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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> MARRIAGE OF MAURISSA GREER,)	
)	Appeal from the Circuit Court
Petitioner-Appellee,)	of Cook County.
)	
and)	No. 14 D 10406
)	
ANTHONY WALKER,)	The Honorable
)	Patricia Logue,
Respondent-Appellant.)	Judge Presiding.
)	
)	

JUSTICE GORDON delivered the judgment of the court.
Presiding Justice McBride and Justice Reyes concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's award of maintenance is affirmed where the record on appeal is insufficient to support respondent's claims of error.
- ¶ 2 The instant appeal arises from proceedings concerning the dissolution of the marriage of petitioner Maurissa Greer and respondent Anthony Walker. After a hearing, the trial court awarded respondent maintenance of \$600 per month for two years. Respondent appeals and, for the reasons that follow, we affirm.

¶ 3

BACKGROUND

¶ 4

On November 13, 2014, petitioner filed a petition for dissolution of marriage, alleging that the parties were married on February 14, 2003, and separated in July 2013; they had no children.¹ The petition further alleged that petitioner was employed as a “processor,” while respondent was unemployed.

¶ 5

On February 24, 2015, respondent filed a petition for temporary maintenance, alleging that he was not employed and was legally disabled. Respondent alleged that petitioner possessed sufficient assets and earned an annual income in excess of \$70,000 and that she had ceased to provide for the support and maintenance of respondent since the commencement of the dissolution proceedings. Accordingly, respondent requested temporary maintenance during the pendency of the action and permanent maintenance thereafter.

¶ 6

On June 26, 2015, petitioner filed a motion to dismiss respondent’s petition for temporary maintenance, arguing that the petition should be dismissed because respondent had failed to tender a financial disclosure statement to petitioner as required.

¶ 7

On July 5, 2015, respondent tendered his financial disclosure statement to petitioner. Petitioner filed objections to respondent’s disclosure, claiming that respondent had not provided any proof of income he claimed he was earning and had not provided any information as to the basis for the expenses he claimed. The disclosure was attached to petitioner’s objection, and included a Social Security benefit statement showing that respondent receives \$826 monthly in Social Security disability benefits. The disclosure claimed that respondent received an additional \$127 monthly from “Public Aid/Food

¹ The record indicates that petitioner had two minor children prior to the marriage.

stamps.” The disclosure indicated that respondent had no other assets other than a life insurance policy and a vehicle that he leased.

¶ 8 On October 20, 2015, the trial court entered an order granting respondent’s petition for temporary maintenance and awarding temporary maintenance of \$1500 per month. On November 6, 2015, petitioner filed a petition for downward modification of the temporary maintenance award, arguing that a large portion of her income was based on overtime pay and she had been notified that such overtime pay would cease in November 2015. Consequently, petitioner claimed that there had been a substantial change in circumstances because her income had decreased substantially. On November 18, 2015, petitioner also filed a motion to reconsider the October 20, 2015, order, claiming that the trial court failed to consider petitioner’s expenses in caring for her two minor children. Petitioner further claimed that she did not have the ability to pay maintenance, as she was now solely responsible for a mortgage, home equity loan, and utilities, which left her with \$1199.03 per month before expenses for feeding her children, paying the telephone bill, or paying for transportation to work.

¶ 9 On December 3, 2015, respondent filed a petition for rule to show cause, claiming that petitioner had not paid any maintenance to respondent after the trial court’s October 20, 2015, order awarding temporary maintenance.

¶ 10 On December 17, 2015, the trial court granted petitioner’s petition for a downward modification of the maintenance award and set temporary maintenance at \$600 per month, retroactive to February 24, 2015; the court ordered that the maintenance award would be reviewable in six months. The trial court also granted respondent’s petition for rule to show

cause and issued a rule against petitioner to show cause why she should not be held in contempt for failure to pay any maintenance.

¶ 11 On March 9, 2016, respondent filed a second petition for rule to show cause, alleging that petitioner had paid “little, if any,” maintenance since December 17, 2015. On May 17, 2016, the trial court granted respondent’s petition and issued a rule against petitioner to show cause why she should not be held in contempt for failure to pay maintenance.

¶ 12 On May 26, 2016, petitioner filed a petition to terminate maintenance or, in the alternative, to reduce maintenance. Petitioner alleged that she was no longer permitted to work overtime, substantially reducing her income, and that her employer was in the process of closing down its business, meaning that she anticipated a layoff in the near future. Petitioner alleged that her decreased income and changing employment situation constituted a substantial change in circumstances and that she would not be able to provide for the needs of her children if maintenance was not terminated or modified. On August 12, 2016, the trial court entered an order that the \$600 award of temporary maintenance “remains in full force and effect.”

¶ 13 On October 7, 2016, after a hearing, the trial court entered a judgment for dissolution of the parties’ marriage, in which the court ordered petitioner to pay respondent maintenance in the amount of \$600 per month for 24 months, after which the maintenance would be reviewable; the record indicates that there was no court reporter present at the hearing, and there is no bystander’s report of the hearing. This appeal follows.

¶ 14 ANALYSIS

¶ 15 On appeal, respondent challenges the trial court’s maintenance award on two bases. First, he claims that the trial court failed to make the required findings with respect to the award.

Second, he claims that the trial court abused its discretion in awarding him \$600 per month for 24 months. We note that petitioner did not file a brief on appeal, so we take the instant appeal for consideration on the record and respondent's brief only.

¶ 16 Respondent first claims that the trial court erred in not making the findings required under section 504 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/504 (West 2016)). However, before considering the merits of respondent's argument, we must first determine the version of the Act that applies. The Act has undergone substantial amendment over the last several years and, in fact, was amended during the pendency of the parties' dissolution proceedings. Section 504, the section that governs the issue of maintenance, was actually amended twice between the date of the filing of the petition for dissolution of marriage and the trial court's entry of the judgment of dissolution.² The version that was in effect at the time of the filing of the petition did not require the trial court to make specific findings of fact in awarding maintenance to a party. 750 ILCS 5/504 (West 2012). Indeed, our supreme court made clear that "when the basis for an award of maintenance is established in the record, it is not mandatory that the trial court make explicit findings for each of the statutory factors." *Blum v. Koster*, 235 Ill. 2d 21, 38 (2009).

¶ 17 However, section 504 was amended by Public Act 98-961, which became effective on January 1, 2015. 750 ILCS 5/504 (West 2014). This amendment added subsection (b-2), which provided that, "[i]n each case involving the issue of maintenance, the court shall make specific findings of fact" concerning the basis for the maintenance award. 750 ILCS 5/504(b-2) (West 2014). Section 504 was again amended by Public Act 99-90, which became

² We note that, since the entry of the judgment of dissolution, section 504 has been amended twice more, with the most recent amendment becoming effective January 1, 2019. See 750 ILCS 5/504 (West 2016); Pub. Act 100-923 (eff. Jan. 1, 2019).

effective on January 1, 2016; this amendment made no changes to the requirement for specific findings set forth in subsection (b-2). 750 ILCS 5/504 (West Supp. 2015). This is the version of the Act that was in effect at the time of the entry of the judgment for dissolution. Thus, prior to considering the merits of respondent’s arguments, we must first determine which version of the Act applies—the version in effect at the time of the filing of the petition or the version in effect at the time of the entry of the judgment for dissolution of marriage.

¶ 18 Section 801 of the Act, which was also amended as part of Public Act 99-90, discusses applicability of the Act to proceedings in various stages of completion. 750 ILCS 5/801 (West Supp. 2015). Courts have used this section to determine whether the prior version of the Act governs, or whether the new version of the Act is applicable.³ See, e.g., *In re Marriage of Kasprzyk*, 2019 IL App (4th) 170838, ¶ 38 (finding new Act applicable); *In re Marriage of Benink*, 2018 IL App (2d) 170175, ¶ 29 (finding prior version of Act applicable); *In re Marriage of Carstens*, 2018 IL App (2d) 170183, ¶ 29 (finding new Act applicable); *In re Marriage of Ruvola*, 2017 IL App (2d) 160737, ¶ 13 (finding new Act applicable). As relevant to the instant case, section 801(b) provides that “[t]his Act applies to all pending actions and proceedings commenced prior to its effective date with respect to issues on which a judgment has not been entered.” 750 ILCS 5/801(b) (West Supp. 2015). As noted, the petition for dissolution of marriage was filed on November 13, 2014, prior to the January 1, 2016, effective date of the amendment. However, the judgment for dissolution of marriage was entered on October 7, 2016, after the effective date of the amendment. Since “a

³ As noted, the Act has been further amended since the amendment at issue. However, when we refer to the “new” or “amended” Act, we refer to the version of the Act that was effective January 1, 2016.

judgment [had] not been entered” prior to the effective date of the amended Act, under section 810(b), the new Act controls.⁴ 750 ILCS 5/801(b) (West Supp. 2015).

¶ 19 Under the version of section 504 in effect at the time of the judgment, the trial court was required to consider a number of relevant factors in determining whether to award maintenance, including:

“(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;

(2) the needs of each party;

(3) the realistic present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having foregone or delayed education, training, employment, or career opportunities due to the marriage;

(5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;

⁴ We note that, in *In re Marriage of Cole*, 2016 IL App (5th) 150224, ¶ 9, the court found that amended maintenance guidelines did not apply to a case in which the marriage, separation, and dissolution hearing all occurred prior to the amendment’s effective date and the only action that occurred after the effective date was the actual entry of the judgment itself. However, in the case at bar, the hearing on the petition for dissolution of marriage occurred on October 7, 2016, after the January 1, 2016, effective date of the amendment at issue. Additionally, we must note that *Cole* did not include any discussion of section 801 of the Act or its impact on the issue and that at least one court has reached the opposite conclusion on similar facts based on the application of section 801. See *Ruvola*, 2017 IL App (2d) 160737, ¶ 13 (“We note first that the trial court was correct to apply the amendments to the [Act] that became effective on January 1, 2016. [Citation.] The amendments became effective after the closing of proofs in this case but before the judgment was rendered. [Citation.]”).

(6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or any parental responsibility arrangements and its effect on the party seeking employment;

(7) the standard of living established during the marriage;

(8) the duration of the marriage;

(9) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and the needs of each of the parties;

(10) all sources of public and private income including, without limitation, disability and retirement income;

(11) the tax consequences of the property division upon the respective economic circumstances of the parties;

(12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(13) any valid agreement of the parties; and

(14) any other factor that the court expressly finds to be just and equitable.” 750

ILCS 5/504(a) (West Supp. 2015).

¶ 20

If the court determines that a maintenance award is appropriate, section 504 provides guidelines to be applied in setting the amount and duration of the award; if the award is not in accordance with the guidelines, such an award “shall be made after the court’s consideration of all relevant factors set forth in subsection (a).” 750 ILCS 5/504(b-1) (West Supp. 2015). Under section 504(b-2):

“In each case involving the issue of maintenance, the court shall make specific findings of fact, as follows:

(1) the court shall state its reasoning for awarding or not awarding maintenance and shall include references to each relevant factor set forth in subsection (a) of this Section; and

(2) if the court deviates from otherwise applicable guidelines under paragraph (1) of subsection (b-1), it shall state in its findings the amount of maintenance (if determinable) or duration that would have been required under the guidelines and the reasoning for any variance from the guidelines.” 750 ILCS 5/504(b-2) (West Supp. 2015).

¶ 21 In the case at bar, respondent claims that the trial court erred because it failed to make the findings required by the Act in support of the maintenance award. We note that respondent is not claiming that the trial court erred in awarding maintenance; indeed, he is presumably satisfied with the court’s conclusion that he was entitled to receive maintenance from petitioner. Instead, respondent claims that the trial court erred in failing to set forth the basis for the amount and duration of the award, making it impossible for him to challenge the trial court’s findings concerning those issues. Respondent is correct that the judgment of dissolution entered by the trial court, in which the court awarded respondent maintenance, does not include any findings concerning the basis for its maintenance award or consideration of the factors set forth in the Act. However, the record does not contain a report of proceedings or bystander’s report of the hearing.⁵ Consequently, we have no way of knowing whether the trial court made any oral findings or properly considered the statutory

⁵ An order on prove-up, entered the same day as the judgment for dissolution, indicates that no court reporter was present at the hearing.

factors in awarding respondent maintenance. While respondent claims in his brief that the trial court failed to make any findings orally, and refused his request that such findings be made, the record on appeal is silent on the matter. It is respondent, as the appellant, who has the burden of providing a sufficiently complete record of the proceedings to support a claim of error and, in the absence of such a record, the reviewing court will presume that the order entered by the trial court was in conformity with the law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts arising from the incompleteness of the record will be resolved against the appellant. *Foutch*, 99 Ill. 2d at 392. In the case at bar, without a report of proceedings or bystander's report, we have no way of knowing whether the trial court properly considered the statutory factors in awarding maintenance and therefore must presume that its order was in conformity with the law and had a sufficient factual basis. Accordingly, we cannot find reversible error on this basis.

¶ 22 Similarly, we cannot find that the trial court erred in setting the award of \$600 per month for 24 months. First, respondent does not flesh out this argument in his brief but only includes it as one of the issues presented. It is well settled that points not argued on appeal are forfeited. *Lebron v. Gottlieb Memorial Hospital*, 237 Ill. 2d 217, 253 (2010); Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017) (“Points not argued [in the appellant’s brief] are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.”).

¶ 23 Moreover, even if not forfeited, respondent’s argument again relies on an incomplete record. The propriety of a maintenance award is within the discretion of the trial court, and the court’s decision will not be disturbed absent an abuse of that discretion. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005). “A trial court abuses its discretion only where no reasonable person would take the view adopted by the trial court.” *Schneider*, 214 Ill. 2d at

173. In the case at bar, there is no information in the record concerning the parties' income, assets, needs, standard of living, or any of the other information relevant to an award of maintenance. The only documents in the record even touching on this issue are a single Social Security disability statement and financial disclosure filed by respondent, which petitioner objected to as being inaccurate and unsupported by any documentation. There is simply not enough information in the record for us to consider whether the trial court's award of maintenance was appropriate. Accordingly, we must presume that the trial court's order was in conformity with the law and had a sufficient factual basis and, therefore, affirm the award of maintenance.

¶ 24

CONCLUSION

¶ 25

The trial court's maintenance award of \$600 per month for 24 months is affirmed where the record on appeal is insufficient to support any claim of error.

¶ 26

Affirmed.