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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> THE MARRIAGE OF)	Appeal from the Circuit Court
LISA I. MYERS,)	of De Kalb County.
)	
Petitioner-Appellee,)	
)	
and)	No. 07-D-58
)	
GARY MYERS,)	Honorable
)	Marcy L. Buick,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Presiding Justice Hudson and Justice Zenoff concurred in the judgment.

ORDER

¶ 1 *Held:* Appellant did not support his contentions of trial court error or bias.

¶ 2 In this appeal, the respondent, Gary Myers, challenges the trial court's orders finding him in indirect civil contempt of court and sentencing him to imprisonment each weekend until he purged himself of that contempt. Gary argues that the orders were the product of bias and prejudice on the part of the trial court, and that the trial court denied him due process. We find no support for Gary's contentions in the record.

¶ 3 I. BACKGROUND

¶ 4 Gary and the petitioner, Lisa Myers, were married in 1986. In 2007, Lisa petitioned for dissolution of the marriage. In 2010, the trial court entered a judgment of legal separation that, among other things, reserved the issue of maintenance. After several years of various pretrial disputes and appeals, the trial on the non-custodial issues remaining in the dissolution commenced in December 2015.

¶ 5 A few years earlier, in March 2013, Lisa had filed a motion seeking temporary maintenance. The motion noted that Lisa was unemployed and her sole source of income was child support. It further alleged that Gary was employed and was able to pay maintenance. A financial disclosure statement was incorporated into the motion. For reasons that are not entirely clear to us, the hearing on Lisa's request for temporary maintenance did not take place until February 2016, after the dissolution trial had already commenced and the trial court had heard several days of testimony in that trial.

¶ 6 The trial court addressed several pending matters on February 8, 2016, a court date at which Lisa was present through her attorney and Gary appeared *pro se*. First, the court denied Lisa's pending petition for a rule to show cause for Gary's nonpayment of child support, finding that Gary had not acted contemptuously in failing to pay because the minor children were not living with Lisa during much of the period at issue. The trial court next granted partial relief to Gary on his motion to terminate child support, suspending his current child support obligation for the same reason. However, there was an arrearage on the prior child support Gary owed, the amount of which the trial court calculated. Gary asked for 90 days in which to pay the arrearage in full, while Lisa requested that he pay one-third of the arrearage each month. The trial court granted Gary's request to delay payment for 90 days.

¶ 7 The trial court then turned to Lisa's motion for temporary maintenance. The trial court began by noting that, when considering a request for temporary support, it was authorized to conduct a summary hearing based on affidavits and other documentary evidence. It then stated that, after considering all of the factors listed in section 504 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/504 (West 2014)), an award of temporary maintenance was appropriate. The trial court found that Lisa had occasionally worked temporarily in the past but had not worked during the 20-plus-year marriage, and she could not support herself.

¶ 8 As for the amount of the maintenance, under the Act that amount was to be set at 30% of Gary's gross income minus 20% of Lisa's gross income. See 750 ILCS 5/504(b-1)(a) (West 2014). The trial court further found that 30% of Gary's income, averaged over the last four years of income shown on his tax returns, equaled \$28,949 per year. As Lisa had no income to deduct from this sum, that would be the temporary maintenance award. Asked how he would like to make payments, Gary indicated that he preferred to make biweekly payments, which would be \$1113.42 each and would commence the next day, February 9, 2016. Gary did not raise any objections at the hearing to the trial court's findings regarding maintenance. An order reflecting all of its rulings was entered.

¶ 9 Gary did not file any motion to reconsider the grant of temporary maintenance, nor did he appeal it. However, he also did not pay any maintenance. On February 26, after Gary had missed two scheduled payments, Lisa filed a petition for a rule to show cause.

¶ 10 Although a local De Kalb County court rule allows a rule to show cause to be handled as an "uncontested, non-scheduled matter," the trial court declined to do so and instead set February 29 for the presentment of the petition and the issuance of the rule. The petition and a notice of

the court date were hand-delivered to Gary's residence. He immediately called Lisa's attorney to say that he did not consider service of the petition to have been proper and he would not be in court. After Gary failed to appear on February 29, a special process server was appointed and an alias rule to show cause was issued. The hearing on the petition was ultimately set for March 18.

¶ 11 On March 18, both parties were present, Gary again representing himself. Gary conceded that the court's order of February 8 required Gary to pay temporary maintenance to Lisa, that he was present and had the opportunity to review the order before it was entered, and that he had not made any payments. The trial court explained to Gary that the burden shifted to him to show any reason why he should not be held in contempt of court. Gary tendered to the court an affidavit stating, among other things, that Gary had revenues of over \$10,000 since January 1 and that his monthly expenses were \$2,194. The affidavit was received and reviewed by the court over Lisa's objection.

¶ 12 However, Gary advised the trial court that inability to pay was "not [his] main argument." Gary attempted to give the trial court a printout of section 504 of the Act (750 ILCS 5/504 (West 2014)), and began arguing that the temporary maintenance order was not proper because the trial court had not gone through each of the 14 factors listed in section 504(a) on the record and had not adequately considered his daily operating expenses. The trial court stopped him:

"Mr. Myers, I need to back you up and, again, I understand and I'm giving you leeway. You do not have legal representation on this issue. What I ordered was temporary maintenance and under the law I don't have to have a full-blown hearing on that. It can be decided on the basis of affidavits and income information and the factors under the statute that I found, so keep that in mind.

The issue of whether or not you're going to be paying a permanent order of maintenance or maintenance for a specified period of time based on the length of your marriage has not been decided. This is an issue of payment of temporary maintenance."

¶ 13 The trial court then asked whether Gary had any financial information he wished to show the court to justify his failure to pay temporary maintenance. Gary said he did not, but he wanted to argue more about whether Lisa should receive maintenance at all, asserting that she was cohabitating with someone and was receiving financial assistance from friends. (It appears from various transcripts in the record that Gary may have been referring to Lisa's acknowledgement at trial that she and the children lived with a friend for a time when Lisa had lost her housing due to Gary's nonpayment of support obligations, and that from time to time friends had helped her pay bills.) After Gary had spent some time stating his arguments, the trial court asked, "So *** you disagree with the finding [that Lisa should receive temporary maintenance] and, therefore, that's why you don't want to pay. Is that what you're telling me?" Gary agreed that that was "part of the reason." He then began a rambling discourse regarding his belief that the trial of the dissolution was not being conducted in a fair and even-handed manner. The trial court eventually stopped him, telling him that he was "veering into something that [was] not relevant" to his noncompliance with the court's order and asking him yet again: "so do you want to tell me anything more about why you should not be held in indirect civil contempt of court for your refusal to pay temporary maintenance?" Gary said no, but pointed out that he might have overpaid child support in the past. He also expressed grievances about child custody issues. At the close of the hearing, the trial court said that it would issue its decision one week later, on March 25.

¶ 14 On March 22, Gary filed a petition to terminate maintenance or to reconsider the award of temporary maintenance. Although the motion was drafted by Gary *pro se* and is difficult to follow, it appears that the motion was based on section 510(c) of the Act (750 ILCS 5/510(c) (West 2014)), which states that “the obligation to pay future maintenance is terminated *** if the party receiving maintenance cohabits with another person on a resident, continuing conjugal basis.” In the motion, Gary alluded to trial testimony that the friend with whom Lisa had temporarily resided paid some of Lisa’s monthly expenses (particularly during periods when Gary was not making court-ordered support payments), occasionally attended family gatherings, accompanied Lisa to many of her court appearances in the case, and traveled with Lisa (and paid her medical and living expenses) on a month-long out-of-state trip to obtain medical treatment. However, Gary did not point to any evidence that the friend’s relationship with Lisa was of a conjugal nature or otherwise support his contention that “any common sense person/s [*sic*] would surmise” that the relationship “unequivocally tend[ed] toward a *de facto marriage*.” (Emphasis in original.)

¶ 15 On March 25, the trial court denied Gary’s motion to reconsider or terminate the grant of temporary maintenance. The trial court also addressed other pending matters, beginning with Gary’s motion to reinstate his parenting time with the children. Lisa advised the court that she did not oppose the motion, and Gary’s parenting time was reinstated consistently with the terms of the 2010 parenting agreement between the parties. Next, Gary tried to present a new motion (not previously filed) regarding what he perceived as unfair treatment in the handling of discovery matters. The trial court heard argument from both parties and then denied the motion.

¶ 16 The trial court then turned to its ruling on the rule to show cause for failing to pay temporary maintenance as ordered. The trial court found that Gary had the ability to pay the

temporary maintenance but, as Gary conceded, he refused to pay as ordered simply because he disagreed with the order. The trial court further found Gary in indirect civil contempt for “wilfully and contumaciously failing to pay temporary maintenance as ordered.” However, the trial court delayed sentencing Gary until April 15, telling him that it was doing so “to give you the opportunity to work and pay some maintenance.” The trial court advised Gary that if he made some payments of temporary maintenance, that would help him when the trial court considered his sentence. The trial court also advised him that he was required to appear in court on April 15, and that if he did not, the trial court would issue a body attachment for his arrest. The April 15 court date was later changed to April 18 via an agreed order.

¶ 17 On April 12, Gary filed yet another motion to reconsider the contempt finding, or in the alternative, to terminate temporary maintenance. Despite this putative focus, the contents of the ten-page motion largely concerned Gary’s objections to the conduct of the trial on the underlying dissolution petition, his feelings about the current status of child custody and parenting time issues, and other issues outside the scope of the contempt finding. To the extent that it dealt with matters relevant to contempt or temporary maintenance, it reprised the arguments Gary had made earlier regarding the support that Lisa had received from friends, and whether this support qualified as conjugal cohabitation under the Act.

¶ 18 On April 18, the trial court began the sentencing hearing by asking Gary whether he had paid any temporary maintenance to Lisa. Gary said that he had not. Lisa tendered records from the State Disbursement Unit corroborating Gary’s statement. Lisa further noted that the total amount of temporary maintenance then owing was \$6,680.52, and said that she was in danger of being evicted because her sole source of income was Gary, and he had not paid support of any

kind for almost six months. She asked that Gary be sentenced to an indefinite term in jail, with the amount needed to purge himself from contempt set at \$6,680.52.

¶ 19 Gary asked the court to reconsider the finding of contempt and instead hold an evidentiary hearing on the issue of temporary maintenance. After he strayed into arguments about parenting time, the trial court suggested that he focus his arguments on whether he had paid any temporary maintenance. Gary again asked the court to reconsider its temporary maintenance order. The trial court stated that it had read the motion, and noted that Gary had admitted that he was working and yet he had not made any payments under the order. Gary then asked that, if the court would not reconsider its contempt finding, it sentence him to a nominal amount such as one dollar so that he could appeal. The trial court rejected this request and instead remanded him to the custody of the sheriff until he paid the purge amount. The trial court initially indicated that it would set the amount of the purge at \$2,000. After Lisa said that her landlord required a payment of over \$3,200 to prevent eviction, the trial court instead set the purge at \$3,500. Gary was taken to jail. Two days later, he filed a notice of appeal from the trial court's orders of March 25, 2016, and April 18, 2016.

¶ 20

II. ANALYSIS

¶ 21 Like his motions in the trial court, Gary's briefs on appeal contain a mishmash of arguments and outrage on a variety of topics, including several not relevant to this appeal, such as the trial court's allegedly unfair handling of pretrial discovery matters, its placement of time limitations on his testimony at the dissolution trial, his unhappiness with the living situation of the remaining two minor children, and the allegedly fraudulent nature of the 2010 parenting agreement. We do not consider any of his arguments that are not directed to the finding of contempt or the grant of temporary maintenance.

¶ 22 Civil contempt occurs when a party willfully fails to comply with a court order. *In re Marriage of Knoll & Coyne*, 2016 IL App (1st) 152494, ¶ 50. The noncompliance is classified as indirect civil contempt when it occurs outside the presence of the court. *Id.* “The burden initially falls on the petitioner [seeking the rule to show cause] to establish, by a preponderance of the evidence, that the alleged contemnor has violated a court order. [Citation.] Once that burden is satisfied, the burden shifts to the contemnor, who has the burden of showing that the violation was not willful and contumacious and that he or she had a valid excuse for failing to follow the order.” *Id.* “Whether a party is guilty of contempt is a question of fact for the trial court, and a reviewing court should not disturb the trial court’s determination unless it is against the manifest weight of the evidence or the record reflects an abuse of discretion.” *In re Marriage of McCormick*, 2013 IL App (2d) 120100, ¶ 17. A decision is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the court’s findings are unreasonable, arbitrary, and not based on any of the evidence. *Samour, Inc. v. Board of Election Commissioners of the City of Chicago*, 224 Ill. 2d 530, 544 (2007). Similarly, an abuse of discretion occurs only when the ruling is arbitrary, fanciful, or unreasonable, or no reasonable person would take the view adopted by the trial court, or when the ruling rests on an error of law. *People v. Olsen*, 2015 IL App (2d) 140267, ¶ 11.

¶ 23 Gary does not dispute that he disobeyed the trial court’s order of February 8, 2016, by failing to pay Lisa temporary maintenance. Rather, he attacks the contempt finding on the basis that the contempt proceedings were deficient or improper. Specifically, he argues that: it was improper for the trial court to conduct the hearing on the petition for a rule to show cause only four days after it was filed; the trial court assumed the role of an advocate in its questioning of

him; the trial court did not allow him to present his evidence; and the trial court was biased against him.¹

¶ 24 We reject Gary's first contention as factually inaccurate. The record shows that the petition for a rule to show cause at issue here was filed on February 26, 2016, and that Gary received it (and thus had notice of its contents) no later than February 29. The fact that an alias petition (identical to the first) was filed on March 14 and the hearing was held on March 18 does not demonstrate any impermissible lack of sufficient notice or time to prepare. Further, the record reveals that Gary received an additional opportunity to present his arguments to the trial court on March 25. Gary also complains of the timing of the contempt proceedings in that they occurred while the underlying dissolution trial was also underway. However, he has not provided us with any legal authority suggesting that this was improper, and we are not aware of any. "A point not argued or supported by citation to relevant authority fails to satisfy the requirements of Supreme Court Rule 341(h)(7), (i)" (Ill. S. Ct. R. 341(h)(7), (i) (eff. Jan. 1, 2016)), and the failure to cite relevant authority "results in forfeiture" of the argument. *E.R.H. Enterprises*, 2013 IL 115106, ¶ 56. We therefore turn to Gary's other arguments.

¶ 25 Gary suggests that the trial court improperly assumed the role of an advocate in questioning him during the March 18 hearing. Gary, though, does not identify any points in the

¹ Gary's arguments in his briefs were disorganized and at times incoherent. To the extent that he raised any relevant arguments other than those listed here, we were unable to discern the substance of those arguments and therefore disregard them. When a party does not offer any argument or meaningful authority in support of that argument, the argument is forfeited. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016); *People ex rel. Illinois Dep't of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56.

record where this occurred. Just as an appellant must cite pertinent legal authority, he or she must also provide citations to the record that direct the reviewing court to instances of alleged error. See Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016) (the argument section of an appellate brief must contain “citation of the authorities and the pages of the record relied on” with respect to each argument raised). Further, our own review of the record does not show any instances of improper questioning by the trial court. Accordingly, we reject this contention as well.

¶ 26 We pause here to note that, in fact, Gary’s briefs contain *no* citations to the pages of the record on appeal (except when he quoted the appellee’s brief and the citations therein). As such, the briefs violate Illinois Supreme Court Rule 341, and we would be justified in striking the briefs and finding all of Gary’s arguments forfeited on that basis alone. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016); *First Nat’l Bank of Marengo v. Loffelmacher*, 236 Ill. App. 3d 690, 692 (1992). It appears that Gary may be unfamiliar with the method of filing the record on appeal—for example, we note that he initially failed to file any transcripts of the relevant hearings, a failure which he eventually remedied. But Gary’s *pro se* status and possible unfamiliarity with appellate procedure does not excuse his noncompliance with Supreme Court Rules. See *Bright v. Dicke*, 166 Ill. 2d 204, 210 (1995) (supreme court rules “are not aspirational. They are not suggestions. They have the force of law, and the presumption must be that they will be obeyed and enforced as written.”); see also *McCutcheon v. Chicago Principals Ass’n*, 159 Ill. App. 3d 955, 960 (1987) (“While reviewing courts are open to all persons who seek redress of their grievances, a party’s decision to appear *pro se* does not relieve that party from adhering as nearly as possible to the requirements of the rules of practice enunciated by our supreme court.”). Nevertheless, where the violations of Rule 341 are not so severe as to preclude our review of the

issues, we may decline to strike the brief and instead review the merits of the arguments to the extent that we are able to do so. See *Carter v. Carter*, 2012 IL App (1st) 110885, ¶ 12.

¶ 27 Gary's next contention is that the trial court did not allow him to present evidence supporting his position. Although Gary never makes entirely clear how the trial court barred him from presenting evidence, it appears that he may be referring to his attempts to serve subpoenas in open court upon the friend with whom Lisa resided at one point (and who accompanied Lisa to court dates), so that he could pursue his contention that Lisa and the friend cohabited in a manner that would relieve him of the requirement to pay maintenance. The trial court barred Gary from personally serving the subpoenas in that manner. However, Gary already had had the opportunity to explore the relationship between Lisa and her friend during the dissolution trial, and the trial court stated that it would consider that evidence. Gary has not identified any way in which his inability to present the friend as a witness in the March 18 contempt hearing (an inability that arose from Gary's unfamiliarity with the Illinois Code of Civil Procedure) prejudiced him. To the extent that Gary is referring to some other acts by the trial court of "blocking witnesses and not letting Gary defend himself" during the March 18 hearing, we are unable to decipher his contentions.

¶ 28 Gary's last procedural argument is that the trial court's finding of contempt was the result of bias and prejudice against him. As evidence of this, Gary points to the fact that on March 25, the same day it found him in contempt, the trial court also formally removed any restrictions on Gary's ability to spend parenting time with his children and returned to him the rights he possessed under the 2010 parenting agreement. Gary views this fact as demonstrating that the trial court did not wish him to be able to exercise his parental rights and thus immediately decided to imprison him for contempt. We do not share Gary's view. The record reflects that

the occurrence Gary points to was coincidental, the result of the trial court's efforts to simultaneously address, as promptly as possible, the matters brought before it and to give Gary as much time as possible to show that he was willing to obey the temporary maintenance order. Gary's argument is also unconvincing because the trial court refused to sentence Gary on the same day it found him in contempt (although it could have done so). Instead, the trial court gave Gary another three weeks to avoid some of the effect of the contempt finding by paying at least some temporary maintenance. That leniency also gave Gary more time in which to enjoy parenting time with his children. Finally, Gary could have avoided incarceration entirely by making the payments ordered by the trial court. It was Gary's actions, not those of the trial court, that interfered with his parenting time.

¶ 29 We also note multiple occasions in the record when the trial court ruled in Gary's favor on various matters and extended him uncommon courtesy as he attempted to make his *pro se* arguments, which were frequently wide of the mark. For all of these reasons, we firmly reject Gary's contention that the trial court displayed bias in finding him in contempt.

¶ 30 Review of a contempt finding also permits us to review the correctness of the order upon which the contempt finding is based. *Norskog v. Pfiel*, 197 Ill. 2d 60, 69 (2001). In this case, however, any consideration of the trial court's February 8, 2016, order granting Lisa temporary maintenance is moot, as the temporary grant of maintenance was supplanted by the trial court's grant of permanent maintenance in the amount of \$2,322.13 per month on July 11, 2016, in the judgment for dissolution of marriage.

¶ 31 III. CONCLUSION

¶ 32 For the reasons stated, the judgment of the circuit court of De Kalb County is affirmed.

¶ 33 Affirmed.