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2017 IL App (3d) 160587-U

Order filed February 24, 2017

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

ERIK C. WOYTOWYCH,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Petitioner-Appellant,	)	Will County, Illinois.
	)	
v.	)	Appeal No. 3-16-0587
	)	Circuit No. 11-F-0506
LENA H. BADAMI,	)	
	)	Honorable
Respondent-Appellee.	)	Elizabeth Dow
	)	Judge, Presiding

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JUSTICE O'BRIEN delivered the judgment of the court.  
Justices Carter and Wright concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Appeal dismissed for lack of jurisdiction.

¶ 2 Petitioner Erik Woytowych received a personal injury settlement of \$30,000 and was ordered to pay 20% of his portion of it for child support for a son he had with respondent Lena Badami. He appealed. We dismiss the appeal for lack of jurisdiction.

¶ 3 **FACTS**

¶ 4 Petitioner Erik Woytowych and respondent Lena Badami had a child together in November 2007. The couple split up in May 2011. Badami was granted custody of the child and Erik was ordered to pay the statutory amount of 20% of his income as child support, which equaled \$400 per month. He was also ordered to pay for daycare expenses and 50% of the child's other reasonable expenses. Woytowych ceased paying court-ordered expenses for his son in September 2014 and child support in September 2015.

¶ 5 In December 2015, Woytowych had a slip and fall accident, and brought a personal injury claim against the retailer where the accident occurred. In February 2016, Badami filed a rule to show cause for Woytowych's failure to pay child support, day care payments and uncovered medical expenses. The motion also raised other issues regarding Woytowych's unilateral actions regarding the child's insurance and medical treatment. In March 2016, Woytowych moved to modify child support.

¶ 6 In May 2016, Badami filed a motion seeking child support and child support arrearages from any settlement proceeds. Woytowych settled the personal injury claim for \$30,000 in June 2016. Woytowych's share of the proceeds amounted to \$20,275. A hearing took place on Badami's motion. Woytowych's personal injury attorney testified that the settlement proceeds were not income but that the entirety of the settlement was for pain and suffering and medical expenses.

¶ 7 In August 2016, the trial court found that Woytowych's owed Badami \$5,520 in child support, \$6,050 in daycare expenses, and \$1,222.50 in uncovered medical expenses. In September 2016, the trial court entered an order in which it found the settlement proceeds constituted income for child support purposes and ordered Woytowych pay \$4,055 in child support from the proceeds and \$12,792.50 in arrearages. Woytowych appealed.

ANALYSIS

¶ 8

¶ 9           The issue on appeal is whether the trial court erred when it found that Woytowych’s personal injury proceeds constituted income for child support purposes. Woytowych argues that the settlement proceeds did not include lost wages and cannot be considered income for child support purposes.

¶ 10           We must first address Badami’s argument that Woytowych’s appeal is not properly before this court based on what she describes as an insufficient notice of appeal.

¶ 11           Rule 303 states that the notice of appeal shall specify the judgment being appealed and the relief sought. Ill. S. Ct. R. 303(b)(2) (eff. Jan. 1, 2015). The reviewing court lacks jurisdiction to review any judgments not specified in or inferred from the notice of appeal. *Fitch v. McDermott, Will & Emery, LLP*, 401 Ill. App. 3d 1006, 1014 (2010). There is an exception only when a nonspecified judgment is a step in the process leading to the judgment appealed. *Id.* (quoting *Neiman v. Economy Preferred Insurance Co.*, 357 Ill. App. 3d 786, 790 (2005)). The purpose of the notice of appeal is to inform the other party the losing party is seeking review. *Fitch*, 401 Ill. App. 3d at 1014. A notice of appeal is sufficient to confer jurisdiction when it fairly and adequately sets out the judgment complained of and the relief sought, advising the successful litigant of the nature of the appeal. *Id.*

¶ 12           Woytowych’s notice of appeal, filed September 24, 2016, states that he is appealing the trial court’s August 31, 2016, order on a rule to show cause. The notice of appeal does not reference the trial court’s order of September 9, 2016, determining the settlement proceeds were income. The purpose of the notice of appeal is to inform the opposing party of the nature of the appeal. Woytowych’s notice of appeal did not inform Badami that he was challenging the trial court’s ruling that his settlement proceeds were income. Rather, the notice of appeal stated only

that Woytowych was seeking review of the child support and other arrearages he was ordered to pay.

¶ 13 The motion to award child support and child support arrearages/expense arrearages from personal injury settlement proceeds was filed separately from the petition for rule to show cause. Separate orders were entered by the trial court in each of these actions. Each action sought separate relief. The matters resolved through the trial court's order on Badami's rule to show cause concerned Woytowych's failure to pay obligations such as child support, daycare costs and uncovered medical expenses as ordered by the trial court in May 2013. Badami's petition for child support from the settlement proceeds was not filed until May 2016. The trial court issued an order on Badami's rule to show cause in August 2016. The court did not resolve Badami's request for child support from Woytowych's personal injury settlement until September 9, 2016. The August 31, 2016, order entered in the rule to show cause was not a step in the process toward determining whether the personal injury proceeds were income for purposes of child support. Instead the August 31, 2016, order only established that the Appellant had failed to meet the previously ordered obligations for the support of the minor child.

¶ 14 We find that Woytowych's notice of appeal did not confer this court with jurisdiction. The notice of appeal did not provide that Woytowych was seeking review of the trial court's ruling on Badami's petition for child support from the personal injury settlement. The order which the notice did state was being appealed was not a step in the progression leading to the court's resolution of Badami's petition. Accordingly, we dismiss the appeal for lack of jurisdiction.

¶ 15 For the foregoing reasons, the appeal is dismissed.

¶ 16 Appeal dismissed.