

Illinois Official Reports

Appellate Court

Clark v. Lay, 2022 IL App (4th) 220101

Appellate Court
Caption

STEVEN A. CLARK, Petitioner-Appellant, v. SONYA LAY, f/k/a
Sonya Tournear, Respondent-Appellee.

District & No.

Fourth District
No. 4-22-0101

Filed

November 29, 2022

Decision Under
Review

Appeal from the Circuit Court of Adams County, No. 2004-F-176; the
Hon. Holly J. Henze, Judge, presiding.

Judgment

Affirmed.

Counsel on
Appeal

Donald R. Schuering, of Don R. Schuering, Esq. LLC, of Quincy, for
appellant.

Gerald L. Timmerwilke, of Blickhan, Timmerwilke and Woodworth,
of Quincy, for appellee.

Panel

JUSTICE DOHERTY delivered the judgment of the court, with
opinion.
Justices Zenoff and Steigmann concurred in the judgment and opinion.

OPINION

¶ 1 Petitioner Steven Clark appeals the circuit court's orders finding that he perpetrated a fraud on the court in concealing income that would have increased his child support obligation, vacating previous child support orders, modifying his child support obligation, and assessing an arrearage, retroactive to 2016 based upon calculations provided by respondent Sonya Lay.

¶ 2 On appeal, Clark contends that (1) the trial court erred in modifying child support retroactively beyond the pending petition to show cause requesting an increase in child support in the absence of a petition for postjudgment relief pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2020)) and (2) the court abused its discretion in calculating the amount of arrearage. For the reasons that follow, we affirm.

I. BACKGROUND

¶ 3 In November 2004, Clark began this matter by initiating proceedings under the Illinois Parentage Act of 1984 (750 ILCS 45/1 *et seq.* (West 2004) (repealed by Pub. Act 99-85, § 977 (eff. Jan. 1, 2016))) to determine the paternity of a minor child. Lay, the minor's mother, admitted that Clark was the father and, in turn, filed a petition requesting the determination of child support. The court issued an order (1) finding Clark to be the father of the minor, (2) awarding Lay custody of the minor, (3) granting Clark reasonable visitation to be agreed upon by the parties, and (4) requiring Clark to pay child support of \$60 per week retroactive to December 16, 2004.

¶ 5 In September 2012, Lay petitioned for an increase in child support alleging, among other things, that Clark's earnings had increased. Clark admitted the allegations contained in Lay's petition but denied that support should be increased. Lay served Clark with financial interrogatories and a request to produce followed by supplemental interrogatories and another request to produce. She also filed a motion to compel discovery, alleging Clark failed to answer the initial financial interrogatories in their entirety. The court directed Clark to comply with discovery requests within 30 days, which he failed to do. A motion for sanctions followed.

¶ 6 In July 2013, Clark filed updated responses to Lay's interrogatories and requests to produce. On September 13, 2013, the court entered an order (1) increasing child support to \$125.92 retroactive to September 18, 2012, (2) setting an arrearage in the amount of \$1824.60, (3) requiring Clark to pay an additional \$25 per week to pay down the arrearage, and (4) granting Lay's motion to compel discovery and motion for sanctions, requiring Clark to pay Lay's attorney fees. None of the financial information exchanged by the parties during this time, including the interrogatories or the answers, are included in the record on appeal.

¶ 7 The record reflects that, unbeknownst to the court and Lay, Clark had filed a claim for disability benefits with the United States Department of Veterans Affairs (VA) prior to the entry of the order setting his child support obligations. On October 24, 2013, 28 days after the court set child support, Clark received retroactive disability benefits in the lump sum amount of \$25,300. Thereafter, Clark received an ongoing monthly disability benefit from the VA ranging from an amount exceeding \$1500 per month in 2014 to an amount in excess of \$2000 per month in 2021.

¶ 8 In October 2015, Clark filed a *pro se* motion requesting the cessation of the \$25 payment towards his arrearage on the grounds that the arrearage amount had been paid. He requested

that the court direct any overpayment on the arrearage toward his obligations for the minor's medical expenses. Lay did not file a response, nor did she appear at the hearing on the *pro se* motion. The trial court granted Clark's motion, ordering that his child support obligations remain at \$125.92 per week. Though he had been receiving VA benefits for some two years as of this time, Clark did not voluntarily disclose his receipt of those benefits, and the record is silent regarding whether the court inquired about a change in his income.

¶ 9 On October 10, 2018, Lay filed a verified two-count petition to show cause. In count II, she alleged that the expenses for the care of the minor and Clark's income had increased. As a result, an increase in child support was necessary. In December 2018, Lay once again served financial interrogatories and a request to produce on Clark, which he promptly completed and returned. Clark also completed a financial affidavit on the standard form provided by the Illinois Supreme Court. In completing the financial interrogatories and affidavit, Clark failed to disclose his VA benefits and the bank account into which those benefits were directly deposited. Clark also claimed that he was paying \$500 per month on real estate taxes when he was actually paying no property taxes due to the VA finding of disability.

¶ 10 In June 2019, Lay filed a motion for fees alleging that Clark failed to properly answer discovery and concealed that he was "receiving a large sum from the [VA] for disability." She allegedly uncovered these benefits by discovering Clark was not paying property taxes on his residence. Clark filed an updated financial affidavit finally disclosing that he received \$2174.62 per month in VA benefits as of October 8, 2019, also disclosing the bank account into which those funds were deposited. Clark still falsely claimed to pay \$500 per month in real estate taxes. In November 2019, Lay filed a motion seeking discovery. She alleged that Clark was receiving disability benefits after the VA found him 90% disabled and that he had failed to disclose those benefits as income until Lay further investigated the matter. The court ordered the parties to file updated financial affidavits within 14 days of trial. In June 2020, Clark filed an updated financial affidavit asking the court to only consider \$77 of the \$2132.96 per month in VA benefits for support purposes. Clark again maintained that he paid \$500 per month in property taxes. But his property tax bills are in the record on appeal and show that he paid \$0 for 2017 through 2019.

¶ 11 The trial court held evidentiary hearings on June 26, 2020; September 9, 2020; and February 2, 2021. Only the report of the proceedings for the hearing held on September 9, 2020, is in the record. A guardian *ad litem* (GAL) was appointed for the minor by agreed order following the June 2020 hearing. Following the evidentiary hearing in February 2021, the court entered an agreed order setting interim child support in the amount of \$631 per month and invited written arguments on all pending matters.

¶ 12 In her written argument Lay contended that Clark engaged in "deceptive and fraudulent concealment" due to his repeated failure to disclose his VA benefits. Lay specifically argued that "Illinois [c]ourts have held that failure by an obligor to pay child support to truthfully reveal income can be grounds for contempt and by failing to so notify, the support can be retroactive not from the date of filing the Petition [to modify support] but from whence the fraud was committed." She then cited *In re Marriage of Rocha*, 2015 IL App (3d) 140470, *In re Marriage of Ealy*, 269 Ill. App. 3d 971 (1995), and *People ex rel. Williams v. Williams*, 191 Ill. App. 3d 311 (1989), as support. She requested that the court set child support retroactive to "the year 2016."

¶ 13 In response, Clark argued that he was unaware his VA benefits were income for purposes of child support (but see *Rose v. Rose*, 481 U.S. 619, 631 (1987) (“Congress clearly intended veterans’ disability benefits to be used, in part, for the support of veterans’ dependents.”)) and that prior court orders did not require him to disclose disability benefits or changes in income. He contended that Lay suffered no prejudice from his failure to disclose his VA benefits. Further, the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) (750 ILCS 5/510(a) (West 2020)) prevented the court from retroactively modifying support beyond October 10, 2018, the date Lay filed her petition to show cause.

¶ 14 In its findings issued June 4, 2021, the trial court acknowledged that Lay’s petition to show cause filed on October 10, 2018, was not a request pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2020)) to vacate prior child support orders; Lay also never filed a section 2-1401 petition on the basis of fraud after discovering Clark’s undisclosed VA benefits. The trial court also noted that the petition was not accompanied by supporting affidavits as required by section 2-1401. Nonetheless, the court found there existed “evidence necessary to support such a finding by the [c]ourt was presented at trial without objection from [Clark].” The court found that Clark fraudulently failed to disclose his VA benefits in November 2015 when the court set child support and discontinued his arrearage payments. The court vacated “the previous child support orders” and ordered an increase in support retroactive to 2016—the date requested by Lay—with the amount of arrearage preceding the October 2018 petition to show cause to be calculated only on Clark’s VA benefits. The court directed Clark’s counsel to provide calculations on the retroactive support and arrearage.

¶ 15 On July 1, 2021, Clark filed a motion to reconsider, asserting that the court’s judgment was unsupported by the evidence. He also argued that, during the 2015 proceedings, the only issue before the court was the *pro se* motion to suspend the arrearage “overpayment.” “There was nothing before the [c]ourt regarding child support nor was the incomes of either party submitted to the [c]ourt to be used to calculate child support.”

¶ 16 On August 5, 2021, the court issued an amended order *nunc pro tunc* to June 4, 2021, correcting a scrivener’s error. The court also denied Clark’s motion to reconsider from the bench by minute order; we have no record of those proceedings. Clark then filed an appeal that he subsequently moved to voluntarily dismiss. This court granted Clark’s motion and dismissed the appeal. *Clark v. Lay*, No. 4-21-0502 (2021) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 17 In October 2021, Lay filed a motion requesting the court adopt the child support and arrearage calculations as provided in the supporting documents attached to her motion. The supporting documents depicted Clark’s monthly employment income in one column, his monthly VA benefits in a separate column, and Lay’s monthly income in yet another, reflecting income for the parties for 2016 through 2021. The documents also calculated arrearage amounts for every month based on Clark’s VA benefits from 2016 to 2021, even considering legislative amendments to the Dissolution Act. The calculations provided by Lay proposed an arrearage amount of \$21,818.44. Clark failed to file calculations with the court as ordered. Instead, he filed an objection to Lay’s calculations and argued the calculations lacked supporting evidence of the income of the parties depicted therein.

¶ 18 On January 13, 2022, the court denied Clark’s objection to Lay’s calculations and set child support arrearage retroactive to 2016 in the amount of \$21,818.44.

¶ 19 Clark appeals.

¶ 20 II. ANALYSIS

¶ 21 Clark contends the trial court abused its discretion by awarding retroactive child support beyond October 10, 2018, the date Lay filed her petition to show cause requesting an increase in child support. He suggests that under the Dissolution Act (750 ILCS 5/510(a) (West 2020)) the court only possessed authority to grant a child support arrearage retroactive to the request for an increase in child support. Clark also argues there is insufficient evidence to support the finding he perpetrated a fraud on the court and that he had no duty to disclose his VA benefits. He then suggests that the trial court erred in construing the petition to show cause as a section 2-1401 petition for postjudgment relief. Finally, he argues that the arrearage calculation adopted by the court was erroneous.

¶ 22 Lay argues the award of retroactive child support arrearage predating the October 2018 petition was proper due to the fraud perpetrated upon the court when Clark failed to disclose his VA benefits. She points out that Clark failed to file a competing calculation for arrearage in the trial court as ordered and that he has essentially forfeited any claim of error on that basis.

¶ 23 A. Retroactive Child Support

¶ 24 1. *Applicable Law*

¶ 25 The Illinois Parentage Act of 2015 (Parentage Act) (750 ILCS 46/101 *et seq.* (West 2020)) controls the rights and obligations of parents that were never married. The Parentage Act declares the public policy of this state codifying “the right of every child to the physical, mental, emotional, and financial support of his or her parents” (*id.* § 102) and directs trial courts to issue an order for child support following a request and sufficient evidence (*id.* § 801). The trial court then has “continuing jurisdiction to modify an order for child support,” and any modification shall be “in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act.” *Id.* § 808. Section 510(a) of the Dissolution Act provides in pertinent part that “[e]xcept as otherwise provided *** support may be modified only as to installments accruing subsequent to due notice by the moving party of the filing of the motion for modification.” 750 ILCS 5/510(a) (West 2020).

¶ 26 Generally, a trial court has broad discretion when ruling on an award of child support, and a court of review will not disturb its determination absent an abuse of that discretion. *Vance v. Joyner*, 2019 IL App (4th) 190136, ¶ 66. A court abuses its discretion when no reasonable person would agree with the view adopted by the trial court. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005). To the extent our review involves statutory interpretation, we proceed *de novo*. *In re Marriage of Dynako*, 2021 IL 126835, ¶ 14. “The primary objective in construing a statute is to give effect to the legislature’s intent, presuming the legislature did not intend to create absurd, inconvenient, or unjust results [citation].” *In re Marriage of Petersen*, 2011 IL 110984, ¶ 15. We may affirm the trial court’s ruling on any grounds apparent from the record. *In re Estate of Funk*, 221 Ill. 2d 30, 86 (2006).

¶ 27 2. Section 510(a) in the Context of Fraud

¶ 28 Initially, Clark is correct that the pertinent portion of the Dissolution Act governing modifications of child support provides that “the provisions of any judgment respecting *** support may be modified only as to installments accruing subsequent to due notice by the moving party of the filing of the motion for modification.” 750 ILCS 5/510(a) (West 2020). Clark also notes that this court has recently addressed retroactive modification of child support and found that, “under the plain language of section 510(a) of the Dissolution Act, the court could only order petitioner to pay respondent child support retroactive to *** when petitioner would have received notice of respondent’s request that he pay her child support.” *In re Marriage of Biciocchi*, 2021 IL App (4th) 200561-U, ¶ 32.

¶ 29 Clark’s arguments that section 510(a) is controlling and that *Biciocchi* is persuasive fail to consider his alleged fraudulent misrepresentation to the court by failing to disclose his VA benefits in 2015. In *Biciocchi*, the trial court ordered retroactive child support seven months prior to the respondent’s motion to modify support and was reversed on appeal. *Id.* ¶ 33. There were no allegations of fraudulent concealment of income in that case, nor was there a finding of fraud. Here, the trial court did not simply retroactively modify Clark’s child support obligation. Rather, the court found that Clark engaged in fraud when he made a material misrepresentation by omission in 2015 by failing to disclose the receipt of a substantial amount of VA benefits. The court then vacated prior child support orders declaring an arrearage retroactive to a date preceding the request to modify support was appropriate. *Biciocchi* is factually inapposite.

¶ 30 In regard to section 510(a), the parties acknowledge authority that allows for the award of retroactive child support predating the filing of a petition to modify support to the time the fraudulent concealment began.

¶ 31 In *Rocha*, 2015 IL App (3d) 140470, ¶ 18, the petitioner filed a request for an increase in child support in March 2010. The petitioner then filed a section 2-1401 petition in 2011 requesting the vacatur of previous support orders due to fraudulent concealment of income by the respondent, the child support obligor. *Id.* ¶ 19. Following evidentiary hearings, the trial court found that the respondent engaged in fraudulent concealment of income by omission (*id.* ¶¶ 20, 26) and retroactively increased the respondent’s support obligation to the date of the fraud in May 2003 (*id.* ¶ 26). The respondent argued on appeal that the trial court erred in ordering him to pay support retroactive to a date predating the 2010 request for increased child support. *Id.* ¶ 38. The appellate court disagreed, finding that “the [trial] court’s judicious approach properly put [the petitioner] in the position she would have been in *** had [the respondent] truthfully disclosed his employment to the court in 2003.” *Id.*

¶ 32 In *Ealy*, 269 Ill. App. 3d at 973, the appellate court interpreted the petitioner’s request for modification of child support in the trial court as a section 2-1401 petition and found that it comported with the requirements “of that section.” The court found that the respondent made a false statement in a stipulation that the petitioner justifiably relied on. *Id.* at 975. Accordingly, the court found that “[t]he entry of the stipulated order in this case was obtained by virtue of [the respondent’s] fraudulent misrepresentation of his net income” and that “[t]he misrepresentation by [the respondent] constituted a fraud on the court.” *Id.* The appellate court directed the trial court to award the petitioner retroactive support to a date preceding the request for modification. *Id.*

¶ 33 The parties also cite *Williams*, 191 Ill. App. 3d 311. The defendant in that case was unemployed when the hearing on the petition to modify was before the trial court. *Id.* at 315. The court implicitly reserved its ruling and instructed the defendant to obtain employment and notify the court. *Id.* The defendant obtained employment but failed to notify the court. *Id.* at 314. Once the defendant's fraudulent omission was discovered, the trial court ordered retroactive child support based on the defendant's undisclosed employment. *Id.* On appeal the defendant alleged that section 510(a) of the Dissolution Act prevented retroactive support. *Id.* at 314-15. The appellate court disagreed, finding that there was a pending petition to modify and that it would be "absurd to believe the legislature intended to permit someone such as [the defendant] to disregard court orders and thereby to escape his familial obligations." *Id.* at 317.

¶ 34 Although the parties fail to cite the case, we believe a discussion of *People ex rel. Greene v. Young*, 367 Ill. App. 3d 211 (2006), is helpful to the review of this matter. *Young* involved acrimonious support proceedings in which the Illinois Department of Public Aid became involved. *Id.* at 212. The support obligor was uncooperative in the proceedings, and the court ordered him to report any change in employment. *Id.* at 213. The obligor failed to do so and also refused to appear at court hearings. *Id.* The trial court declined the request to modify the obligor's child support obligation retroactive to a date predating the pending petition for support modification. *Id.* at 214-15. A majority of the appellate court reversed. *Id.* at 221-22. The majority noted that the Dissolution Act prevented retroactive maintenance predating the petition to modify but found that the reasoning expressed in *Williams* applied to the circumstances at issue. *Id.* at 220 (citing *Williams*, 191 Ill. App. 3d at 317). Additionally, the situation presented an extraordinary fact pattern, and both public policy and a previous court order required disclosure of employment so the obligor would be required to support his child. *Id.*

¶ 35 Considering the authority mentioned above, we do not construe section 510(a) to find a legislative intention that a parent under a support obligation might escape it by means of fraud or dishonesty. See *Dawkins v. Fitness International, LLC*, 2022 IL 127561, ¶ 27 ("When a proffered reading of a statute leads to absurd results that the legislature could not have intended, courts are not bound to that construction, and the reading leading to absurdity should be rejected."). Such a construction would allow individuals to escape their obligations and run contrary to the public policy expressed in both the Parentage Act and the Dissolution Act. In addition, as discussed below, the court bears the important responsibility to ensure the welfare of minors before the court, as well as the authority to uphold its own orders in the face of fraud. We do not believe that the legislature intended to constrict the court's authority in these respects.

¶ 36 Thus, we must review the trial court's finding of fraudulent misrepresentation and address Clark's allegation that the evidence does not support the trial court's finding in order to determine whether section 510(a) of the Dissolution Act applies here. See *Williams*, 191 Ill. App. 3d at 317; *Young*, 367 Ill. App. 3d at 220-21.

¶ 37 *3. Sufficiency of the Evidence Supporting Fraudulent Misrepresentation*

¶ 38 To succeed on a claim of fraudulent misrepresentation, a party must show (1) a false statement of a material fact, (2) the individual making the statement knew or believed it to be untrue, (3) the recipient of the statement had a right to rely on it and did so, (4) the statement was made for the purpose of inducing the recipient to act, and (5) resulting injury from the

recipient's reliance on the statement. *Ealy*, 269 Ill. App. 3d at 973. A conscious nondisclosure of material information under circumstances where a duty to speak exists can amount to a false statement of material fact that another individual may rely upon. *In re Marriage of Sassano*, 337 Ill. App. 3d 186, 195 (2003).

¶ 39 We could easily find here that Clark's argument against the trial court's finding of fraud has been forfeited by failing to present a sufficient record. Of all the hearings held in this matter, evidentiary and otherwise, only the September 9, 2020, report of proceedings is provided on appeal. A review of that hearing reveals that the majority of testimony elicited concerned the implementation of a visitation schedule by the GAL. Aside from the September 2020 report of proceedings, we are left with Clark's VA benefit payout information showing his benefits began in October 2013 and continued thereafter; his 2018, 2019, and 2020 financial affidavits and interrogatories where he initially omitted the VA benefits to only update his answers to include the benefits; an ongoing misrepresentation that he paid property taxes; and the written arguments of the parties. Without the appropriate report of proceedings, or a suitable substitute, and in the absence of evidence to the contrary, we must presume the court heard sufficient evidence to support the decision rendered. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 394 (1984). It is the burden of the appellant to provide a record on appeal sufficient to support a claim of error. *Id.* "Any doubts which arise from the incompleteness of the record will be resolved against the appellant." *Id.* at 392. Accordingly, we may assume that there was sufficient evidence presented to find Clark perpetrated a fraud on the court by making a fraudulent misrepresentation by omission.

¶ 40 However, even on this incomplete record, we are able to conclude that there is ample evidence to support the trial court's finding of fraud. It is clear from the record that Clark received a lump sum payment of \$23,500 for retroactive benefits once his VA disability payments were approved. The lump sum payment of retroactive benefits occurred only 28 days after the court entered the September 2013 child support order. These retroactive benefits effectively covered a period of time months prior to the trial court's determination of support; consequently, they immediately undercut the accuracy of the representations Clark had made about his income in that time frame. Clark then continued receiving VA benefits up to and after he appeared before the court *pro se* in 2015, alleging he had paid his arrearage with no mention of either the prior lump sum payment or the continuing monthly benefit payments. If known to the court, these facts would have precluded the entry of child support in the amount of \$125.92—the amount the court ordered Clark to continue paying.

¶ 41 Clark's contention that he had no duty to "spontaneously" disclose his change in income is without merit. "A parent's duty to support his or her minor child is among the oldest principles of law." *People ex rel. Sheppard v. Money*, 124 Ill. 2d 265, 269-70 (1988). This obligation "transcends any contractual, court-ordered obligation" and arises out of the parent-child relationship. *In re Marriage of Betts*, 155 Ill. App. 3d 85, 100 (1987). Children have the right to receive support from those who bring them into this world until old enough to support themselves. *Kelley v. Kelley*, 317 Ill. 104, 110 (1925). Implicit in this duty is the duty to disclose income so a court of competent jurisdiction may properly set the support amount. See *In re Keon C.*, 344 Ill. App. 3d 1137, 1143 (2003) ("when one parent earns a disproportionately greater income than the other, that parent clearly should bear a larger share of the support"); *Sullivan v. Sullivan*, 57 Ill. App. 3d 958, 964 (1978) ("It is only equitable that a parent with a

disproportionately greater income than the other bear a greater share of the costs of support, especially if it is the noncustodial parent who is earning greater income.”).

¶ 42 The Dissolution Act recognizes the duty of parents to support their minor children and allows for harsh penalties when parties to support proceedings attempt to circumvent disclosure of income on financial affidavits. 750 ILCS 5/505(a) (West 2020) (“the court may order either or both parents owing a duty of support to a child *** to pay an amount reasonable and necessary for support”); *id.* § 501(a)(1) (“If a party intentionally or recklessly files an inaccurate or misleading financial affidavit, the court shall impose significant penalties and sanctions including, but not limited to, costs and attorney’s fees[.]”). The Parentage Act also recognizes the minor’s right to support. 750 ILCS 46/102 (West 2020). The fact that a parent’s duty to support his child is not memorialized in an order setting child support does nothing to alter that obligation. *In re Estate of Trevino*, 381 Ill. App. 3d 553, 557 (2008).

¶ 43 We have little difficulty concluding that, when Clark appeared before the court in 2015 to seek a reduction in his arrearage, he was under a duty to speak with respect to the previously undisclosed VA benefits. Parents have an affirmative duty to disclose income when appearing before courts on support matters. See *Young*, 367 Ill. App. 3d at 219-20 (holding Illinois public policy puts the onus on a parent to report a change in employment in order to adequately support the child). Based upon Clark’s obligation to provide support for the minor child, and because the topic of the proper amount of his support was squarely on the table when he appeared before the court on his *pro se* motion, he had an affirmative duty to disclose all information regarding his increase in income. See *Sassano*, 337 Ill. App. 3d at 195 (stating that failure to disclose material information under circumstances in which a duty to speak exists amounts to fraud).

¶ 44 Clark attempts to distinguish this case from authority allowing the award of retroactive child support beyond the filing of a petition to modify support in the presence of fraud. See *supra* ¶¶ 31-34. The crux of his argument is that the individuals in those cases violated court orders directing the immediate disclosure of information relating to a change in circumstances. Clark is correct that the individuals in those cases were required per court order to disclose changes in income and employment. We see this point as a distinction without a difference. As we have already discussed, Clark has an obligation to support his minor child, and part and parcel of that obligation is the affirmative duty to disclose his income when standing before the court to discuss other aspects of his support obligations, especially when he knew that his prior representations were rendered materially inaccurate by the receipt of the lump sum retroactive payment. The fact that an obligation to disclose income and thereby adequately support his child was not embodied in a court order does not diminish his duty. See *Trevino*, 381 Ill. App. 3d at 557.

¶ 45 Clark also argues that he was unaware that he was required to disclose the VA benefits, as it was his good-faith belief that they were not income for child support purposes. We emphatically reject Clark’s argument. It is a common maxim that ignorance of the law is no excuse. *People v. Hollins*, 2012 IL 112754, ¶ 34. It is well established that VA disability benefits are income for child support purposes. *Rose*, 481 U.S. at 631. Further, the Illinois Supreme Court has provided form affidavits to assist litigants in disclosing income. There is a specific section on this form to disclose disability benefit income. In addition to initially failing to disclose the VA benefits on the form affidavit, Clark also failed to disclose the bank account he deposited these funds into, making his claim of ignorance even more disingenuous.

¶ 46 Having determined that the finding Clark engaged in fraudulent misrepresentation and perpetrated a fraud on the court must stand, public policy and the canons of statutory construction require that section 510(a) of the Dissolution Act does not limit the trial court's authority to remedy this misconduct with a sanction reaching beyond the date it came to light. *Williams*, 191 Ill. App. 3d at 317; *Young*, 367 Ill. App. 3d at 220-21.

¶ 47 4. Form of the Pleadings

¶ 48 Clark also argues that the trial court improperly construed Lay's petition for rule to show cause requesting modification of child support as a petition for postjudgment relief pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2020)). We disagree.

¶ 49 When addressing Clark's argument, it is important to note that his characterization of the issue is an oversimplification of the court's actions below. The court explicitly stated in its written order that it did not construe the petition to show cause as a petition for postjudgment relief pursuant to section 2-1401. More to the point, the trial court found that Lay failed to file a section 2-1401 petition and that the petition to show cause was insufficient under section 2-1401 to constitute a postjudgment petition. Nonetheless, after considering the evidence presented, the court held that there was sufficient evidence to support a finding of fraud in 2015; the court *sua sponte* vacated prior support orders and determined a retroactive increase in support was appropriate dating back to 2016.

¶ 50 The trial court had the authority to take the foregoing actions even without a section 2-1401 petition on file. Courts have a duty to protect the child's best interests in support proceedings. *In re Marriage of Wittland*, 361 Ill. App. 3d 785, 788 (2005); *In re Marriage of Adams*, 133 Ill. 2d 437, 445 (1990). In order to carry out this duty, courts are vested with inherent plenary power and broad discretion to protect the interests of minors. *Muscarello v. Peterson*, 20 Ill. 2d 548, 555 (1960). This obligation reflects the fact that the right to child support is a right of the child so as not to become the financial responsibility of the State. See *In re N.C.*, 2014 IL 116532, ¶ 51 ("The Parentage Act serves Illinois's public policy by expressly recognizing the right of every child to the *** monetary support of his or her parents."); *In re Marriage of Witbeck-Wildhagen*, 281 Ill. App. 3d 502, 508 (1996) ("The main purpose of the policy recognizing a child's right to support is to prevent minors from becoming dependent on the State."). Courts have plenary jurisdiction over the persons and estates of minors, and in exercising that jurisdiction may cause to be done whatever may be necessary to protect their interests. See *Clarke v. Chicago Title & Trust Co.*, 393 Ill. 419, 429 (1946); *Mason v. Truitt*, 257 Ill. 18, 25 (1912).

¶ 51 Moreover, courts have an interest in protecting the integrity of their rulings.

"The equitable power to vacate a judgment that has been obtained by fraud upon the court is inherent in courts on the rationale that a decision produced by a fraud on the court is essentially not a decision at all and never becomes final. Courts are cautious in exercising such equitable power out of deference to the deeply rooted policy in favor of the finality of judgments." *Settlement Funding, LLC v. Brenston*, 2013 IL App (4th) 120869, ¶ 33.

¶ 52 We acknowledge that the common and appropriate means for parties to obtain postjudgment relief is pursuant to the Code (735 ILCS 5/2-1301, 2-1401 (West 2020)). Further, a family law practitioner should recognize the well-established limitations on the relief a petition to modify child support can provide. However, these are extraordinary circumstances

in which both the interests of a minor and the integrity of court proceedings are at stake. In the presence of obvious fraud, the failure of Lay and the GAL to file a section 2-1401 petition did not confine the court's ability to grant the required relief based on these facts.

¶ 53 In addition to public policy, as codified in the Parentage Act and Dissolution Act, the court's duty to protect the best interests of a minor, and inherent interest in the integrity of its orders, we find our decision is further supported by the statutory schemes at issue. The Parentage Act and the Dissolution Act both contain the following provision: "[t]he procedures, actions, and remedies in this Act shall in no way be exclusive, but shall be available in addition to other actions and remedies of support, including, but not limited to *** the common law." 750 ILCS 46/906 (West Supp. 2021); 750 ILCS 5/518 (West Supp. 2021). We have found common-law tenets apply to this controversy. Accordingly, the trial court properly intervened to protect the rights of the minor, the court did not violate the strictures of either the Parentage Act of 2015 or the Dissolution Act, and the form of the pleadings did not restrict the ability of the court to grant the relief provided.

¶ 54 B. Calculation of Arrearage

¶ 55 Clark argues that even if we find the court properly granted retroactive child support—which we do—the amount the court calculated was erroneous, as “the order upon which the calculations were based was vague, indefinite, and there is uncertain support for its basis.” Lay argues that, by failing to present a calculation on the arrearage to the trial court as ordered, Clark forfeited this issue for review. As mentioned above, a trial court has broad discretion when ruling on an award of child support, and a court of review will not disturb its determination absent an abuse of that discretion. *Vance*, 2019 IL App (4th) 190136, ¶ 66.

¶ 56 When pressed at oral arguments on whether he forfeited this contention for purposes of appeal, Clark conceded that his failure to submit a calculation on arrearage as ordered or to request clarification of the trial court's order via a motion to clarify resulted in forfeiture. Despite being given the chance to submit what he felt was the correct calculation, Clark sat on his hands; he now complains about the accuracy of the calculation he declined to make. As Clark disregarded the trial court's order to provide a calculation, we refuse to entertain his claim of error. See *In re Detention of Swope*, 213 Ill. 2d 210, 217 (2004) (noting the rule of invited error or acquiescence is a procedural default wherein a party is foreclosed from complaining of error which that party induced the court to make or to which that party consented). Further, the contention that the arrearage amount is unsupported by competent evidence misses the mark, as the trial court was intimately familiar with the income of the litigants given the ongoing nature of the proceedings, the numerous financial affidavits submitted by the parties, and the payout schedule of Clark's disability benefits from the VA.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the judgment of the circuit court of Adams County.

¶ 59 Affirmed.