, or any

other benefits or gifts purchased to benefit respondent or his business; (10) receipts, invoices, credit card statements, and any other document that evidenced Judy's payment for vacations taken with respondent from August 2012 forward; and (11) receipts, invoices, credit card statements, copies of checks, and any other document that evidences, from August 2012 forward, Judy's payments made on respondent's behalf or for the benefit of respondent or his business.

¶ 11 On December 13, 2013, January 22, 2014, and January 24, 2014, the court held hearings on respondent's petition to modify his support obligations. Respondent, age 57, testified that, at the time of the 2007 divorce, he had been employed for 25 years by Induction Heat Treating, earning $70,000 (gross) annually. Respondent's background is in the field of product manufacturing. In 2008, he was laid off (and there is no dispute that respondent's termination was through no fault of his own). Respondent sought additional employment and accepted a position earning $50,000 annually. He was then laid off because of lack of work (and, again, there is no dispute that termination was through no fault of his own). From 2009 to 2013, respondent was unsuccessful in finding employment earning a salary commensurate to that earned in 2007. Respondent, who has a high school education, testified that, from 2009 to 2013, he completed about five to six applications per week seeking employment in "pretty much anything" (such as in manufacturing at U-Haul and other places) and used staffing agencies. In 2010, respondent opened his own business, HillCrafters, restoring antiques, but he testified that, from 2010 to the date of the hearing, he earned only about $3,000 from that business. In addition, Judy's employer hired HillCrafters to perform piecemeal jobs (*e.g.*, hang coat racks, pressure wash windows and sidewalks, and perform brick work) from which it earned approximately $3,000 over the course of two or three years. At the time of the hearing, respondent was employed with QDP Assemblies, a small company with eight employees.

Respondent was hired shortly before the hearing and was to earn $8.50 per hour, or $17,680 per year, working 40 hours per week with no overtime.

¶ 12 Respondent's monthly net pay was $1,222.30. However, he spent $1,341.60 on Victoria's college tuition ($1,159.10) and health premiums ($182.50), as well as other expenses, such as gas. Accordingly, due to the shortfall, Judy lent him money. Before he was re-employed, respondent charged the college tuition on a Barclay's credit card, and then Judy made payments to the Barclay's card. After he started working, respondent continued to make tuition payments by charging them and then using his earnings to pay (from his checking account) the credit card (and to reimburse petitioner for Victoria's health insurance premiums). As respondent's credit card was almost "maxed out" (balance of $12,000) and accrued interest, Judy helped respondent pay to the credit card any amount over the $1,159 he needed in order to free up credit for the next college payment. Respondent also borrowed money from Judy to pay his obligation for Victoria's freshman-year tuition, as well as, prior to his most recent employment, Victoria's health insurance premiums. Accordingly, as of the hearing date, respondent had paid his obligations, including those for Victoria's tuition, through January 2013. Respondent testified, however, that Judy also has her own bills and, so, she helps respondent when she can afford to do so. Respondent and Judy have a verbal agreement that, once he is "back on his feet," he will pay her back. They file separate tax returns. Respondent testified that, as of the date of the hearing, his checking account balance was $124.

¶ 13 Before they married, Judy built the house in which they currently live. The house has an in-ground pool. Respondent is not on the title. Respondent agreed that, in 2012, he used the Barclay card to purchase $5,500 in stereo and theater equipment for the house. However, he testified that he and Judy both purchased it, on his credit card, and that Judy was helping him pay

off that card. Respondent stated that they used his credit card because "Judy doesn't have credit." Respondent does not currently contribute any money to household expenses, which total approximately $5,000 monthly, except for the occasional purchase of groceries and his own gas. Respondent noted that Judy's personal expenses are more than his because, for example, she is a double-lung transplant patient with extensive medical expenses. Respondent has the Barclay credit card, a Home Depot credit card (for miscellaneous items, such as light bulbs, water softener salt, and landscaping items), a 2007 Kia Sportage (worth around $5,000), and a 2008 Yamaha motorcycle (worth around $4,600). In 2012 and 2013, he had an American Express credit card (which was closed as of the hearing date) and Judy helped him make payments to it, including, apparently, an $8,000 payment to help him pay down his credit card debt and the accompanying interest. Similarly, Judy paid a $3,232 balance respondent owed on a Citibank credit card.

¶ 14 In September 2012, respondent and Judy went to Las Vegas and, while there, they married. Respondent testified that he probably contributed toward the cost of staying there. Respondent and Judy went to San Diego in May 2012, and they might have put some expenses from that trip on the Barclay card. Respondent's counsel objected to the relevance of respondent's spending in 2012, and the trial court sustained the objection, noting:

> "THE COURT: He's spending money in 2012. We are talking about resources now. He's already paid the college tuition for the fall semester of 2012. The objection is sustained. This is not a petition for rule.
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> ***
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> PETITIONER's COUNSEL: Well, I think the question, your Honor, is the lifestyle. It's a motion to modify.

THE COURT: What are his financial resources is the issue."

The court noted that, according to section 513(b)(2) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/513(b)(2) (West 2012)), the only relevant standard of living was that which the child would have enjoyed had the marriage not been dissolved. To that end, respondent testified that, when he and petitioner were married, they lived paycheck to paycheck.

¶ 15 Respondent testified that, at the time of the divorce, he had around $70,000 in a 401(k) account, but that $37,000 went to pay petitioner's attorney fees and he spent the rest to pay off debts to petitioner and for living expenses. Respondent testified that his 401(k) account was empty by 2008. Respondent has no interest or ownership in stocks, bonds, or other similar investments. In 2010, respondent inherited roughly $100,000 from his parents, but it is "gone." He used part of the inheritance to buy a house (prior to marrying Judy), he paid off his car and motorcycle, paid off debt, and used it for living expenses. In addition, he used the inheritance to help make his child support payments and for Christmas and birthday presents for Victoria, as well as some of her extracurricular activities, like violin lessons. Respondent has since sold the house, and he spent the $3,000 he made from the sale. Respondent is paying for his attorney fees by check, with the money coming from Judy. As with the other "loans," respondent has a verbal agreement to pay back Judy. Respondent testified that his hope is to eventually file joint returns with Judy and be able to combine his money with hers (presumably, in order to contribute to the household).

¶ 16 Respondent denied that he invested his inheritance with Edward Jones. He agreed that, on March 8, 2011, he had an attorney create for him a will and the Richard W. Hill trust. Respondent testified that there was nothing in the trust other than a designation that Judy and Victoria would receive anything he had after he passed away. He denied that there was ever any

money placed in the trust. Petitioner moved to admit the trust document, and respondent objected. The court stated:

"THE COURT: I'm struggling to find out why it's relevant. It was never funded. It has no funds *** why am I admitting it?

PETITIONER'S COUNSEL: Well, I think there is --- I think that there is an inference, Your Honor, that one wouldn't go to a lawyer to have a trust done if there was nothing to put in it.

THE COURT: At this time I am not admitting it until such time that you show to me that there is something in it.

Quite frankly, I had clients that I drafted trusts for all the time that never funded the trusts, despite my pleas to get them to do so.

I'm not going to admit a document that shows an asset worth zero.

***

*** On top of that, not only is it not relevant, it is hearsay[.]"

¶ 17 In sum, respondent testified that, since entry of the MSA, his income had substantially decreased. He asked to be relieved of his obligations to pay Victoria's health insurance premiums and college tuition, retroactive to the date he filed his petition (August 27, 2013).

¶ 18 Judy testified that she married respondent on September 13, 2012. She has worked for the University Center of Lake County for 10 years, and she testified that her gross annual income is $50,000. The gross income reported on her 2012 tax return, however, was $77,363. In September 2011, she built the house in which she and respondent currently live. There is no mortgage on the home. The home is titled to the Judy Lorenz Trust. Respondent's counsel was not permitted to inquire into the home amenities, with the court again reiterating that Judy and

respondent's lifestyle was not relevant; rather, relevant considerations, per the statute, were: (1) respondent's financial resources; and (2) the standard of living the child would have enjoyed had the marriage not been dissolved. The court informed counsel that it was looking for what petitioner and respondent's lifestyle would have been had they not divorced.

¶ 19 Judy testified that she pays for the house utilities, any landscaping work, cell phone bills, food, attorney fees, all household items, any furniture, monthly payments on respondent's Barclay and Home Depot accounts, and, moreover, that she wrote a check in the amount of $11,307 to petitioner for Victoria's 2012 college tuition. Judy confirmed that she and respondent have a verbal agreement that respondent will pay back the $11,307 she loaned him for Victoria's freshman-year expenses.

¶ 20 Petitioner testified that Victoria has a double major in computer science and entertainment design and technology. She is an "A" student, with a 3.9 grade point average (GPA) in her primary major and a 3.6 overall GPA. Victoria obtained scholarships in the amount of $11,530 for the 2013-2014 school year. Petitioner testified that she and respondent were married for 16 years and that she is aware of his skills and work capabilities. Petitioner testified that respondent is "very gifted" and is capable of doing many jobs, including plumbing, electrical, welding, machining, and "there really isn't much of anything he can't do[.]" Petitioner testified that she read respondent's website and Facebook page for his business and that he lists thereon his different skills and capabilities. Petitioner disagreed that the 401(k) account at the time of the divorce was valued at $70,000. Rather, she testified that she received around $50,000 and respondent was left with $80,000 in that account.

¶ 21 C. Court's Ruling

¶ 22 On January 24, 2014, the court granted in part respondent's motion to modify his support obligations. The court made specific findings. Namely, the court found that respondent earned approximately $17,000 per year and that Judy's income, per her testimony, was $50,000 per year. It noted that the evidence that Judy's income was $77,000 per year was from 2012 and that there was no evidence at trial to explain any income above the $50,000 to which she testified. Further, the court found that respondent's trust is unfunded and that there was no credible evidence that respondent amassed undisclosed funds. The court found unrebutted respondent's testimony that he spent his inheritance.

¶ 23 Relying on *In re Drysch*, 314 Ill. App. 3d 640 (2000), the court noted that Judy had no legal obligation to support Victoria, but that, when assessing respondent's financial resources, it could consider Judy's income to the extent it affects "the total picture of funds [respondent] has available to support the child." As such, the court ruled:

> "Currently Judy is paying all of the obligations of the household. However, this is out of necessity because once [respondent] pays the current expenses he's obligated to pay for his child, he has virtually no money left, but for perhaps some gas money and some minor issues.
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> The arrangement that is currently existing between [respondent] and the current Mrs. Hill, again, I do not believe is one out of choice but necessity.
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> The testimony indicates that this is not what the parties would do but for the expenses of the child. Therefore, taking into consideration all of the factors including the new wife's income *** I should say the new wife's finances and getting a clear picture of [respondent's] resources, first off, I believe that there is a change in circumstances.

> [Respondent] was making $70,000 at the time of the dissolution. He's currently making 17 to $18,000. He's remarried. Those are all changes in circumstances."

¶ 24 In its written order, the court also noted "Equity requires this court to take into account [respondent's] new wife's income, but reinforces said new spouse has no financial obligation to support the parties' child." The court denied respondent's request to eliminate or reduce his obligation to pay Victoria's health insurance premiums. It similarly denied respondent's request to eliminate his obligation to pay for Victoria's college education expenses. It did, however, reduce respondent's obligation to pay college expenses from around $11,000 to $3,000 per year. Petitioner, *pro se*, appeals.

¶ 25 II. ANALYSIS

¶ 26 A. Respondent's Motion to Strike

¶ 27 Petitioner's brief purports to raise four issues for our review, all concerning the trial court's order granting, in part, respondent's petition to modify support. Petitioner's statement of facts, however, provides background *only* up to the time respondent's petition was filed, with *no* summary of the evidence presented at hearing or the court's ruling. Further, petitioner's argument section does not fully argue or support all four issues she is purporting to raise. Instead, petitioner focuses primarily on her position that the court erred in denying full and fair discovery into Judy's finances and in not considering respondent's current lifestyle. For these reasons, as well as petitioner's failure to include a "points and authorities" section, an appendix, or an introductory paragraph, respondent moves in his response brief for petitioner's brief to be stricken as violating Illinois Supreme Court Rule 341(h) (eff. July 1, 2008).

¶ 28 There is no question that, in several respects, petitioner's brief fails to comply with Rule 341. Petitioner points out that she is *pro se*; however, a litigant's *pro se* status does not relieve

him or her from the duty to comply with court rules. *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 18. A failure to comply with Rule 341 may result in forfeiture of the issues raised on appeal, and we may, due to the violations, strike the brief and dismiss the appeal. *Id.*

¶ 29 Nevertheless, we may also, in our discretion, choose to review an appeal despite shortcomings in the briefs. *Id*. at ¶ 19. Here, in response to respondent's motion to strike, petitioner attempts to salvage her appeal by providing slightly more fulsome argument in her reply brief. Moreover, having reviewed the record and considering the standard of review (as discussed below), we conclude that the deficiencies in petitioner's brief do not completely hinder our ability to resolve the sufficiently presented issues. As such, we deny respondent's motion to strike petitioner's brief. We will, however, disregard those issues that are raised, but are not sufficiently developed for our review.

¶ 30 B. Discovery into Judy's Assets

¶ 31 Modification of a dissolution judgment rests in the trial court's sound discretion, and we will not reverse the court's modification decision absent an abuse of that discretion. *In re Marriage of Baumgartner*, 2014 IL App (1st) 120552, ¶ 45. An abuse of discretion will be found only where no reasonable person would take the view adopted by the trial court. *Id.*

¶ 32 A provision for payment of college expenses is a form of child support and is modifiable. *Id.* A parent should not be required to pay more toward college support than he or she can afford. *In re Support of Pearson*, 111 Ill. 2d 545, 552 (1986). Section 513(b) of the Act provides that, when considering a petition to decrease, modify, or terminate an award requiring payment of educational expenses, the court must consider "all relevant factors that appear reasonable and necessary," including: (1) the "financial resources" of both parents; (2) the

standard of living the child would have enjoyed had the marriage not been dissolved; (3) the child's financial resources; and (4) the child's academic performance. 750 ILCS 5/513(b) (West 2012).

¶ 33 Traditionally, the financial status of a parent's new spouse was not considered in child-support-modification proceedings because a new spouse has no legal obligation to support his or her stepchildren. See *Drysch*, 314 Ill. App. 3d at 645. However, petitioner correctly notes that courts have, nevertheless, broadly interpreted section 513's phrase "financial resources" (as opposed to more narrow terms, such as "income" or "salary"), permitting inquiry into all money or property to which a parent has access, including money or property that could be available to him or her through a new spouse. *Id.* at 644-46. It bears emphasizing and repeating that the inquiry is not whether the new spouse's income can be used to help pay the support obligation; rather, "[a]s with any other form of child support, a trial court can consider the parties' assets and other elements of financial resources, even the financial status of a current spouse, to determine *whether payment of support would endanger the ability of the support-paying party and that party's current spouse to meet their needs*." (Emphasis added.) *In re Marriage of Deike*, 381 Ill. App. 3d 620, 627 (2008); see also *In re Marriage of Keown*, 225 Ill. App. 3d 808, 813 (1992).

¶ 34 Here, petitioner does not argue outright that, based upon the evidence it received, the court abused its discretion in reducing (not eliminating) respondent's support obligation.[1]

[1] Nevertheless, because it is the proverbial "elephant in the room," we note that the court did not abuse its discretion in finding that respondent met his burden of establishing a substantial change in circumstances warranting modification of the dissolution judgment. Indeed, the evidence reflected that, after the dissolution, respondent became unemployed. He sought alternative employment and started a business, but neither effort proved successful. Despite no

Rather, petitioner asserts that the court did not admit all relevant evidence. She argues that the court erred because it did not permit full and fair discovery into Judy's finances. Petitioner's primary objections concern the lack of information relating to Judy's trusts and redacted portions of Judy's tax returns. Petitioner asserts that, because of those deficiencies, she was not able to confirm that respondent and Judy hold no joint financial assets or property, and she further asserts, based upon "information and belief," that Judy is a "multi-millionaire" who owns offshore accounts.

¶ 35 At its heart, petitioner's argument concerns the court's discovery rulings (which she argues resulted in the possible absence of certain evidence at the hearing that would have altered the court's decision). Again, the court primarily denied Judy's motion to quash petitioner's subpoena, but it granted Judy's motion to quash petitioner's request that Judy produce copies of

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legal obligation to do so, Judy paid respondent's 2012 support obligations, with the two verbally agreeing that he would repay her when he "gets back on his feet." At the time of the hearing, respondent had recently found employment, but, after paying his support obligations (both college tuition and the health care premiums), he was left with virtually no money (indeed, it appears there is a monthly shortfall). Accordingly, Judy paid all household expenses and made payments to respondent's credit cards. While petitioner suggests, for example, that the court could have required respondent to take out loans or sell his vehicle to meet his support obligations, this ignores that respondent likely needs a vehicle to get to work and the court could have reasonably concluded that requiring respondent to take on more debt to pay a debt was not the best course of action. In sum, the court properly considered the relevant statutory factors in section 513(b), including how Judy's finances impacted respondent's "financial resources," and its modification decision does not reflect an abuse of discretion.

any and all of her personal trust(s) with any attachments, and it apparently did not order Judy to produce unredacted tax returns. "It is well established in Illinois that the trial court is afforded broad discretion in ruling on discovery matters." *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 16. Accordingly, we review for an abuse of discretion the trial court's discovery ruling. *Id.*

¶ 36 The court here did not abuse its discretion in limiting Judy's required disclosures. In fact, it required Judy to disclose almost everything petitioner requested. Again, the court required Judy's deposition to be taken and, further, that she disclose numerous documents, including, for example: (1) any documents that evidence any monies, accounts, funds, assets or anything of value that respondent had transferred to Judy, the Judy A. Lorenz Trust, or any other trust created or any other entity from June 19, 2007, forward; (2) "any documents of any nature whatsoever that evidence any monies, accounts, funds, assets or anything of value that have been transferred by Judy Hill or her trust to the Richard W. Hill Trust or to any other trust [respondent] has created at any time, or to any other entity in which [respondent] has an interest at any time from June 19, 2007 through to the present time"; and (3) Judy's 2012 federal and state income tax returns (albeit redacted).

¶ 37 Thus, the court did not preclude inquiry into Judy's finances. To the contrary, it recognized that Judy's finances were relevant to the extent they freed-up respondent's finances to pay his support obligations, and it granted extensive discovery. Further, as to the trust, we cannot say that the court abused its discretion; it did not require disclosure and copies of any trust, with attachments, held in Judy's name, but it did require disclosure of documents reflecting transfers from Judy's trust to respondent's accounts and vice versa. That decision was not unreasonable, as Judy's finances are relevant, but only as they pertain to respondent's financial resources and his ability to pay the support obligations. Similarly, petitioner complains that

some portions of Judy's tax returns were redacted. She attaches copies of those redacted returns to her reply brief, but she does not indicate which redacted line items she thinks were relevant or what they might show (suggesting leaving a fishing expedition). In any event, the issue again is whether the court abused its discretion by failing to permit fair inquiry into Judy's finances, as they relate to respondent's financial resources. The court was aware of the total income reported on the tax return, and we cannot say it abused its discretion in determining that the total, in conjunction with the other information produced, was sufficient for it to adequately ascertain how Judy's income impacted respondent's financial resources.

¶ 38 C. Respondent's Lifestyle

¶ 39 Judy next argues that the court erred in discounting evidence regarding respondent's current lifestyle, which he is able to enjoy because of Judy's "wealth." We reject this argument.

¶ 40 First, petitioner does not develop the argument, nor does she identify what evidence the court allegedly discounted. In her opening brief, she relies upon one, unreported decision as support for her assertion, and in her reply brief she elaborates on the argument, but still does not provide relevant support. Accordingly, this argument is forfeited. *In re Marriage of Heinrich*, 2014 IL App 2d 121333, ¶ 44; see also Ill. S. Ct. R. 341(h)(7) (eff. Feb. 1, 2013).

¶ 41 Second, unlike the unreported case upon which petitioner relies (*In re Parentage of Thompson*, 2013 IL App (3d) 110905-U, ¶ 12 (where the court required the unemployed spouse to contribute to college expenses where she had undisputedly married a multi-millionaire and her monthly financial expenses on her financial affidavit totaled $8,453, including $625 monthly for travel and $300 monthly for personal grooming)), the court here reviewed respondent's financial affidavits, which did not reflect high personal and discretionary monthly expenses, and both respondent's and Judy's financial circumstances, which did not reflect undisputed wealth.

Petitioner argues that, by supporting the household, Judy permits respondent to live a comfortable lifestyle without financial burden and, essentially, without motivation to find employment that would allow him to pay his obligations. The court, however, did not disregard the fact that Judy supported the household. Rather, the court viewed this fact as a matter of necessity because the amount of respondent's obligations met or exceeded his income. Further, as discussed more in the next section, the court also could have reasonably found that respondent was not necessarily underemployed and that his employment status was not voluntary.

¶ 42 Third, we note that, except to the extent it might reflect financial resources, respondent's current lifestyle is not necessarily a factor the court must consider in ruling on a modification petition. Again, while section 513(b) requires the court to consider "all relevant factors that appear reasonable and necessary," it only specifies as relevant: (1) the "financial resources" of both parents; (2) *the standard of living the child* would have enjoyed had the marriage not been dissolved; (3) the child's financial resources; and (4) the child's academic performance. 750 ILCS 5/513(b) (West 2012). The parent's current lifestyle is not explicitly relevant. Therefore, the court here certainly did not abuse its discretion where the evidence it received did not reflect that respondent was enjoying an extravagant lifestyle or one which reflected sufficient financial resources for him to sustain his original obligations.

¶ 43 D. Respondent's Alleged Underemployment and Dissipation of Assets

¶ 44 Petitioner asserts that the court erred in failing to consider that respondent is voluntarily underemployed and that respondent dissipated his inheritance and the 401(k) account. Again, these arguments are not developed and are forfeited. *Heinrich*, 2014 IL App 2d 121333, ¶ 44; see also Ill. S. Ct. R. 341(h)(7) (eff. Feb. 1, 2013).

¶ 45 In addition, "[a] party's ability to pay must be evaluated with regard to the party's

resources at the time of the hearing." *Pearson*, 111 Ill. 2d at 552. Thus, the court did not need to consider hypothetical future earnings or employment. Underemployment and dissipation are not listed as factors to consider under section 513(b), but, even if they are relevant under the "all relevant factors" portion of section 513, petitioner's assertions remain unsupported by the record. The evidence reflected, and it was undisputed that, respondent's loss of employment was not his fault. The evidence was also undisputed that respondent sought alternative employment and started a business that did not prove lucrative. Respondent ultimately found employment, but at a salary significantly lower than that at the time of dissolution. While the court heard petitioner's testimony that respondent is skilled, the court also heard that the salary respondent earned at the time of dissolution was received after working 25 years for one company and, moreover, that respondent has a high school education. The court could have reasonably found it unlikely that respondent would again attain an income comparable to that which he was earning at the time of the dissolution, given his age and minimal education.

¶ 46 Finally, the court explicitly rejected the argument that respondent amassed undisclosed funds or that respondent's trust held any funds, and it noted that respondent's testimony that he spent his inheritance was unrebutted. Petitioner argues that respondent failed to prove that his assets were depleted, but instead only asserted as such. Nevertheless, the court could have credited respondent's testimony. Petitioner argues that respondent would not have created a trust without having resources to fund it, and she takes issue with the trial court's commentary that it had former clients who created trusts and did not fund them. The court's comments, however inappropriate, did not necessarily reflect bias. Rather, the court was simply pointing out that petitioner had not rebutted respondent's testimony and evidence that his trust was not funded. In sum, petitioner's arguments are forfeited and otherwise fail.

¶ 47 III. CONCLUSION

¶ 48 For the reasons stated, we affirm the judgment of the circuit court of McHenry County.

¶ 49 Affirmed.