2017 IL App (2d) 160858-U
Nos. 2-16-0858
Order filed June 27, 2017

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF CAITLIN LOZOS,	)	Appeal from the Circuit Court of Lake County.
Petitioner-Appellant,	)	
and	)	No. 09-D-2392
JAMES LOZOS,	)	Honorable Elizabeth M. Rochford,
Respondent-Appellee.	)	Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Birkett and Spence concurred in the judgment.

ORDER

¶ 1 *Held:* We lack jurisdiction to address three of the orders which petitioner lists in her notice of appeal. The trial court did not abuse its discretion in awarding and allocating GAL fees, terminating rehabilitative maintenance, and modifying child support. Affirmed in part and dismissed in part.

¶ 2 In this post-judgment dissolution of marriage proceeding, *pro se* petitioner, Caitlin Lozos, lists 18 trial court orders in her notice of appeal. For the reasons that follow, we lack jurisdiction over three of the orders listed in her notice of appeal, and based on the record, we find the trial court did not abuse its discretion in awarding and allocating guardian *ad litem* (GAL) fees,

terminating rehabilitative maintenance, and modifying child support. We affirm in part and dismiss in part.

¶ 3 I. BACKGROUND

¶ 4 Caitlin and respondent, James Lozos, married in 1993 and have two sons, J.E., born November 15, 1998, and C., born March 4, 2003. Caitlin filed for divorce on December 1, 2009.

¶ 5 The trial court entered a judgment of dissolution on June 7, 2013. Pursuant to a joint parenting agreement, Caitlin received sole custody of the children. Among other things, the judgment required James to pay Caitlin rehabilitative maintenance and child support. At the time of the judgment, Caitlin received disability income and continued to receive it as of December 21, 2016.

¶ 6 The parties filed numerous post-decree motions and petitions following the entry of the dissolution judgment. Caitlin filed her notice of appeal on October 7, 2016, which listed 18 trial court orders that were being appealed.

¶ 7 We granted James' motion to supplement the record on appeal with orders of November 14, 2016, December 21, 2016, and January 30, 2017, as well as details confirming that no further claims or proceedings were pending before the trial court.

¶ 8 II. ANALYSIS

¶ 9 A. Lack of Jurisdiction

¶ 10 Before turning to Caitlin's appeal, we must first address James' contention that we lack jurisdiction over three of the orders which Caitlin lists in her notice of appeal and are discussed in her appellate brief, namely those orders entered on February 25, 2011, June 7, 2013, and August 15, 2014.

¶ 11 The order entered on February 25, 2011, is a temporary order relating to the denial of a continuance, the waiver of interest in real estate by James, the assumption of debt by James, and the obligation on the part of Caitlin to provide a list of debts. Temporary orders generally may not be appealed immediately, on an interlocutory basis, before the entry of a final order. See *In re Marriage of Kitchen*, 126 Ill. App. 3d 192, 194 (1984) (temporary child support order not an injunction which could be appealed under Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2016)).

¶ 12 In any event, the record on appeal does not show that an interlocutory appeal was taken from this temporary order prior to the entry of the judgment of dissolution of marriage on June 7, 2013. And, once the judgment of dissolution was entered, we assume that the trial court adjusted for any inequity in its temporary order. See *In re Marriage of Dunseth*, 260 Ill. App. 3d 816, 827 (1994). In fact, the record shows that on March 24 and 25, 2011, a trial was conducted, and when the trial court entered the judgment of dissolution on June 7, 2013, it resolved custody, maintenance, and child support, in addition to other issues regarding property, debt, and expenses. Thus, because the February 25, 2011, order was a temporary order that was not appealed prior to the entry of the judgment of dissolution, we lack jurisdiction to review this order.

¶ 13 We also lack jurisdiction to consider the June 7, 2013, judgment of dissolution. A "notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from, or, if a timely posttrial motion directed against the judgment is filed, whether in a jury or a nonjury case, within 30 days after the entry of the order disposing of the last pending postjudgment motion directed against that judgment or order, irrespective of whether the circuit court had entered a series of final orders that were modified pursuant to

postjudgment motions." Ill. S. Ct. R. 303 (eff. Jan. 1, 2015). Compliance with the deadlines for appeals under Rule 303 is jurisdictional, and this court is without jurisdiction to review an appeal that was not filed in a timely manner. *Tunca v. Painter*, 2012 IL App (1st) 093384, ¶ 23; *Martin v. Cajda*, 238 Ill. App. 3d 721, 728 (1992).

¶ 14 The record shows that Caitlin filed neither a postjudgment motion nor a notice of appeal within 30 days of the 2013 judgment. Caitlin filed a notice of appeal on October 7, 2016, more than three years after the entry of the judgment of dissolution. Due to the failure to timely file a notice of appeal from the 2013 judgment of dissolution, we do not have jurisdiction to entertain an appeal contesting that judgment.

¶ 15 As to the order entered on August 15, 2014, the trial court granted a motion to supervise discovery and further ordered Caitlin to issue discovery with leave of court and limited her ability to contact third parties. On August 22, 2014, the trial court dismissed Caitlin's then pending contempt petition and the parties agreed to the entry of further orders in connection with the child support obligation. Following the entry of the August 22 order, there were no pending post-decree petitions, and no notices of appeal had been filed regarding pending petitions.

¶ 16 Ordinarily, the authority of the trial court to alter a judgment terminates after 30 days after its entry. See *In re Marriage of Agustsson*, 223 Ill. App. 3d 510, 515 (1992). In the absence of Illinois Supreme Court Rule 304(a) (eff. March 8, 2016) certification, the trial court retains jurisdiction over a judgment beyond the 30-day period if other claims in that action remain pending. Other exceptions to the 30-day rule include instances where a new claim or a posttrial motion directed at the judgment is filed within 30 days of its entry. *In re Marriage of Ehgartner-Shachter*, 366 Ill. App. 3d 278, 286-87 (2006). Under this principle, an order can enter as to one of multiple claims and it is not until the order disposing of the last pending claim

that the 30-day period within which an appeal must be taken begins to run. In other words, the pendency of other claims tolls the time to file a notice of appeal. See *Ehgartner-Shachter*, 366 Ill. App. 3d at 287.

¶ 17 Under the application of this rule, we lack jurisdiction to review the appeal of the order entered on August 15, 2014. We agree with James that there appears to be little of substance in that order to appeal. Regardless, following the entry of the order, on August 22, 2014, the trial court dismissed a pending contempt petition and there were no post-decree petitions pending after that, no notice of appeal was filed, and nothing new was filed for almost four months until James filed a motion to modify withholding notice. Therefore, after August 22, 2014, the requirement to file an appeal no longer was tolled and we lost jurisdiction over the August 15, 2014, order 30 days after August 22, 2014. See *Ehgartner-Shachter*, 366 Ill. App. 3d at 287.

¶ 18 B. Jurisdiction With Respect To The Remaining Appeal

¶ 19 James concedes that we have jurisdiction over the following remaining orders listed in Caitlin's notice of appeal: March 2, 2015; April 16, 2015; June 3, 2015; June 12, 2015; July 2, 2015; July 7, 2015; August 26, 2015; September 23, 2015; October 7, 2015; October 13, 2015; November 17, 2015; December 7, 2015; January 22, 2016; August 1, 2016; and, September 7, 2016. James asserts that Caitlin's appeal was prematurely filed but argues, however, that there is no reason to dismiss it as premature because the supplemental record shows that all matters before the trial court have been resolved.

¶ 20 The order entered on August 1, 2016, states that the GAL's fees are deemed to be reasonable and necessary but references a November 14, 2016, hearing date. However, Caitlin filed a notice of appeal on October 7, 2016, following an order entered on September 7, 2016. Thus, because all matters had not been resolved until January 30, 2017, we agree with James that

Caitlin's appeal was prematurely filed. See *In re Marriage of Knoerr*, 377 Ill. App. 3d 1042, 1049-50 (2007) (appeals filed without resolution of all pending motions or without Rule 304(a) express written findings are premature).

¶ 21 That Caitlin's notice of appeal was initially premature does not deprive this court of jurisdiction. As previously stated, Rule 303(a)(2) provides:

> "When a timely postjudgment motion has been filed by any party, whether in a jury case or a nonjury case, a notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion, or before the final disposition of any separate claim, becomes effective when the order disposing of said motion or claim is entered." Ill. S. Ct. R. 303(a)(2) (eff. Jan. 1, 2015).

James' supplemental record reflects the disposition of unadjudicated petitions on November 14, 2016, and thereafter, until January 30, 2017, when the last petition was resolved. Therefore, Caitlin's premature notice of appeal became effective 30 days after January 30, 2017.

¶ 22 Caitlin's appellate brief raises numerous issues which are difficult to understand and which are not properly developed. As far as can be ascertained, she appears to challenge, among other things: (1) the trial court's finding regarding the GAL fees in the amount of $2,888 as reasonable and necessary; (2) the trial court's termination of maintenance and modification of child support; (3) the judgment of dissolution as void due to James' willful violations of Caitlin's bankruptcy stay; and, (4) paragraphs 8-13 of the judgment of dissolution and the August 22, 2014, order for violating the Social Security Act with respect to Caitlin's rights for "future payments." Because we lack jurisdiction over the judgment of dissolution, we may not address the last two issues.

¶ 23 In any event, although we have jurisdiction to address the first issue regarding the GAL fees, we assume the trial court did not abuse its discretion. See *In re Marriage of Soraparu*, 147 Ill. App. 3d 857, 864 (1986) (decision regarding the allowance and allocation of GAL fees rests within the sound discretion of the trial court, and will not be disrupted on review unless the discretion is clearly abused). Caitlin does not supply this court with a record of the hearing regarding the GAL fees. The burden is on the appellant to present a record of sufficient completeness to support a claim of error on appeal, and in the absence of such a complete record, we presume that the orders entered by the trial court were in conformity with the law and had a sufficient factual basis. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984); *In re Marriage of Patel*, 2013 IL App (1st) 122882, ¶ 44.

¶ 24 As to the issues raised by Caitlin regarding child support and maintenance, we may look to the supplemental record, which provides the following. On December 21, 2016, the parties appeared before the court for a ruling on the petitions for child support and maintenance, namely, James' petition to modify child support, and Caitlin's amended petition to review rehabilitative maintenance. The court found the judgment of dissolution obligated James to pay Caitlin rehabilitative maintenance in the amount of approximately $202 per week for two years, which was set to terminate subject only to a timely request for review by Caitlin, and she filed a timely request for review. James also was obligated to pay child support and James made timely payments for child support and maintenance without interruption since the date of judgment.

¶ 25 Caitlin has a BS in business and management and earned an MBA in 2009. At the time of trial, Caitlin testified that, in 2013, she was working as a substitute teacher, a position she voluntarily terminated to represent herself in the divorce trial. Her employment history included earnings as high as $58,000 in 2007. At the time of judgment in 2013, Caitlin was receiving

disability income for psoriasis and scars and continued to receive disability income. Caitlin testified that her ability to work had been impeded by the demands of her children, specifically, three incidents regarding J.E. concluding in 2013. Caitlin stated that she was consumed with the advocacy for J.E., who was then 15 years old.

¶ 26 In July 2015, J.E. moved to live with James and no longer posed an impediment to Caitlin's ability to work. C. was 13 at the time of the ruling and still lived with Caitlin. The court found that no credible evidence was presented that C. posed interference with Caitlin's ability to work. The court further found that no competent evidence was presented that Caitlin had a medical condition preventing her from being employed on a full-time basis and that the evidence, in fact, supported the conclusion that she had the ability to work full time.

¶ 27 The court further took judicial notice that an order transferred temporary residential placement of J.E. to James in July 2015 and Caitlin had not exercised parenting time with J.E. since that date, even though James continued to pay child support for both children, and James had assumed all of J.E.'s living and educational expenses in addition to extracurricular expenses, which the judgment required to be divided equally between the parties. The court also took judicial notice that J.E. turned 18 by the date of the ruling.

¶ 28 After reviewing the pleadings, the court file, the relevant portions of the Illinois Marriage and Dissolution of Marriage Act, the case law, the evidence, and the testimony of the parties, and after assessing the parties' credibility, the court found that Caitlin's position that J.E. posed an impediment to her employment was not reasonable, especially given that he had been residentially placed with James for one and one-half years and that she failed to present credible evidence to support her assertion that her disability prevented her from securing employment. The court also found that her assertion that the divorce case imposed such significant time

demands that she was unable to work was not reasonable. The court concluded that Caitlin does have the ability to work and be self-supporting and had not made reasonable efforts to secure and maintain employment and that there was a substantial change in circumstances regarding child support. Accordingly, it granted the motion to terminate rehabilitative maintenance and granted the petition to modify child support. We cannot say that the trial court abused its discretion in terminating rehabilitative maintenance or in modifying child support. See, *e.g.*, *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009) (abuse of discretion standard applies to modification or termination of maintenance); *In re Marriage of Davis*, 287 Ill. App. 3d 846, 852 (1997) (trial court enjoys broad discretion in determining the modification of child support).

¶ 29 We observe that a reviewing court is entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016). The purpose of these rules is to require the parties to present clear and orderly arguments before a reviewing court, so that the court can properly ascertain and dispose of the issues involved. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7. Caitlin fails to clearly define any remaining issues and fails to present any cohesive and understandable argument in support. Failure to properly develop an argument does "not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009). We decline to address these remaining issues as Caitlin has forfeited them by failing to comply with Rule 341.

¶ 30 III. CONCLUSION

¶ 31 For the reasons set forth above, we affirm in part and dismiss in part.

¶ 32 Affirm in part and dismiss in part.