2016 IL App (1st) 152171-U

FIRST DIVISION
JUNE 20, 2016

No. 1-15-2171

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re the Marriage of	)	Appeal from the
	)	Circuit Court of
RAYMOND C. GUNN,	)	Cook County.
	)	
Plaintiff-Appellant,	)	
	)	No. 2009 D 7204
v.	)	
	)	
IVY C. DAVIS,	)	Honorable
	)	Jeanne C. Bernstein,
Defendant-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: In a child custody action, trial court did not err in modifying child custody arrangement by granting biological mother sole custody of minor; doctrine of *forum non conveniens* does not apply, as Ghana does not have proper jurisdiction over this custody matter; trial court did not err in denying biological father's motion to quash court's order of commitment on the basis of civil contempt of court for his repeated failure to produce the minor child in Illinois.

¶ 2 Plaintiff Raymond Gunn (Raymond) appeals from the July 1, 2015 and July 29, 2015 orders entered by the circuit court of Cook County. The July 1, 2015 order denied Raymond's

emergency motion to quash the court's previous entry of an order of commitment, which remanded him to the custody of the Cook County Sheriff for failure to comply with multiple court orders. The July 29, 2015 order modified the original custody arrangement by granting defendant Ivy Davis (Ivy) sole custody of her and Raymond's minor child, C.J.G., with leave to remove C.J.G. to Atlanta, Georgia. On appeal, Raymond argues that: (1) the trial court abused its discretion in modifying the original child custody arrangement; (2) the trial court abused its discretion in proceeding on a hearing on the modification of custody, where Illinois was not a convenient forum and, instead, Ghana, Africa, was the best forum for determining the issue of custody; and (3) the trial court abused its discretion in denying his motion to quash the court's previous order of commitment, remanding him to the custody of the Cook County Sheriff. For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3 BACKGROUND

¶ 4 Portions of the factual background of this case are summarized and reproduced from a related appeal (No. 1-15-1455) involving the parties before us. See *In re Marriage of Gunn v. Davis*, 2016 IL App (1st) 151455-U.

¶ 5 On October 1, 2003, Raymond and Ivy married in Cook County, Illinois. Ivy was 16 years old and eight months pregnant with the couple's child at that time. Raymond was then 22 years old. On November 7, 2003, the couple's daughter, C.J.G, was born. By March 2004, Raymond and Ivy's marriage had deteriorated and they ceased living in the same household. Ivy then moved with C.J.G. to Georgia to reside with family, while Raymond continued to live in Illinois.

¶ 6 In January 2009, Ivy signed a parental consent document authorizing Raymond to travel with C.J.G. to Ghana, West Africa, stating that it was also Ivy's intent to subsequently join them

for a visit in Ghana. According to Ivy, it was her understanding at the time she signed the parental consent form that Raymond and their child would return to the United States in May 2009. Raymond's father and stepmother lived in Ghana. Raymond did not return to the United States with C.J.G.

¶ 7 On August 3, 2009, Raymond, through counsel, filed a petition for dissolution of marriage in the circuit court of Cook County, claiming that he and the child then currently resided in Olympia Fields, Illinois. Ivy was unrepresented by counsel and remained *pro se* throughout the entirety of the divorce proceedings.

¶ 8 On February 8, 2010, Ivy, acting *pro se*, filed a motion asking the court to require Raymond to return C.J.G. to the United States, and asking the court to hold him in contempt of court for failing to do so. On March 4, 2010, the trial court entered an order requiring Raymond, Ivy, and their child to be present for a status hearing on April 29, 2010. On March 5, 2010, Raymond, by counsel, filed a motion for temporary child custody (motion for temporary custody), requesting that he be granted temporary custody of C.J.G. and Ivy only be awarded visitation rights. In the motion, Raymond asserted that he was the primary caretaker of the child, that he and the child resided in Accra, Ghana, and that the child attends a private school in Accra. On April 29, 2010, Ivy filed a *pro se* motion, asking that temporary physical custody of C.J.G. be awarded to her and Raymond be awarded visitation of the child in the United States only, and requesting that C.J.G.'s passport be "revoked" so that Raymond could no longer remove her from the United States "due to [his] not allowing me to see [C.J.G.] for 1½ years." On April 30, 2010, Raymond filed an amended motion for temporary custody, requesting that he be allowed temporary custody of C.J.G. and be allowed to remove her to Ghana, and asking that Ivy only be granted supervised visitation rights.

¶ 9 On May 7, 2010, the trial court entered an order granting Raymond permission to travel from Chicago to Ghana with C.J.G., "subject to further hearing on temporary custody and removal," but to return the child to Illinois no later than July 22, 2010. In a separate order entered on the same day, the trial court granted Ivy supervised visitation, and stated that "[i]n the event of international dispute regarding child custody issue, Illinois will be the jurisdiction that adjudicates the issue. Illinois being the home state of the child and having that jurisdiction pursuant to the Hague Convention."

¶ 10 On August 3, 2010, the trial court entered an order granting Raymond temporary custody of C.J.G, and granting him leave to remove the child to Ghana until December 22, 2010, when he shall return with the child to Illinois. The order also granted Ivy "liberal telephone and e-mail contact" with the child, as well as supervised visits with the child in December 2010, when the child is to return to Illinois on December 22, 2010. It is unclear from the record whether Raymond returned to Illinois with C.J.G. by December 22, 2010.

¶ 11 On April 25, 2011, the trial court held a hearing, at which Ivy acted *pro* se and Raymond was represented by counsel, and thereafter entered a judgment of dissolution of marriage, dissolving the marriage between Raymond and Ivy. The judgment provided Raymond with sole custody of C.J.G., as well as leave of court to remove the child from the United States to Ghana. Handwritten text next to one of the provisions in the judgment for dissolution states that C.J.G. "by agreement of the parties is being educated in Ghana." The judgment awarded Ivy supervised visitation with C.J.G. in the State of Illinois for the next 18 months, provided that Ivy posts a $5,000 bond with the Clerk of the Circuit Court of Cook County before June 30, 2011. Upon full compliance with her 18-month supervised visitation, the clerk shall then refund her $5,000 bond. The judgment ordered that Ivy's visits be supervised by C.J.G.'s maternal grandmother,

Carol Davis. The judgment also granted Ivy visitation rights with the child for two weeks during the summer holiday and one week during the Christmas holiday. The judgment specified that the trial court "retains jurisdiction of the aforementioned matters for the purpose of enforcing all the terms and conditions of the Judgment for Dissolution of Marriage." The record indicates that since the judgment was entered in 2011, Raymond had moved back to Illinois, while C.J.G. remained in Ghana with Raymond's father and stepmother.

¶ 12 On May 20, 2014, Ivy, now represented by counsel, filed a petition to modify the custody arrangement (petition to modify), arguing that there had been a substantial change in circumstances such that modification was warranted. Ivy argued, *inter alia*, that for the past three years, C.J.G. had not lived with Raymond; that C.J.G. had not been in the United States in the past three years to visit Raymond; that Ivy had not had any form of regular parenting time with C.J.G. for the past five years; that Ivy had not been provided with the child's mailing address; that Ivy's attempts to communicate with C.J.G. by telephone or writing were frequently thwarted during the past five years; that Ivy had not been provided with, or had any access to, the child's medical or school records; that from December 27, 2013 to January 4, 2014, the child visited Illinois and spent unsupervised overnight visits with Ivy, to which Raymond did not object; that on January 4, 2014, C.J.G. returned to Ghana with Raymond's father and stepmother, but was not in the custody of Raymond; that the child was then currently suffering from malaria and extensive dog bites from dogs on the property owned by Raymond's father and stepmother in Ghana; that C.J.G. was regularly under the care of foreign nannies, cooks and tutors while Raymond's father and stepmother left Ghana for lengthy periods of time for travel; that the child had experienced both physical and verbal abuse from caretakers in Ghana; and that it was in the best interest of the child to be returned to the United States and Ivy be granted sole permanent

custody of the child. Ivy requested that the trial court enter an order requiring C.J.G. to return to Illinois; transferring sole temporary and permanent custody to Ivy; setting a temporary parenting time schedule for visitation with Ivy during the pendency of this case; allowing telephone contact between Ivy and the child on a regular basis; providing Ivy with information regarding the location and residence of the child in Ghana; and providing Ivy with information regarding the child's medical condition and all past and present medical and school records.

¶ 13 On January 13, 2015, the trial court entered an order stating, *inter alia*, that C.J.G. be produced in Illinois on or before February 15, 2015 and shall remain in Illinois until further order of court; that Matthew Ingram has been appointed as child representative for C.J.G.; that a hearing regarding Ivy's petition to modify is set for February 27, 2015; that Ivy have visitation with C.J.G. in Illinois and post a bond pursuant to the judgment entered on April 25, 2011, and that once bond is posted, Ivy shall have visitation in Illinois with the minor child when Ivy travels to Illinois from Georgia; that a hearing is set for February 5, 2015 on whether Ivy's visitation with C.J.G. shall be supervised or unsupervised pursuant to the judgment entered on April 25, 2011; and that both parties are to appear in court on February 5, 2015 for the hearing.

¶ 14 On January 23, 2015, Raymond filed a motion to reconsider the court's January 13, 2015 order. On January 29, 2015, Ivy filed a petition for rule to show cause, asking the court to require Raymond to show cause as to why he should not be held in indirect civil contempt for willfully violating the court's January 13, 2015 order. Also on January 29, 2015, Raymond filed an amended motion to reconsider the court's January 13, 2015 order. Attached to the amended motion to reconsider are multiple exhibits, including a copy of a January 20, 2015 correspondence from C.J.G.'s school in Ghana, denying a request made by Raymond's father for a leave of excused absence from school for the purpose of allowing the child to travel to Illinois.

¶ 15 On February 2, 2015, as a result of Raymond's failure to cooperate, counsel for Raymond filed a motion to withdraw from representation. On February 5, 2015, the trial court entered an order stating, *inter alia*, that Raymond is ordered to comply with the January 13, 2015 order requiring him to produce C.J.G. in Illinois on or before February 15, 2015; that motion to withdraw from representation filed by Raymond's counsel is continued to the hearing date of February 27, 2015; and that Raymond has failed to appear in court for the February 5, 2015 hearing and failed to comply with the court's January 13, 2015 order and a "body attachment order has been issued by this court on Raymond."

¶ 16 On February 18, 2015, Ivy filed a second petition for rule to show cause against Raymond, arguing that he has failed to produce C.J.G. in Illinois on or before February 15, 2015, in violation of the court's January 13, 2015 and February 5, 2015 orders.

¶ 17 On February 25, 2015, the trial court entered an order requiring C.J.G. be produced in Illinois, *instanter*; granting Raymond's counsel's motion to withdraw from representation and allowing Raymond 21 days to file an appearance or hire new counsel; and requiring Raymond's passport to be tendered to child representative, Matthew Ingram, in open court and ordering Ingram to hold it until further order of court.

¶ 18 On April 1, 2015, new counsel for Raymond filed an appearance before the court, along with a motion to vacate the court's January 13, 2015 order (motion to vacate) pursuant to section 2-1401 of the Code. See 735 ILCS 2-1401 (West 2012). On April 10, 2015, Ivy filed a response to Raymond's motion to vacate.

¶ 19 On April 15, 2015, following a hearing, the circuit court entered an order denying the motion to vacate. On that same day, a body attachment order was issued against Raymond for his failure to comply with the court's January 13, 2015 and February 5, 2015 orders, failure to

appear for the February 5, 2015 and April 15, 2015 hearings, failure to comply with a court-ordered deposition, and failure to produce the minor child in Illinois. The court then ordered that Raymond, "having been held in contempt of court" be remanded to the custody of the Cook County Jail until the purge is satisfied—that is, until C.J.G. is produced in Illinois.

¶ 20 On May 15, 2015, Raymond filed a first notice of appeal (No. 1-15-1455), appealing the circuit court's April 15, 2015 denial of his motion to vacate the court's January 13, 2015 order. On February 1, 2016, this court affirmed the circuit court's April 15, 2015 judgment. See *In re Marriage of Gunn v. Davis*, 2016 IL App (1st) 151455-U.

¶ 21 While the related case (No. 1-15-1455) was pending on appeal, on May 20, 2015, Ivy filed a petition for temporary custody and leave to remove C.J.G. to Georgia (petition for temporary custody), alleging that Raymond's failure to facilitate or encourage any type of relationship between Ivy and C.J.G. as a result of his refusal to return C.J.G. to Illinois, was a change in circumstances warranting modification of the child custody arrangement. Ivy also requested that she be allowed to remove C.J.G. to Georgia, where Ivy has strong family ties. The petition for temporary custody was set for a hearing on July 6, 2015.

¶ 22 However, on June 10, 2015, Raymond's father and stepmother filed an application for custody of C.J.G. in Ghana. Attached to the application was an affidavit by Raymond relinquishing custody of C.J.G. to his father and stepmother. As a result, on June 15, 2015, Ivy, through counsel, filed an emergency motion for change in custody, alleging that Raymond's actions in unilaterally ceding his parental rights to his father and stepmother, without Ivy's consent, demonstrated his disregard for C.J.G.'s best interest and his unwillingness to facilitate and encourage parenting time between Ivy and C.J.G, "which will result in irreparable damage and warrants an emergency hearing on custody." The emergency motion for change in custody

also alleged that should a Ghanaian court grant custody to Raymond's father and stepmother, Ivy's parental rights would be "irrevocably violated by a foreign court which has no jurisdiction over this matter." Ivy requested, as a result of this substantial change in circumstances in light of Raymond's abandoning and ceding his parental rights to his father and stepmother, that Ivy be granted sole custody of C.J.G and be granted leave to remove the child to Georgia.

¶ 23 On June 15, 2015, June 16, 2015, and June 22, 2015, a hearing on Ivy's emergency motion for change in custody was held, during which both Ivy and Raymond testified. Both parties were represented by counsel. Ingram, the child representative, was also present. On June 22, 2015, the trial court entered an order granting Ivy's emergency motion for change in custody, by finding: (1) that there has been a substantial change in circumstances such that temporary sole custody of C.J.G. be transferred to Ivy; (2) that Ivy has not received her parental visitation and time with C.J.G. over the course of the previous 4 years and that Ivy "has not received all of her Christmas or holiday parenting or visitation time" from 2012 to 2015; (3) that the removal of C.J.G. to Ghana "was not permanent and for educational purposes only"; (4) that this court has continuing and ongoing jurisdiction over this cause; (5) that the court's specific findings of record shall be incorporated from the transcript of the hearing into this order; (6) that Raymond has been remanded into custody of the Cook County Sheriff until C.J.G. is returned to Illinois; (7) that this cause is set for trial on July 6, 2015 for Ivy's "pending petition" for sole custody and for leave to remove C.J.G.,[1] "which is amended on its face for permanent custody," and that Ivy's May 2014 petition to modify is withdrawn. Also on June 22, 2015, an order of commitment was

[1] It appears that the circuit court was referencing Ivy's May 20, 2015 petition for temporary custody, which was then amended to reflect a request for permanent custody.

entered by the trial court, finding Raymond guilty of willful contempt for failing to produce C.J.G. in Illinois, until he purges himself of contempt by returning C.J.G. to Illinois.

¶ 24 On June 24, 2015, Ivy filed a first amended petition for sole custody, alleging that it would be in the best interest of C.J.G. for Ivy to be granted permanent sole custody of C.J.G., with leave to remove her to Georgia. In response, on June 29, 2015, Raymond filed a pleading claiming that the trial court lacked statutory authority under the Illinois Uniform Child-Custody Jurisdiction and Enforcement Act to make a custody determination.[2]

¶ 25 On June 30, 2015, Raymond filed an emergency motion to quash the remand order and to release him from the sheriff's custody (emergency motion to quash), arguing that he was unable to meet his purge of indirect civil contempt of court, which the trial court denied following a hearing on July 1, 2015.

¶ 26 On July 6, 2015, a trial commenced on Ivy's first amended petition for permanent sole custody, during which Ivy, Raymond, and Raymond's mother, Crystal Howard-Steele (Steele), testified. At the beginning of the trial, the parties stipulated that "the questions asked of the witnesses [at the hearing] on June 15th, June 16th, and 22nd and the answers given to said questions would be the same today as they were [on those dates]," and that "this stipulation does not preclude either side including the child's representative from calling the same witnesses this day to further be questioned under oath for their testimony." Following the trial, the circuit court

[2] During trial on July 8, 2015, counsel for Raymond directed the court's attention to the June 29, 2015 pleading, stating that a *forum non conveniens* hearing should have been held. In response, the trial court noted that a motion for *forum non conveniens* should have been filed at the earliest opportunity in January 2015, but that "[n]obody brought a motion for a *forum non conveniens*. Nobody. That's the proper way to do it. And you do it at the earliest possible [time]. You do not come into the fourth day of trial and say, oh, well, this [Child-Custody Jurisdiction Act], that doesn't mean I would have granted it at all because the standards for *forum non conveniens*, which you should have looked up, don't even apply in this case."

entered an order remanding Raymond back into the custody of the Cook County Sheriff and ordering that he not be released until further order of the court.

¶ 27 On July 29, 2015, the trial court issued a written order granting Ivy sole custody of C.J.G., with leave to remove her to Georgia. In the written order, the trial court ordered that it "shall exercise any and all means available under the law to facilitate the retrieval of [C.J.G.] from Ghana, Africa and her return to the United States of America"; that Ivy shall, prior to removing C.J.G. to Georgia, inform Raymond or his counsel as to the address and telephone number where the child may be reached; that "Illinois retains jurisdiction over the minor child notwithstanding her removal from the State"; and that the parties are encouraged to work out a specific visitation schedule with the assistance of their attorneys and the child representative.

¶ 28 On July 30, 2015, Raymond filed a timely notice of appeal in the instant case, appealing from the trial court's July 1, 2015 and July 29, 2015 rulings.

¶ 29 ANALYSIS

¶ 30 This court has jurisdiction over this appeal pursuant to Illinois Supreme Court Rules 301 (eff. Feb. 1, 1994) and 303 (eff. Jan. 1, 2015). On appeal, we determine the following issues: (1) whether the trial court's July 29, 2015 ruling modifying the custody arrangement in favor of Ivy was erroneous; (2) whether Illinois was the best forum for adjudicating the issue of custody; and (3) whether the trial court erred in denying Raymond's motion to quash the court's June 22, 2015 order of commitment, remanding him to the custody of the Cook County Sheriff.

¶ 31 At the outset, we observe that portions of Raymond's opening brief are missing record citations, in violation of our Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2008). In resolving the related appeal (1-15-1455), this court has already cautioned the parties on the importance of complying with our supreme court's mandatory rules and has warned about the

possibility of striking the violating party's briefs or dismissing the appeal for any such violations. See *In re Marriage of Gunn v. Davis*, 2016 IL App (1st) 151455-U, ¶ 22. However, we decline to strike Raymond's brief or dismiss the instant appeal, as his opening brief at bar was filed prior to the filing of our Rule 23 order containing the admonition in the related case. Despite the deficiencies in Raymond's brief, we resolve this appeal.

¶ 32 Turning to the merits of the appeal, we first determine whether the trial court erred in modifying the custody arrangement by granting sole custody of C.J.G. to Ivy. A decision regarding child custody modification will not be disturbed on appeal unless it is against the manifest weight of the evidence or constitutes an abuse of discretion. *In re Marriage of McGillicuddy & Hare*, 315 Ill. App. 3d 939, 942 (2000). A finding is only against the manifest weight of the evidence when an opposite finding is clearly evident. *In re Custody of T.W.*, 365 Ill. App. 3d 1075, 1084 (2006). In determining whether a judgment is contrary to the manifest weight of the evidence, the reviewing court views the evidence in the light most favorable to the appellee. *In re Marriage of Ricketts*, 329 Ill. App. 3d 173, 177 (2002). It is not the function of this court to reweigh the evidence or assess the credibility of testimony and set aside the trial court's determination merely because a different conclusion could have been drawn from the evidence. *In re Marriage of Pfeiffer*, 237 Ill. App. 3d 510, 513 (1992). The trial court's custody determination is afforded great deference because it is in a superior position to judge the credibility of the witnesses and determine the best interests of the child. *Ricketts*, 329 Ill. App. 3d at 177. Thus, we will affirm the trial court's ruling if there is any basis to support its findings. *Id.*

¶ 33 Raymond argues[3] that the trial court abused its discretion in modifying custody of C.J.G., by claiming that Ivy failed to prove by clear and convincing evidence that a substantial change in circumstances had occurred since the original April 25, 2011 judgment for dissolution of marriage awarding sole custody to Raymond,[4] to warrant modifying custody in favor of Ivy to serve the best interests of C.J.G.

¶ 34 Ivy counters that the trial court correctly modified custody of C.J.G. in her favor since she proved by clear and convincing evidence that a substantial change in circumstances had occurred since the entry of the April 25, 2011 judgment, thus warranting a modification of the custody to serve C.J.G.'s best interests under sections 602 and 610 of the Illinois Marriage and Dissolution of Marriage Act.

¶ 35 On July 29, 2015, following a trial on custody matters the trial court entered a written order granting sole custody to Ivy, with leave to remove C.J.G. to Georgia where Ivy resided. In the written order, based on the evidence presented at trial, the trial court detailed its findings with respect to each of the relevant factors under section 602 of the Illinois Marriage and Dissolution of Marriage Act. In making its ruling, the trial court specified that it had heard and considered the testimony of the parties and Raymond's mother, and had the opportunity to take into consideration their demeanor in court. The trial court also noted that it had "the opportunity to observe both parents and was able to evaluate their personalities, capabilities, and dispositions. The [c]ourt also carefully considered the oral arguments of counsel for the parties." The court

[3] Counsel for Raymond withdrew from representation after filing his opening brief before this court. Raymond's reply brief is filed *pro se*.

[4] The original April 25, 2011 judgment awarding sole custody to Raymond was entered by a different judge of the circuit court of Cook County, than the judge in the instant matter.

noted that although an item of testimony or an exhibit may not be mentioned or referred to in its decision, that does not mean that the court did not consider it.

¶ 36 Raymond argues in a cursory manner that the trial court improperly allowed Ivy to proceed on her June 15, 2015 emergency motion for a change in custody, on the basis that Raymond had unilaterally ceded his parental rights to his father and stepmother in Ghana without Ivy's consent. He argues that the trial court erroneously characterized Ivy's motion as an emergency such that he was not given at least 30 days of notice prior to the hearing on the motion, but was instead given only less than 24 hours' notice of the hearing, in violation of his due process rights. From there, he surmises that because the trial court transferred temporary sole custody to Ivy as a result of the hearing on Ivy's emergency motion, such ruling was "piggy-backed into the final custody order entered on July 29, 2015." We reject Raymond's contention, as he cites no case law in support of his contention that it was not within the trial court's discretion to hold an emergency hearing on Ivy's June 15, 2015 emergency motion for a change in custody, in light of documents attached to Ivy's emergency motion evidencing Raymond's father and stepmother's application for full custody of C.J.G. in Ghana and Raymond's affidavit in support thereto, and in light of Raymond's repeated failures to return C.J.G. to Illinois. See Ill. S. Ct. Rule 341(h)(7) (eff. July 1, 2008) (the appellant's arguments must contain his contentions and reasons therefor, with citations to pertinent authorities and to the pages of the record relied upon in support of the contentions). We also reject Raymond's argument that the trial court simply "piggy-backed" into the final July 29, 2015 custody order, its June 22, 2015 ruling transferring temporary custody to Ivy as a result of the hearing on the emergency motion. The record belies this contention, as it is clear that a full separate trial was held on July 6, 2015 and July 8, 2015, at which the parties' testimony and other evidence were presented to the trial court,

before the trial court entered a final written order granting sole permanent custody of C.J.G. to Ivy on July 29, 2015.

¶ 37 Raymond next argues that the trial court abused its discretion in entering its July 29, 2015 ruling modifying custody, claiming that the court erroneously applied section 602, rather than section 610(b), of the Illinois Marriage and Dissolution of Marriage Act. Citing no case law for support, he claims that the best interests of the child factors set forth in section 602 "would be much more appropriate in a case where no initial custody determination has been made," while section 610(b) is the proper standard for determining custody modification. We reject Raymond's contention. First, we find Raymond's argument to be forfeited, where he cites no legal authority supporting his contention that the best interest factors under section 602 should only be considered by a court setting an initial custody arrangement. See *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23 (failure to cite relevant authority violates Rule 341 and can cause a party to forfeit consideration of the issue, and the reviewing court will not research the issues on the appellant's behalf). Second, the plain language of the relevant portion of section 610(b) states that a court can modify a prior custody judgment where it is necessary "to serve the *best interest* of the child." (Emphasis added.) See 750 ILCS 5/610(b) (West 2014). Because section 602 sets forth relevant best interest factors in determining custody issues, we find that it was not erroneous for the trial court to consider and weigh the factors under section 602 in modifying the custody arrangement. See *Town of Cicero v. Metropolitan Water Reclamation District of Greater Chicago*, 2012 IL App (1st) 112164, ¶ 19 (statutory provisions should be viewed as a whole; words and phrases should not be construed in isolation but, instead, must be interpreted in light of other relevant provisions of the statute). Although the trial court did not expressly mention section 610(b) in its July 29, 2015 written order modifying custody in favor of Ivy,

nothing in the record gives us any indication that the trial court did not know the law or applied it incorrectly. See *In re N.B.*, 191 Ill. 2d 338, 345 (2000) (circuit court is presumed to know the law and apply it properly, absent an affirmative showing to the contrary in the record). Accordingly, we find that the trial court did not abuse its discretion in considering the section 602 best interest factors in modifying the custody arrangement.[5]

¶ 38 Section 610(b) of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) provides in pertinent part as follows:

> "(b) The court shall not modify a prior custody judgment unless it finds by clear and convincing evidence, upon the basis of facts that have arisen since the prior judgment or that were unknown to the court at the time of entry of the prior judgment, that a change has occurred in the circumstances of the child or his custodian, *** and that the modification is necessary to serve the best interest of the child." 750 ILCS 5/610(b) (West 2014).

¶ 39 Section 602(a) of the Marriage Act sets forth the best interest factors in determining custody matters:

> "(a) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including:

[5] It is also interesting to note that, in the related case before this court (No. 1-15-1455), Raymond himself argued *for* the application of the section 602 best interest factors for the purposes of modifying custody arrangement. See *In re Marriage of Gunn v. Davis*, 2016 IL App (1st) 151455-U, ¶ 33.

(1) the wishes of the child's parent or parents as to his custody;

(2) the wishes of the child as to his custodian;

(3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest;

(4) the child's adjustment to his home, school and community;

(5) the mental and physical health of all individuals involved;

(6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person;

(7) the occurrence of ongoing or repeated abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986, whether directed against the child or directed against another person;

(8) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(9) whether one of the parents is a sex offender; and

> (10) the terms of a parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed." 750 ILCS 5/602(a) (West 2014).

¶ 40 In its July 29, 2015 written order granting sole custody to Ivy, with leave to remove C.J.G. to Georgia, the trial court specifically found that the filing of an application for custody of C.J.G. in Ghanaian court by Raymond's father and stepmother, constituted a substantial change in circumstances. The record reflects that, based on the evidence presented at trial, the trial court detailed its findings with respect to each of the section 602 best interest factors. The trial court found that the parents' wishes as to C.J.G.'s custody (factor 1) leaned in favor of Ivy, by noting that Raymond's affidavit in support of his parents' application for C.J.G.'s custody in Ghana, was essentially an attempt "to cede his custodial rights to a nonparent and demonstrat[ed] a wish to be absolved of the custody of [C.J.G.]." Aside from his written desire to have custody granted to his father and stepmother, the trial court found, Raymond also demonstrated a wish to be released from his duties as custodial parent in allowing his parents to take over all responsibilities associated with the day-to-day care of C.J.G. The trial court found that, although Raymond testified that the transfer of custody to his parents was "temporary," pending the completion of his education in the United States and return to Ghana, his actions and inaction with respect to procuring an education belied that intent, whereas Ivy had been fighting to have C.J.G. returned since 2011 and had expressed a clear desire to have sole and residential custody of C.J.G. in the United States. With respect to factor 2, Ivy testified at trial that C.J.G. had expressed a desire to live with her, while Raymond testified that C.J.G. was doing well and

should remain in Ghana with his father and stepmother. The trial court found that this factor weighed in favor of Ivy, noting that Raymond's repeated failure to produce C.J.G. in Illinois during the pendency of the proceedings, which precluded the court or its agents from interviewing the minor, may be read as a negative inference as to the child's wishes to remain in Ghana. With respect to the interaction of C.J.G. with her parents and sibling (factor 3), the trial court found Ivy to be the appropriate party to have custody of C.J.G., where C.J.G. would have the chance for a close relationship with an interested and fit natural parent, as well as the opportunity to bond with C.J.G.'s three-year-old half-sister. The trial court contrasted this from the relationship that Raymond was offering in remaining separate from C.J.G. while isolating her from family members in the United States. With respect to factor 4—the child's adjustment to her home, school, and community—the trial court found that C.J.G. was likely to more easily adjust to residing with Ivy than with Raymond. While Raymond testified that C.J.G. had adjusted well to her home, school, and community in Ghana under the care of Raymond's father and stepmother, the trial court noted that neither school records, nor testimony as to the quality of the school C.J.G. was attending in Ghana, were provided to the court. The trial court specifically found that Raymond's willful refusal to return C.J.G. to Illinois has precluded the court or the child representative from interviewing the child in order to assess her well-being, and that C.J.G. had been impeded from having a relationship with Ivy that would include the opportunity to adjust to Ivy's home, nearby schools, and community. The trial court also found that the evidence showed that Ivy had stable employment for the preceding six years, while Raymond had no visible means of support and was then currently living in an unfinished basement with inadequate bathroom facilities. With respect to the mental and physical health of all individuals involved (factor 5), the trial court did not find the mental or physical health of

either party to be at issue. However, the court noted that Ivy's testimony revealed that C.J.G. had been hospitalized due to dog bites and malaria in the years she had lived with Raymond's father and stepmother, that Raymond's mental health may be questionable due to testimony regarding his lifestyle and living arrangements, lack of motivation to complete his education, and his relinquishment of custody of C.J.G. to his parents in Africa with no tangible plans to be with the child. With respect to physical violence or threat of physical violence (factor 6), occurrence of ongoing abuse (factor 7), and whether one parent is a sex offender (factor 9), the trial court found these factors to not be at issue in the instant case.[6] With respect to the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child (factor 8), the trial court found Ivy to be the more appropriate party for custody. The trial court found C.J.G.'s then six-year residency in Ghana separated from Ivy as indicative of Raymond's lack of willingness to facilitate and encourage a close and continuing relationship between C.J.G. and Ivy. Based on the evidence, the trial court found that Raymond and his parents had repeatedly denied Ivy the opportunity to speak with C.J.G. alone, had prevented Ivy from sending gifts and money to C.J.G., had refused to provide medical and school records for C.J.G., and had ignored court orders to produce the child in Illinois. The trial court, however, found that Ivy had demonstrated a willingness to facilitate and encourage a relationship between C.J.G. and Raymond and had not made any deliberate attempts to isolate the child from Raymond, as demonstrated by her travels with C.J.G. from Atlanta to visit Raymond and his family in Illinois between 2009 and 2011, prior to the April 2011 judgment awarding Raymond sole custody of C.J.G. After weighing the section 602 best interest factors,

[6] Although the trial court did not expressly address factor 10, we find that terms of a parent's military deployment is also not at issue in this case.

the trial court concluded that it was in the best interest of C.J.G. to award Ivy sole custody of the child. Based on our examination of the record, it is apparent that the court took all of the relevant factors into consideration, and we cannot say that its decision regarding custody was against the manifest weight of the evidence or constituted an abuse of discretion.

¶ 41 We also find that the trial court's July 29, 2015 decision to grant Ivy leave to remove C.J.G. to Georgia, was not against the manifest weight of the evidence. Section 609 of the Marriage Act provides in relevant part that:

> "(a) The court may grant leave, before or after judgment, to any party having custody of any minor child *** to remove such child *** from Illinois whenever such approval is in the best interests of such child ***. The burden of proving that such removal is in the best interests of such child *** is on the party seeking the removal." 750 ILCS 5/609(a) (West 2014).

In determining whether removal is in the child's best interest, a trial court should hear any and all relevant evidence. *In re Marriage of Eckert*, 119 Ill. 2d 316, 326 (1988). "A determination of the best interests of the child cannot be reduced to a simple bright-line test, but rather must be made on a case-by-case basis, depending, to a great extent, upon the circumstances of each case." *Id.* Our supreme court enumerated five factors to aid a court in determining the best interests of the child for the purpose of removal: (1) the likelihood for enhancing the general quality of life for both the custodial parent and the children; (2) the motives of the custodial parent in seeking the removal to determine whether the removal is merely a ruse intended to defeat or frustrate visitation; (3) the motives of the noncustodial parent in resisting the removal; (4) the visitation

rights of the noncustodial parent; and (5) the likelihood that a realistic and reasonable visitation schedule can be reached if the move is allowed. *Id.* at 326-27.

¶ 42 Our review of the record shows that, based on the evidence presented at trial, the trial court properly considered and weighed each of the *Eckert* factors before granting Ivy leave to remove C.J.G. to Georgia. The trial court found, with respect to factor 1, that Ivy was gainfully employed in Atlanta, Georgia, earning a sufficient salary to cover her own expenses, as well as those of C.J.G. and Ivy's other daughter. The court found Ivy to be capable of providing suitable shelter and education, noting that Ivy testified to having her own apartment and a plan for C.J.G.'s education in Atlanta. The trial court found that C.J.G.'s life would be greatly enhanced in Atlanta through the support of Ivy, the proximity to Ivy's mother, sister, and extended family, and the stability she likely will be able to achieve. Under factor 2, the trial court found Ivy's motive in petitioning for removal to be valid and not intended to thwart or frustrate Raymond's visitation. The trial court found no evidence that Ivy was trying to interfere with Raymond's relationship with C.J.G., noting that Ivy's motives in petitioning for an emergency change in custody and removal appeared to be "Ivy's sole method of ensuring that custody of her child is not granted to Raymond's father and stepmother in Ghana, Africa, which would surely frustrate and thwart her own visitation even further." Under factor 3, the trial court found that Raymond's motives in resisting Ivy's petition for removal were not from a sincere place of concern for C.J.G. but rather done to prevent Ivy from exercising her parental rights, where Raymond had not demonstrated a genuine interest in reserving custody of C.J.G., as evidenced by his actions in sending C.J.G. to live indefinitely with his parents in Africa and in submitting an affidavit supporting his parents' application for custody in Ghana. Under factor 4, the trial court noted that it was unclear whether Raymond's visitation with C.J.G. will be greatly affected if removal

was granted. However, the trial court observed that because C.J.G. then currently lived in Ghana, while Raymond resided in Illinois, removal of C.J.G. to Atlanta would actually result in closer proximity between Raymond and C.J.G., which may facilitate increased visitation between the two. The trial court noted that despite Raymond's testimony that he intended to relocate to Ghana after completion of his education in the United States, Raymond did not appear to be working diligently toward those goals. With respect to factor 5, the trial court found that a realistic and reasonable visitation schedule could be reached if C.J.G. relocated to Georgia, noting that Ivy herself had made the trip twice between 2009 and 2011, and that there were regular nonstop flights to and from Georgia and Illinois. In reaching this decision, the trial court found that Ivy provided credible testimony, whereas Raymond's "ambiguity as to completing his own education and relocating to Ghana, lack of detail when describing [C.J.G.'s] schooling, friends, and daily activities, and his overall disposition during trial, including his incoherent testimony on the stand, call[ed] his credibility into question." Based on our review of the record, we find that the trial court properly considered the totality of the circumstances and all of the evidence presented before the court, in finding that Ivy met her burden of proof to show that removal to Georgia was in the best interest of C.J.G. Therefore, we conclude that the trial court's decision to grant Ivy leave to relocate C.J.G. to Georgia was not against the manifest weight of the evidence. See *Eckert*, 119 Ill. 2d at 328.

¶ 43 Despite the trial court's detailed findings in support of its decision to award Ivy sole custody of C.J.G., Raymond makes a number of arguments on appeal disputing that Ivy proved by clear and convincing evidence that a change of circumstances arose since the original April 25, 2011 judgment which would warrant a custody modification in her favor. Raymond argues that Ivy's trial testimony was not credible, largely by pointing to parts of the record which

appeared to show inconsistencies in Ivy's testimony and by arguing instead that his own testimony was credible such that he demonstrated that he did not cede or transfer custody of C.J.G. to his parents in Ghana. However, it is not the function of this court to reweigh the evidence or assess the credibility of witness testimony to set aside the trial court's determination merely because a different conclusion could have been drawn from the evidence. *In re Marriage of Pfeiffer*, 237 Ill. App. 3d at 513. Because the trial court was in a superior position to judge the credibility of the witnesses and determine the best interests of C.J.G. in deciding custody issues, we will not disturb the trial court's decision. Raymond also points to various comments made by the trial court at both the hearing on the motion on Ivy's emergency motion for change in custody, as well as at the trial on Ivy's amended petition for permanent sole custody, which he claims showed that the court had made up its mind to find in Ivy's favor before hearing all of the evidence in the case. We disagree. Our examination of the complained-of statements—including the court's remarks regarding the age and education level of Ivy; Ivy's *pro se* status during the dissolution of the couple's marriage and original custody determination in the April 2011 judgment; terms of the April 2011 judgment; the four corners of the April 2011 order as being the best evidence of whether C.J.G.'s removal to Ghana was permanent; and Raymond's lack of parenting of C.J.G.—did not indicate that the trial court prematurely determined the outcome of the case before hearing all of the evidence. Some of those complained-of remarks, when placed in context, reflected the trial court's reasoning behind its evidentiary rulings. Other comments reflected the trial court's general observation about the facts of the case. Aside from Raymond's own speculation, we find that the complained-of remarks *per se* did not indicate that the trial court failed to consider all of the evidence before it.

¶ 44 Raymond further argues that Ivy's assertions that C.J.G. had been held in Ghana against Ivy's wishes was false, as evidenced by the plain language of the original April 2011 judgment in which the parties agreed to have C.J.G. educated in Ghana. We reject this argument, as it again improperly urges this court to reweigh the credibility of Ivy's testimony. Aside from being able to observe Ivy's demeanor during her testimony that it was her understanding that C.J.G. was only traveling with Raymond to Ghana in 2009 on at three-week visit, the trial court had before it evidence that Ivy had filed a *pro se* February 2010 motion asking the court to require Raymond to return C.J.G. to the United States; the terms of the original April 2011 judgment; and Raymond's subsequent repeated failures to comply with court orders to return C.J.G. to Illinois. Thus, we decline to substitute our judgment for that of the trial court.

¶ 45 Likewise, we reject Raymond's argument that the trial court, in finding factor 8 (willingness of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child) in favor of Ivy, failed to take into account the fact that Ivy never paid the $5,000 bond for supervised visitation under the terms of the April 2011 judgment, that Ivy had visitation with C.J.G. without paying the bond subsequent to the entry of the April 2011 judgment, and that Ivy had electronic communication with C.J.G. via Skype on a semi-regular basis. However, the trial court found that Raymond and his parents had repeatedly denied Ivy the opportunity to speak with C.J.G. alone, had prevented Ivy from sending money and gifts to C.J.G., had refused to provide Ivy with medical and school records for C.J.G., and had ignored multiple court orders to produce C.J.G. in Illinois. Accordingly, we find no reason to disturb the trial court's findings, as we cannot conclude that the opposite finding is clearly evident. See *In re Custody of T.W.*, 365 Ill. App. 3d at 1084 (setting forth the standard for determining whether a judgment is contrary to the manifest weight of the evidence).

¶ 46 Raymond further argues that the trial court abused its discretion in failing to consider the "uncontroverted and credible [trial] testimony" of his biological mother during the trial, regarding C.J.G.'s living situation in Ghana. At trial, Raymond's mother testified that she visited C.J.G. in Ghana in April 2015. In her trial testimony, she provided details of C.J.G.'s life, schooling, and living situation, which allegedly showed that C.J.G. was doing well in Ghana. First, this argument is forfeited as it is completely devoid of citations to the relevant pages of the record, in violation of Rule 341. See Ill. S. Ct. Rule 341(h)(7) (eff. July 1, 2008) (the appellant's arguments must contain his contentions and reasons therefor, with citations to pertinent authorities and to the pages of the record relied upon in support of the contentions). Second, in the July 29, 2015 written order, the trial court acknowledged the testimony of Raymond's mother at trial and expressly stated that "[a]lthough an item of testimony or an exhibit may not be mentioned or referred to in this decision, its exclusion does not mean that the [c]ourt did not consider it." See *In re N.B.*, 191 Ill. 2d 338, 345 (2000) (circuit court is presumed to know the law and apply it properly, absent an affirmative showing to the contrary in the record). Thus, we reject Raymond's contention that the trial court did not consider his mother's testimony.

¶ 47 We further reject Raymond's argument that because no investigation was done as to the suitability of Ivy's home in Georgia, and content from Ivy's 2009 online social media posts allegedly showed Ivy's seemingly troublesome relationship with her mother and others, therefore, it would not be in C.J.G.'s best interest to live with Ivy in Georgia. As discussed, the trial court properly considered the totality of the circumstances all of the evidence presented before it, and carefully weighed each of the *Eckert* factors in granting Ivy leave to remove C.J.G. to Georgia. We decline to reweigh the evidence or assess the credibility of testimony as that is the function of the trial court. Therefore, we hold that the trial court did not err in its July 29,

2015 order, modifying the original custody arrangement by granting sole custody to Ivy, with leave to remove C.J.G. to Georgia.

¶ 48 We next determine whether the trial court erred in proceeding to trial on Ivy's first amended petition for permanent sole custody, on the basis that Illinois was the proper jurisdiction for adjudicating the issue of custody.

¶ 49 Raymond argues that the trial court abused its discretion in proceeding to trial on the issue of custody modification, by claiming that Illinois was not a convenient forum and should have ceded jurisdiction over this matter to Ghana because the best possible evidence for modifying custody was located in Ghana. Specifically, he contends that Ghana is the more appropriate forum for adjudicating custody modification because it is undisputed that C.J.G. had resided in Ghana since 2009 and that the original April 2011 judgment allowed C.J.G. to be educated in Ghana.

¶ 50 Ivy counters that the trial court correctly proceeded to trial on the issue of custody modification, by arguing that Ghana does not have jurisdiction because the Illinois trial court had retained continuous and exclusive jurisdiction over this matter. Even if Ghana had jurisdiction over the issue of C.J.G.'s custody, Ivy argues, it is not the most convenient forum to hear this case.

¶ 51 "The doctrine of *forum non conveniens* is an equitable doctrine that assumes the existence of more than one forum with jurisdiction over the parties and the subject matter of a case." *Griffith v. Mitsubishi Aircraft Int'l, Inc.*, 136 Ill. 2d 101, 105 (1990). Application of the doctrine " 'invokes principles of convenience and fairness in choosing between two or more forums that have jurisdiction.' " *Id.* (quoting *Foster v. Chicago & North Western Transportation Co.*, 102 Ill. 2d 378, 382 (1984)). Section 207 of the Illinois Uniform Child-Custody Jurisdiction and

Enforcement Act (Child-Custody Jurisdiction Act) sets forth relevant factors for a court to consider before determining whether it is an inconvenient forum such that the court of another state is a more appropriate forum. 750 ILCS 36/207(b) (West 2014). However, before determining whether it is an inconvenient forum, the Illinois court shall consider the threshold issue of "whether it is appropriate for a court of another state to exercise jurisdiction." *Id.*; see generally *In re Marriage of Arulpragasam & Eisele*, 304 Ill. App. 3d 139, 151 (1999) (factors used by circuit court to determine whether otherwise appropriate forum for custody action is inconvenient forum, and that courts of another state are more convenient forum, are similar to those it considers in making threshold determination that it has jurisdiction). Because the doctrine of *forum non conveniens* only comes into play when there are two or more forums having jurisdiction over a matter, where one forum does not have jurisdiction over the parties or the subject matter of the case, that forum cannot be part of the consideration in determining whether it is the most convenient location for adjudicating the case.

¶ 52 We find that Ghana does not have proper jurisdiction over this custody matter such that the doctrine of *forum non conveniens* is not triggered and Raymond's arguments on *forum non conveniens* must fail. First, it is important to note that at no time did Raymond file a motion for *forum non conveniens* before the trial court. See 750 ILCS 36/207 (West 2014) ("[t]he issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court"); see also Ill. S. Ct. R. 187(a) (eff. Jan. 4, 2013) ("[a] motion to dismiss or transfer the action under the doctrine of *forum non conveniens* must be filed by a party not later than 90 days after the last day allowed for the filing of that party's answer"). Rather, it was not until after the trial court had already granted temporary sole custody of C.J.G. to Ivy following a hearing on her emergency motion for change in custody on June 22, 2015, and after Ivy had filed a first

amended petition for permanent sole custody on June 24, 2015, that Raymond brought up the issue in a pleading on June 29, 2015. In his June 29, 2015 pleading, Raymond primarily claimed that the trial court lacked statutory authority under the Child-Custody Jurisdiction Act to make a custody determination, and claimed, to a lesser extent, that Illinois was no longer a convenient forum to hear this case even if it had jurisdiction over the custody matter.

¶ 53 Second, under sections 201 and 202 of the Child-Custody Jurisdiction Act, once Illinois has entered an original custody order, the Illinois court retains exclusive and continuing jurisdiction over the matter unless the Illinois court concedes jurisdiction to another state or determines that none of the parties or the child reside in Illinois. 750 ILCS 36/201, 202 (West 2014); see 750 ILCS 36/105 (West 2014) ("[a] court of this State shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2"). There is no indication that the trial court ever ceded jurisdiction to another state. Rather, the trial court had expressly retained continuing and ongoing jurisdiction over the cause, as reflected in its original April 25, 2011 judgment, the June 22, 2015 order, and the July 29, 2015 order. Nor has the trial court ever determined that none of the parties reside in Illinois. Indeed, in his June 29, 2015 pleading, Raymond admits that he has "continued to reside in Illinois since 2011."[7] Neither Raymond nor Ivy are residents or citizens of Ghana, and the only tie that Ghana has to this case is that C.J.G. had been physically there since 2009, when Ivy consented to C.J.G. traveling there with Raymond on what Ivy testified that she believed to be a three-week visit.

¶ 54 Third, section 206(a) of the Child-Custody Jurisdiction Act provides in pertinent part that "a court of this State may not exercise its jurisdiction under this Article if, *at the time of the*

[7] At the June 16, 2015 hearing, however, Raymond testified that, in March 2015, he had moved to the basement of his cousin's home in Gary, Indiana, in order to "record music" in his music studio. It is unclear whether Raymond intended to reside there permanently.

commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this Act ***." (Emphasis added.) 750 ILCS 36/206(a) (West 2014). Here, the commencement of the proceedings occurred in May 2014, when Ivy first filed a petition to modify the original custody arrangement. At that time, there was no simultaneous child custody proceeding involving the instant parties in Ghanaian court. It was not until more than a year later, on June 10, 2015, that Raymond's father and stepmother—third parties with no parental rights over C.J.G.—filed an application for custody of C.J.G. in Ghana. As such, Ghana has no jurisdiction over this matter. See generally also *In re Marriage of Murugesh & Kasilingam*, 2013 IL App (3d) 110228, ¶ 40 (when a properly filed action has a legitimate and substantial relationship to Illinois, the action should not be dismissed pursuant to the doctrine of comity, which allows courts to defer to the laws or interest of a foreign country and decline to exercise jurisdiction that is otherwise properly asserted). Therefore, we find that because Ghana does not have proper jurisdiction over this custody matter, the doctrine of *forum non conveniens* and the section 207 factors for choosing between two forums with proper jurisdiction, are not triggered. Accordingly, we reject Raymond's arguments that Illinois should have ceded jurisdiction to Ghana as the more convenient forum.

¶ 55 We next determine whether the trial court erred in denying Raymond's motion to quash the court's June 22, 2015 order of commitment, which remanded him to the custody of the Cook County Sheriff.

¶ 56 On June 22, 2015, the trial court entered an order granting Ivy's emergency motion for change in custody by transferring temporary sole custody of C.J.G. to Ivy, and noting that Raymond had been remanded into custody of the Cook County Sheriff until C.J.G. is returned to

Illinois. Also on June 22, 2015, the trial court entered an order of commitment, finding Raymond guilty of willful contempt for failing to produce C.J.G. in Illinois. The court opined that Raymond would purge himself of contempt by returning C.J.G. to Illinois. On June 30, 2015, Raymond filed an emergency motion to quash the June 22, 2015 order of commitment, which the trial court denied after a hearing on July 1, 2015.

¶ 57 Raymond argues that the trial court abused its discretion in denying his motion to quash the June 22, 2015 order of commitment, where the purge provision therein was unattainable and improper. He first claims that the June 22, 2015 order was void, arguing that because Ivy's original May 20, 2014 petition to modify custody was "withdrawn in paragraph 7 of the [c]ourt order entered on June 22, 2015," the court's previous April 15, 2015 body attachment order,[8] which was entered pursuant to Ivy's May 20, 2014 petition to modify custody, became void which in turn also rendered as void the June 22, 2015 order of commitment.

¶ 58 Ivy counters that the trial court correctly denied Raymond's motion to quash the June 22, 2015 order of commitment, arguing that the purge provision was attainable and proper. She contends that the June 22, 2015 order of commitment was valid, where her June 24, 2015 first amended petition for sole custody related back to her original May 20, 2014 petition to modify custody. Further, the entry of the June 22, 2015 order of commitment was directly related to trial court's independent statutory authority under the Child-Custody Jurisdiction Act to order the appearance of C.J.G. during the pendency of the child custody proceedings; and a justiciable issue regarding custody of C.J.G. was before the trial court at the time it entered the June 22, 2015 order of commitment.

[8] The trial court's April 15, 2015 rulings were the subject of an appeal in the related case (No. 1-15-1455) before this court.

¶ 59 A court has the authority to enforce its orders by issuing a finding of contempt. *In re Marriage of Levinson*, 2013 IL App (1st) 121696, ¶ 52. "Civil contempt proceedings are coercive, that is, the civil contempt procedure is designed to compel the contemnor to perform a specific act." *Id.* Civil contempt proceedings have two fundamental attributes: "(1) [t]he contemnor must be capable of taking action sought to be coerced, and (2) no further contempt sanctions are imposed upon the contemnor's compliance with the pertinent court order." *In re Marriage of Betts*, 200 Ill. App. 3d 26, 43 (1990). In other words, the contemnor "must have an opportunity to purge himself of contempt by complying with the pertinent court order." *Id.* If the contempt sanction is incarceration, "the respondent's circumstances should be such that he may correctly be viewed as possessing the 'keys to his cell.' " *Id.* (quoting *In re Marriage of Logston*, 103 Ill. 2d 266, 289 (1984)). Whether a party is guilty of contempt is within the sound discretion of the circuit court, and we will not reverse a court's determination absent an abuse of discretion. *Levinson*, 2013 IL App (1st) 121696, ¶ 52.

¶ 60 We reject Raymond's argument that the June 22, 2015 order of commitment was void, on the basis that he claims the May 20, 2014 petition to modify custody was "withdrawn" and the court's previous April 15, 2015 body attachment order was also void. Section 210 of the Child-Custody Jurisdiction Act states that the court "may order a party to the [child custody] proceeding who is in this State to appear before the court in person with or without the child" and "may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this [s]ection." 750 ILCS 36/210 (West 2014). Thus, under the statutory authority of section 210, the trial court had the inherent power to order C.J.G. to be physically produced in Illinois once the child custody proceedings commenced, in order to ensure her safety, and the entry of the June 22, 2015 order of commitment directly related to Raymond's

willful contempt for failing to comply with the court's orders to produce C.J.G. in Illinois. Accordingly, we reject Raymond's voidness argument as without merit.

¶ 61 Raymond further argues that the purge provision in the June 22, 2015 order of commitment was improper for a finding of indirect civil contempt, because he does not "possess the keys to his cell" and he lacks the ability to satisfy it since his passport had been confiscated by the court's February 25, 2015 order and he is no longer the custodial parent of C.J.G. We reject this contention. First, Raymond's argument is forfeited as he cites no legal authority to support his claim that either the confiscation of his passport by the trial court or the court's granting of custody to Ivy, automatically rendered him unable to satisfy the purge requirement. See *Kic*, 2011 IL App (1st) 100622, ¶ 23 (failure to cite relevant authority violates Rule 341 and can cause a party to forfeit consideration of the issue, and the reviewing court will not research the issues on the appellant's behalf). Second, the record before us is replete with evidence that Raymond's father and stepmother lived and worked in the United States for 30 years before retiring and moving to Ghana; that they have traveled with the child without Raymond from Ghana to Illinois on past occasions; that neither the court's June 22, 2015 order of commitment nor any other previous orders requiring Raymond to produce C.J.G. in Illinois, specified that it must be Raymond himself who travels to Ghana to retrieve C.J.G. Raymond does not argue that he lacked the cooperation or assistance of his father or stepmother to physically bring C.J.G. to Illinois, and instead has actively supported their application for full custody of C.J.G. in Ghana. Moreover, Raymond does not argue, and there is no evidence that Ivy, as the new custodial parent, objected to having Raymond's parents physically return C.J.G. to Illinois. Thus, Raymond has not made or shown any effort to bring or to facilitate bringing the child back to the

United States. Therefore, it cannot be said that Raymond does not hold the "keys to his cell," and the purge provision in the June 22, 2015 order of commitment was proper.

¶ 62 In light of our ruling that Raymond possessed the ability to purge himself of the contempt or to establish that he unequivocally was unable to do so through no fault of his own. We reject Raymond's argument that the nature of the sanction being imposed was actually that of criminal, rather than civil, contempt for which he was denied the safeguards afforded under the law. We have addressed that argument which is based on his claim that he lacked the ability to satisfy the purge obligation of the court's order. See *Betts*, 200 Ill. App. 3d at 43 (civil contempt sanctions are imposed for coercive purposes—to compel the contemnor to perform a particular act—whereas, criminal contempt sanctions are imposed for the purpose of punishing past misconduct). As we have discussed, Raymond is not entitled to relief on this basis. Accordingly, we hold that the trial court did not err in denying Raymond's motion to quash the court's June 22, 2015 order of commitment.

¶ 63 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 64 Affirmed.