2019 IL App (1st) 181649-U
No. 1-18-1649

SECOND DIVISION
March 19, 2019

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE THE MARRIAGE OF TIFFANY GATES,	)	Appeal from the Circuit Court
	)	of Cook County.
Petitioner-Appellant,	)	
	)	
v.	)	No. 10 D 7302
	)	
VERON GATES,	)	
	)	The Honorable
Respondent-Appellee.	)	Matthew Link,
	)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Justices Lavin and Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* Where numerous other postdissolution matters remained pending at the time of petitioner's appeal and there was no finding pursuant to Supreme Court Rule 304(a), the appeal was dismissed for lack of jurisdiction.

¶ 2 Petitioner, Tiffany Gates, appeals from the trial court's denial of her motion to reconsider the denial of her "Amended Motion to Relocate with Minor Children," in which she sought leave to move the children from Illinois to Indianapolis, Indiana. For the reasons that follow, we conclude that we lack jurisdiction over this appeal and, therefore, dismiss the appeal.

¶ 3 BACKGROUND

¶ 4 In February 2011, the marriage between petitioner and respondent, Veron Gates, was dissolved in a default judgment for dissolution. Petitioner was awarded custody of the parties' two minor children with regular visitation by Veron.

¶ 5 In August 2017, petitioner filed a motion to relocate the children, requesting leave to move the children to Cincinnati, Ohio, because petitioner's long-term boyfriend had obtained a job there. Two months later, in October 2017, petitioner filed an amended motion to move the children to Indianapolis, Indiana, again on the basis that her boyfriend had obtained a job there. After a hearing on petitioner's amended motion to relocate at which the parties presented testimony and other evidence, the trial court issued an order denying petitioner's motion. Petitioner filed a motion to reconsider, which the trial court also denied. Petitioner then filed her notice of appeal.

¶ 6 Shortly after filing her notice of appeal, petitioner filed a motion to correct the order denying her motion to reconsider *nunc pro tunc*, which the trial court granted by agreement of the parties.

¶ 7 At the time that petitioner filed her notice of appeal, there remained several other unresolved motions pending: respondent's petition to modify the allocation of parenting responsibility and parenting time, respondent's petition for rule to show cause, respondent's petition for interim and prospective attorney's fees, and petitioner's second motion for sanctions. After petitioner filed her notice of appeal, she also filed a second petition for rule to show cause and a petition for attorney's fees and costs. The record on appeal, as it currently appears before us, does not reflect any resolution of these motions.

¶ 8 ANALYSIS

¶ 9 Petitioner appeals from the trial court's denial of her motion to reconsider. Respondent did not file a responding brief in this appeal. Before we may consider the merits of any appeal, however, we must first ascertain whether we have jurisdiction. Although neither of the parties to this appeal contest our jurisdiction, we have an independent duty to consider it. *In re Estate of York*, 2015 IL App (1st) 132830, ¶ 27. Here, we conclude that we do not have jurisdiction.

¶ 10 As an initial matter, petitioner's jurisdictional statement is severely lacking. Supreme Court Rule 341(h)(4)(ii) (eff. May 25, 2018) provides that an appellant's brief to this court must include the following:

> "(ii) In a case appealed to the Appellate Court, a brief, but precise statement or explanation under the heading 'Jurisdiction' of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal is timely. In appeals from a judgment as to all the claims and all the parties, the statement shall demonstrate the disposition of all claims and all parties. All facts recited in this statement shall be supported by page references to the record on appeal."

Petitioner's jurisdictional statement consists solely of (1) a statement that Supreme Court Rule 301 provides for appeals as of right from final judgments and (2) a statement that the trial court conducted a hearing on her motion to reconsider. She did not identify the final judgment, the date on which she filed her notice of appeal, the timeliness of her notice of appeal, or any other fact or rule that might have an impact on our jurisdiction. This is a blatant violation of Rule 341(h)(4)(ii). Because there are bigger impediments to our review in this case than petitioner's

deficient jurisdictional statement, we simply pause to advise counsel that, in future appeals, she should endeavor to better comply with the clear requirements of the Supreme Court Rules.

¶ 11 Despite the insufficiency of petitioner's jurisdictional statement, we have conducted our own review of the record to determine our jurisdiction. Rule 303(a)(1) provides that a party seeking to appeal from a final order must file its notice of appeal within 30 days of the entry of that final order or, if a timely posttrial motion is filed, within 30 days of the order resolving that posttrial motion. Supreme Court Rule 304(a) (eff. Mar. 8, 2016), however, governs situations where a party seeks to appeal from an order that does not resolve all claims against all parties. Rule 304(a) provides:

> "If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a final judgment as to one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both. Such a finding may be made at the time of the entry of the judgment or thereafter on the court's own motion or on motion of any party. The time for filing a notice of appeal shall be as provided in Rule 303. In computing the time provided in Rule 303 for filing the notice of appeal, the entry of the required finding shall be treated as the date of the entry of final judgment. In the absence of such a finding, any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not enforceable or appealable and is subject to revision at any time before the entry of a judgment adjudicating all the claims, rights, and liabilities of all the parties."

¶ 12 In this case, the trial court's order denying petitioner's motion to reconsider did not resolve all claims against all parties. At the time that petitioner filed her notice appeal, there

were at least four motions or petitions that were pending and unresolved. The record on appeal does not reflect that any of these motions and petitions were ever resolved. In addition, after petitioner filed her notice of appeal, she filed two additional petitions, neither of which, based on the record before us, appear to have been resolved. Despite these pending motions and petitions, petitioner did not request, and the trial court did not enter, the necessary finding under Rule 304(a) that there was no just reason to delay enforcement or appeal. Accordingly, we lack jurisdiction over petitioner's appeal. See *In re Marriage of Teymour*, 2017 IL App (1st) 161091, ¶¶ 41, 43 (holding that where there are postdissolution matters, whether related or unrelated to issue up on appeal, pending at the time of appeal, appellate jurisdiction is lacking unless there is a finding that there is no just reason to delay enforcement or appeal under Rule 304(a)).

¶ 13 We also note that even if we did have jurisdiction over petitioner's appeal, we lack a sufficient record to conduct a meaningful review of petitioner's claims.

> "[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant."

Foutch v. O'Bryant, 99 Ill. 2d 389, 391-92 (1984).

¶ 14 On appeal and in her motion to reconsider, petitioner argued that the trial court failed to consider certain evidence and testimony presented at the hearing on her amended motion to relocate and that the trial court did not properly balance the relevant factors in determining whether it would be in the best interests of the children to move with petitioner. Although petitioner included a transcript of the hearing on the motion to reconsider, she did not include in

the record on appeal a transcript of the hearing on the amended motion to relocate, nor did she include a bystander's report of that hearing. Absent a transcript of the evidentiary hearing on the amended motion to relocate or a bystander's report recounting the evidence presented at the hearing, it would be impossible for us to determine whether the trial court failed to consider certain evidence or improperly weighed it. Accordingly, even if we had jurisdiction over this appeal, because petitioner failed to provide a sufficient record on appeal to allow for review of her claims of error, we would presume that the trial court's denial of petitioner's amended motion to relocate was proper and, thus, so was its denial of her motion to reconsider. See *id.*

¶ 15 CONCLUSION

¶ 16 For the foregoing reasons, this appeal is dismissed.

¶ 17 Appeal dismissed.