2024 IL App (1st) 231011-U

SECOND DIVISION
March 29, 2024

No. 1-23-1011

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re MARRIAGE OF	)	Appeal from the Circuit Court of
	)	Cook County.
TARA MONSEN,	)	
	)	
Petitioner-Appellant,	)	
	)	No. 21 D 2524
v.	)	
	)	
TIMOTHY MONSEN,	)	
	)	Honorable Bernadette Barrett,
Respondent-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE HOWSE delivered the judgment of the court.
Justices McBride and Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm in part and vacate in part the judgment for dissolution of marriage; the trial court was not required to recite in its judgment each statutory provision it considered when allocating childcare responsibilities; however, the trial court deviated from the statutory child support guidelines and, therefore, was required to make specific, written findings about why a deviation was warranted.

¶ 2 The trial court entered its judgment for dissolution of marriage in this case on May 8, 2023 and it set forth each party's respective rights and obligations regarding parenting, adjudicated the issue of child support, and resolved other issues related to the parties' divorce but

awarded no child support. Petitioner Tara Monsen appeals alleging reversible errors in the judgment because the court failed to comply with the procedural requirements of the Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq*. (West 2022)). Respondent did not file a response brief in this appeal, and we take this case on appellant's brief only. We affirm in part and vacate in part.

¶ 3 BACKGROUND

¶ 4 Petitioner Tara Monsen filed a petition for dissolution of her marriage to respondent Timothy Monsen on March 25, 2021. The case went to trial on March 24, 2023. At trial, the court heard evidence and arguments from the parties. The parties did not have a court reporter at trial, so there is no transcript of the proceedings. The trial court entered a final judgment on May 8, 2023 in which it dissolved the marriage, allocated parental responsibilities, and adjudicated the issue of child support, among other things.

¶ 5 In its final order, the trial court granted the parties joint decisionmaking responsibilities regarding their child's education, health, religion, and extracurricular activities. The trial court declined to award child support, setting it at "ZERO based upon the parties income at the time of trial of $58,956.00 (Mother) and $55,368 (taxable income) + $18,348.00 (non-taxable military benefit) (Father)." Petitioner appeals arguing that the trial court's decisions on the issues of the allocation of parental responsibilities and child support should be vacated and that we should remand the case to the trial court for further proceedings.

¶ 6 ANALYSIS

¶ 7 On appeal, petitioner raises two issues. She argues that: (1) the trial court erred when it failed to specifically state in its order that it considered certain statutory provisions when making

an allocation of parental responsibilities; and (2) the trial court erred when it failed to make certain findings when deciding the issue of child support.

¶ 8 Typically, when reviewing a trial court's judgment on the issues of allocating parental responsibilities or determining child support, we review for an abuse of discretion. See, *e.g.*, *In re B.B.*, 2011 IL App (4th) 110521, ¶ 32. In this case, however, the two issues raised by petitioner concern whether the trial court complied with certain procedural requirements from the Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq*. (West 2022)). Therefore, to the extent we examine the trial court's ultimate determinations on child support or allocation of parental responsibilities, we afford the trial court's decisions due deference, and to the extent the trial court interpreted the Act and made rulings of law, we review those portions of its decision *de novo*. See *In re Marriage of Moorthy & Arjuna*, 2015 IL App (1st) 132077, ¶ 42.

¶ 9 On the first issue petitioner raises, we find no error. Petitioner argues that the trial court committed reversible error by failing to specifically state in its written order that it considered sections 602.5(c) and 602.7(b) of the Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq*. (West 2022)). As petitioner acknowledges in her brief, when making a determination regarding the allocation of parental decisionmaking responsibilities, the trial court must consider the relevant factors set forth in the Act, but the court is not required to make explicit findings on each factor or refer to every factor in its judgment. *In re Marriage of Katsap*, 2022 IL App (2d) 210706, ¶ 124 (section 602.5); *In re Marriage of Diehl*, 221 Ill. App. 3d 410, 424 (1991) (section 602.7). As petitioner further acknowledges, it is presumed that a trial court knows the law and follows it. *In re Alexander R.*, 377 Ill. App. 3d 553, 556 (2007).

¶ 10 In the trial court's order, it explained that it reviewed the "pertinent statutes and case law." Throughout its comprehensive 16-plus page order, the trial court expressly considers many

relevant circumstances regarding parental responsibilities and implicitly considers far more. Petitioner provides us with no authority which stands for the proposition that the trial court must, in its written order, specifically announce that it considered the two statutory sections at issue. We are likewise not aware of any authority mandating such a course of action. Because we find no requirement that the trial court specifically recite in its written order that it considered sections 602.5(c) and 602.7(b) of the Marriage and Dissolution of Marriage Act, we reject petitioner's first claim of error.

¶ 11 On the second issue, petitioner argues that the trial court committed reversible error by failing to make a specific finding that deviating from the statutory guidelines for child support was warranted. We agree. Under the Marriage and Dissolution of Marriage Act, the trial court is required to "determine child support in each case by applying the child support guidelines unless the court makes a finding that application of the guidelines would be inappropriate." 750 ILCS 5/505(a)(2) (West 2022). Moreover, "[a]ny deviation from the guidelines shall be accompanied by *written findings* by the court specifying the reasons for the deviation and the presumed amount under the child support guidelines without a deviation (emphasis added)." 750 ILCS 5/505(a)(3.4) (West 2022); see also *Vance v. Joyner*, 2019 IL App (4th) 190136, ¶ 56.

¶ 12 Here, the trial court made no written findings explaining why deviating from the statutory child support guidelines would be appropriate, and it also did not state the presumed amount of child support without a deviation. In the section of its order addressing child support, the trial court set the child support obligation at zero and explained that the parties' income at the time of trial was $58,956 for petitioner, and $55,368 plus a non-taxable military benefit of $18,348 for respondent, but the trial court neither specifically addressed the guidelines nor did it provide the presumed amount of support under the guidelines. We can infer from the record no child support

was awarded because custody is shared equally by the parents. However, the trial court deviated from the statutory guidelines when it chose to award no child support. Therefore, the court must make the required findings set forth in section 505 of the Act. *In re Marriage of Ash & Matschke*, 2021 IL App (1st) 200901, ¶ 40. The trial court is, of course, entitled to deviate from the statutory guidelines if circumstances warrant, but if it chooses to do so, it must make written findings specifying the reasons for the deviation and state the presumed amount under the child support guidelines without a deviation. See *id.* We vacate the child support provision of the trial court's order and remand for compliance with the statute.

¶ 13 CONCLUSION

¶ 14 Based on the foregoing, we affirm in part and vacate in part. We remand the case to the circuit court for further proceedings.

¶ 15 Affirmed in part, vacated in part, remanded.