

No. 1-15-1453

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

AYANNA NESBITT JEFFERSON,)	Appeal from the
)	Circuit Court of
Petitioner-Appellee)	Cook County.
)	
v.)	No. 10 D 6678
)	
DARRELL JEFFERSON,)	Honorable
)	David Haracz,
Respondent-Appellant.)	Judge Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice Reyes and Justice Lampkin concurred in the judgment.

ORDER

Held: The appeal is dismissed in part where our court lacks jurisdiction to consider part of respondent's appeal; the trial court's judgment is otherwise affirmed.

¶ 1 In September 2013, the trial court entered a judgment dissolving the marriage of petitioner, Ayanna Nesbitt Jefferson, and respondent, Darrell Jefferson. The court's order incorporated the parties' marital settlement agreement in which they agreed, *inter alia*, that petitioner would receive 50% of the marital portion of two of respondent's pensions, including

his Chicago Transit Authority (CTA) pension. In January 2015, the court entered qualified domestic relations orders (QDROs) relating to those pensions. Respondent subsequently filed a motion to reconsider and vacate the CTA QDRO, which the court denied.

¶ 2 Respondent appeals *pro se* from the trial court's order denying his motion to reconsider and vacate the CTA QDRO. On appeal, respondent argues (1) the trial court lacked authority to grant petitioner the right to spousal support withholdings from respondent's pension funds, (2) the court lacked authority to grant attorney's fees to petitioner at a time that she was unrepresented by counsel, and (3) petitioner's discovery violations rendered the court's judgment void. For the reasons that follow, we dismiss the appeal in part and otherwise affirm.

¶ 3 I. BACKGROUND

¶ 4 In July 2010, petitioner filed a *pro se* petition for dissolution of marriage. In September 2010, counsel filed an appearance on petitioner's behalf. Counsel then filed (1) a petition for temporary maintenance and other relief and (2) a petition for interim attorney's fees and costs. The trial court ordered respondent to tender petitioner's attorney \$5,000 in interim fees. At various points throughout the proceedings in this matter, the court ordered respondent to pay additional sums in attorney's fees to petitioner's counsel. Petitioner's attorney continued to represent her throughout the duration of the proceedings.¹

¶ 5 In January 2011, the trial court entered a uniform order for support, ordering respondent to pay petitioner \$1,200 in monthly maintenance.² In June 2011, petitioner filed a petition for rule to show cause and the entry of an order assessing penalties against respondent's employer, Amalgamated Transit Union Local 241 (Amalgamated). Petitioner claimed that after she served

¹ In February 2014, petitioner's attorney filed a motion to withdraw. The trial court entered and continued that motion. However, the record shows counsel continued to represent petitioner throughout the rest of the proceedings.

² Upon respondent's motion, the trial court terminated maintenance in December 2011, retroactive to the September 2011 filing of respondent's motion.

Amalgamated with a notice to withhold income for support based on the court's January 2011 order, Amalgamated refused to enforce the notice. Petitioner claimed that in doing so, Amalgamated violated a section of the Income Withholding for Support Act (Support Act) (750 ILCS 28/35 (West 2010)).

¶ 6 The trial court initially entered, but later vacated, an *ex parte* default judgment against Amalgamated. Eventually, petitioner withdrew her petition for rule to show cause and instead filed a third party complaint against Amalgamated, seeking statutory penalties for Amalgamated's failure to comply with the Support Act. Thereafter, discovery took place, during which Amalgamated filed a motion for sanctions against petitioner, claiming petitioner failed to verify her discovery responses and failed to fully respond to Amalgamated's interrogatories. In October 2012, the court ordered petitioner to produce sworn discovery responses, and Amalgamated withdrew its motion for sanctions. The following month, Amalgamated and petitioner reached a settlement agreement, and the court dismissed petitioner's claims against Amalgamated with prejudice.³

¶ 7 In September 2013, the trial court entered a judgment dissolving petitioner and respondent's marriage. The court's order incorporated the parties' marital settlement agreement in which they agreed that (1) respondent would receive 50% of the marital portion of petitioner's Chicago Transit Authority (CTA) pension; (2) respondent would keep as his property, free and clear of any interest of petitioner, the AT&T pension to which he contributed prior to the marriage; (3) petitioner would receive 50% of the marital portion of respondent's CTA pension; and (4) petitioner would receive 50% of the marital portion of respondent's Amalgamated

³ In its answer to petitioner's third-party complaint, Amalgamated filed a counterclaim against respondent. After petitioner's claim against Amalgamated was dismissed, Amalgamated filed a motion requesting that the court retain jurisdiction over its counterclaim against respondent. The court granted Amalgamated's motion, and additional proceedings took place between Amalgamated and respondent. Eventually, an agreed judgment order was entered.

pension. The parties agreed that the CTA and Amalgamated pensions would be divided through QDROs, to be prepared by Sandor Goldstein.⁴ Further, petitioner agreed to waive and relinquish any right she may have had in maintenance from respondent.

¶ 8 Later that month, petitioner filed, *inter alia*, a motion to vacate the judgment of dissolution. Petitioner claimed she had learned that respondent withdrew \$40,000 from his Amalgamated pension plan in August 2013, even though he represented in the marital settlement agreement that he had not made any withdrawals from his pensions prior to the effective date of the judgment of dissolution. Respondent filed a response, claiming that he was informed the funds he withdrew were non-marital.

¶ 9 In October 2013, the trial court entered an order enjoining respondent and his agents from transferring or accessing any funds from the CTA and Amalgamated pensions until further order of the court.⁵ In October 2014, respondent filed a petition to enforce the parties' judgment of dissolution of marriage. Evidently, petitioner subsequently withdrew her motion to vacate the judgment of dissolution, as an order from December 2014 indicates that all pending matters, aside from a pending petition for attorney's fees, had been withdrawn.

¶ 10 In January 2015, the trial court entered an order indicating it was entering three QDROs, by separate orders. The Amalgamated QDRO states that respondent assigns to petitioner "50% of the Marital Portion" of respondent's accrued benefits under the plan as of the date of the dissolution of marriage, without reduction for the refund of employee contributions that respondent received in August 2013. The order defines the "Marital Portion" as "equal to a fraction, the numerator of which is the number of months [respondent] participated in the Plan

⁴ The parties actually agreed that the CTA pension would be divided through a QILDRO, not a QDRO; however, the court's later orders and the parties' later pleadings refer to the CTA orders as QDROs, not QILDROs.

⁵ Later, upon respondent's motion, the court modified its order to exclude respondent's disability payments from the CTA and to allow the CTA to resume respondent's disability payments immediately and to make the payments it had ceased paying due to the court's order.

from August 17, 2002 (date of marriage) to September 11, 2013 (date of dissolution of marriage), and the denominator of which is the total number of months [respondent] participated in the Plan as of September 11, 2013 (date of dissolution of marriage)."

¶ 11 The CTA QDRO similarly assigns petitioner "50% of the Marital Portion of any and all benefits to be paid from the Plan to [respondent] or on account of [respondent's] death." The QDRO defines "Marital Portion" as "the portion of [respondent's] interest in the Plan acquired by [respondent] during the marriage." It provides that the "Marital Portion" is determined "by multiplying any benefit to be paid to or on behalf of [respondent] by a fraction, the numerator of which is the number of full months from the date of the parties' marriage (August 17, 2002) to the date of the judgment of dissolution of marriage (September 11, 2013) and the denominator of which is the total number of full months that [respondent] participated in the Plan prior to benefits being paid from the Plan to or on behalf of [respondent]." The QDRO also specifies that respondent "is owed \$19,870.89 for unpaid monthly benefits *** dating back to September 11, 2013." The order indicates that petitioner "shall receive said \$19,870.79" in 24 equal monthly installments, to be withheld from respondent's monthly benefit.

¶ 12 A QDRO was also entered with regard to petitioner's CTA pension. Throughout the remainder of this order, "the CTA QDRO" will refer to the order entered that divided respondent's CTA benefit, not petitioner's.

¶ 13 Respondent subsequently filed a motion to reconsider and vacate the CTA QDRO dividing his pension benefit. Specifically, respondent challenged the portion of the QDRO awarding petitioner \$19,870.79 for unpaid monthly benefits dating back to September 11, 2013. Respondent asserted that he began receiving disability payments from the CTA in January 2013, which were "meant to replace his income, not act as retirement pay" and thus the payments were

not a property right subject to division. Respondent further argued that the parties never intended in their marital settlement agreement to divide respondent's disability payments or treat them as marital property. Finally, respondent claimed that the award of retroactive pay from respondent's disability pay violated sections of the Code of Civil Procedure relating to wage deductions (735 ILCS 5/12-803, 12-804 (West 2014)) because the court's determination to withhold \$19,870.79 from respondent's disability pay acted as a wage garnishment.

¶ 14 In April 2015, the trial court denied respondent's motion. This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 On appeal, respondent argues that (1) the trial court lacked authority to grant petitioner the right to spousal support withholdings from respondent's pension funds, (2) the court lacked authority to grant petitioner attorney's fees at a time that she was unrepresented by counsel, and (3) petitioner's discovery violations rendered the court's judgment void.

¶ 17 Although the issue was not raised by the parties, we must first examine our jurisdiction. See *Palmolive Tower Condominiums, LLC v. Simon*, 409 Ill. App. 3d 539, 542 (2011) (appellate court has an independent duty to consider its jurisdiction). Illinois Supreme Court Rule 303(b)(2) (eff. Jan. 1, 2015) requires that a notice of appeal specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court. Thus, a notice of appeal confers jurisdiction on a reviewing court only to consider the judgments or portions thereof specified in the notice. *People v. Smith*, 228 Ill. 2d 95, 104 (2008). However, a notice of appeal is sufficient to confer jurisdiction on our court to consider an unspecified order if the order in the notice of the appeal directly relates back to the judgment or order sought to be reviewed. *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 434 (1979). In other words, an unspecified judgment is reviewable if it is a "step in the procedural progression leading" to the judgment

specified in the notice of appeal. *Id.* at 435. A notice of appeal is to be liberally construed. *Smith*, 228 Ill. 2d at 105. The purpose of a notice of appeal is to inform the prevailing party in the trial court that the other party seeks review of the judgment. *Id.* at 104.

¶ 18 Respondent's amended notice of appeal specified that the date of the judgment from which he was appealing was April 28, 2015.⁶ His notice of appeal specified that the relief he was seeking was for our court to reverse the part of the April 2015 order that denied his motion to reconsider and vacate the CTA QDRO, and for our court to remand with directions to the trial court to grant reconsideration and vacatur of the CTA QDRO. Respondent further specified the relief he was seeking was a finding that his disability payment was not marital property, a finding that the marital settlement agreement was not intended to divide his disability payments, a finding that retroactive payments violated the "Illinois Wage Deduction Act," and "for other such relief as the Appellate Court may deem proper."

¶ 19 In his brief, respondent raises arguments concerning matters other than the order specified in his notice of appeal, *i.e.*, the portion of the April 2015 order denying his motion to reconsider and vacate the CTA QDRO. Thus, we must consider whether respondent's challenges relate to orders that constituted a "step in the procedural progression leading" to the April 2015 order specified in the notice of appeal.

¶ 20 First, as to respondent's claim regarding petitioner's purported discovery violations, respondent provides no citation to the record, nor does he identify what order he is appealing. However, it appears from our own review of the record that respondent is referring to the discovery dispute that arose between petitioner and Amalgamated during discovery on petitioner's third-party complaint against Amalgamated. That discovery dispute can in no way be

⁶ Respondent's notice of appeal was amended to correct typographical errors.

seen as a "step in the procedural progression" leading to the order denying respondent's motion to reconsider the entry of the CTA QDRO. Accordingly, we lack jurisdiction to consider respondent's argument relating to petitioner's purported discovery violations, and we must dismiss that portion of respondent's appeal.

¶ 21 As to respondent's argument regarding attorney's fees, respondent again fails to provide any citation to the record. He also does not cite to any authority for his argument, and the entirety of his argument consists of one paragraph. Thus, respondent's brief violates several parts of Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016). See Ill. S. Ct. 341(h)(6), (7) (eff. Jan. 1, 2016). Respondent's *pro se* status "does not relieve him of his obligation to comply with the appellate practice rules" (*Fryzel v. Miller*, 2014 IL App (1st) 120597, ¶ 26) and our court has the discretion to strike an appellant's brief and dismiss an appeal where the appellant fails to comply with Rule 341 (*Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77). Most notably, respondent never identifies which award of attorney's fees that he is challenging. Respondent's failure to do so leaves us unable to ascertain whether we have jurisdiction to consider the order he is challenging, much less address the propriety of that order. Accordingly, we strike this portion of respondent's brief.

¶ 22 Finally, respondent challenges the division of the parties' pensions. Respondent has presented a somewhat more developed argument with respect to this claim, citing to some authority (although still failing to provide citation to the record). Respondent's argument appears to be a challenge to the trial court's entry of the QDROs. In this regard, we note respondent first cites to cases and sections of the Illinois Marriage and Dissolution of Marriage Act (Act) relating to a court's division of marital property. However, he then observes the parties agreed petitioner would receive 50% of the marital portion of his CTA and Amalgamated pensions, and he argues

the court "went well beyond that limiting language." Respondent also argues that in a "domestic relations order," the court awarded petitioner 50% of his CTA and Amalgamated pensions "[i]ndefinitely, whereas it should be only for the period of the marital portion only." He further posits that although the parties agreed respondent should keep his AT&T pension, free and clear of any interest of petitioner, the court "ignored the fact that" respondent acquired his pension before the parties' marriage. Thus, from his arguments, it seems respondent is challenging the QDROs that were entered, which the court entered subsequent to the parties' agreement.

¶ 23 As previously detailed, the notice of appeal in this case specified that respondent was appealing only the trial court's denial of his motion to reconsider and vacate the CTA QDRO. A notice of appeal from a denial of a motion to reconsider is sufficient to vest the appellate court with jurisdiction to review the underlying order. *Heller Financial, Inc. v. Johns-Byrne Co.*, 264 Ill. App. 3d 681, 687-88 (1994) (notice of appeal from a denial of motion to reconsider was sufficient to vest the appellate court with jurisdiction to review the underlying order). Thus, the notice of appeal vested our court with jurisdiction to consider the entry of the CTA QDRO. However, respondent's notice did not specify that he was appealing the Amalgamated QDRO, and the entry of the Amalgamated QDRO cannot be seen as a "step in the procedural progression" leading to the entry of the CTA QDRO. Thus, we lack jurisdiction to consider the court's entry of the Amalgamated QDRO. Further, no QDRO was entered with respect to the AT&T pension; accordingly, we are unable to determine what order respondent is apparently referring to, if any, when he states the court "ignored the fact" that the parties agreed he should keep his entire AT&T pension.

¶ 24 On the merits, we find unpersuasive respondent's contention that the trial court "went well beyond" the language in the parties' agreement providing petitioner 50% of the marital

portion of respondent's CTA pension. The CTA QDRO assigns petitioner "50% of the Marital Portion of any and all benefits to be paid from the Plan to [respondent] or on account of [respondent's] death." It states that the "Marital Portion" is determined "by multiplying any benefit to be paid to or on behalf of [respondent] by a fraction, the numerator of which is the number of full months from the date of the parties' marriage (August 17, 2002) to the date of the judgment of dissolution of marriage (September 11, 2013) and the denominator of which is the total number of full months that [respondent] participated in the Plan prior to benefits being paid from the Plan." In addition, the CTA QDRO explicitly defines the "Marital Portion" as the portion of respondent's interest in the Plan that he acquired during marriage. Respondent offers no explanation for how this language failed to comply with the parties' settlement agreement or awarded petitioner more than 50% of the marital portion of respondent's pension.

¶ 25 In closing, we note that in her *pro se* appellee brief, petitioner requests that we correct the amount of money that remains due and owing to her. She states that as of the date she filed her brief, respondent owed her "a shortage of \$75.37 per month" because "[t]he initial awardment [*sic*] amount (1169.06) was from [the] date of retirement (January 01, 2013), but was overturned by [the] date of divorce on (September 11, 2013), which should have been \$1244.43."

¶ 26 Petitioner has failed to cite to any portion of the record, has failed to provide citation to authority, and has failed to provide a coherent argument. We cannot decipher what she means by an "initial awardment [*sic*] amount" or an amount being "overturned." Accordingly, she has forfeited her claim. See *Sexton v. City of Chicago*, 2012 IL App (1st) 100010, ¶ 79 (a reviewing court is entitled to have issues clearly defined and supported by pertinent authority and cohesive arguments, and the failure to develop an argument results in forfeiture).

¶ 27

III. CONCLUSION

¶ 28

For the reasons stated, we dismiss this appeal in part and otherwise affirm the trial court's judgment.

¶ 29

Dismissed in part and affirmed in part.