

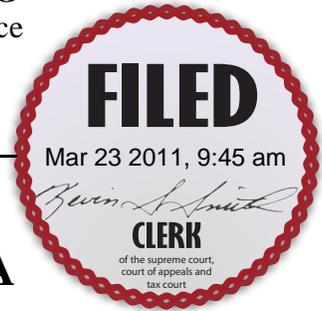
Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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**IN THE
COURT OF APPEALS OF INDIANA**

IN RE THE MARRIAGE OF:)
)
LALENA D. RICKETTS BOLLER,)
)
Appellant-Petitioner,)
)
vs.)
)
SCOTT W. RICKETTS,)
)
Appellee-Respondent.)

No. 18A02-1006-DR-629

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable Richard A. Dailey, Judge
Cause No. 18C02-0904-DR-25

March 23, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-petitioner Lalena D. (Ricketts) Boller (Mother) appeals the trial court's order of child support modification and restriction of parenting time, medical fees owed, and the payment of attorney's fees and Guardian ad Litem (GAL) fees, following the dissolution of her marriage to appellee-respondent Scott W. Ricketts (Father). Although Mother sets forth facts and contentions in support of her claims, she never requested a transcript of the hearings that are relevant to this appeal. Moreover, Mother raises several issues that are not appealable at this juncture.

Because we do not have the record of the proceedings before us, we are precluded from reviewing the testimony and other evidence that was admitted at trial. Thus, we are compelled to dismiss this appeal.

FACTS

The undisputed facts are that Mother and Father were married on January 4, 1988. A daughter, K.A., was born to the marriage on January 8, 1992.

On May 26, 1998, Mother filed a petition for dissolution of marriage when Father was stationed at a military base in South Korea. The trial court issued a decree of dissolution on March 2, 1999, granting Mother primary physical custody of K.A. Father was ordered to pay child support and Mother and Father were granted joint legal custody of K.A.

Although there were some minor changes with regard to parenting time, the permanent custody arrangement of K.A. and Father's support obligation essentially remained unchanged. However, in March 2006, the trial court appointed a GAL in the

case. Thereafter, on May 5, 2007, the trial court granted emergency custody of K.A. to Father and terminated his support obligation and income withholding order. Father subsequently filed a petition to permanently modify custody and support on May 10, 2007.

On May 15, 2008, the trial court granted Father's petition and temporarily set Mother's support at \$66 per week. On April 6, 2010, the trial court conducted a hearing on Father's petitions to modify support and for attorney's fees and GAL fees. Thereafter, the trial court made an Order Book Entry (OBE) on May 7, 2010. The OBE modified Mother's temporary weekly support to \$79, and found that she had an arrearage of \$2,066.67 in medical expenses and \$601 in basic child support.

The trial court's OBE also provided that Father should pay 63% of the GAL fees and that Mother should pay 37% of those fees, which reflected the trial court's calculation of the parties' incomes when custody was modified. After finding that the combined attorney and GAL fees amounted to \$27,855.45, the trial court ordered the parties to pay those fees in accordance with the above percentages.

The OBE also stated that the prior temporary child support order was unreasonable. Thus, the parties' incomes were calculated for child support purposes, and the OBE reflected an increase of Mother's weekly child support obligation from \$66 to \$79 per week, retroactive to the date that the petition was filed.

On June 1, 2010, Mother filed a Notice of Appeal with regard to the May 7, 2010 OBE. Mother did not request a copy of the transcript of any of the hearings, and Father

eventually filed a motion to compel her to obtain the transcript of the April 6, 2010 hearing. We denied that motion, and although Mother has filed an appellate brief, she never requested a copy of the transcript.

DISCUSSION AND DECISION

As noted above, Mother challenges the trial court's modification of child support, the amount of K.A.'s medical expenses owed, the payment of attorney's fees, and parenting time restrictions.

Mother is attacking the trial court's purported failure to rule on a child support arrearage calculation in 2003 because she claims that "the support issue had still not been decided upon." Appellant's Br. p. 13. Notwithstanding this claim, an OBE dated May 15, 2008, indicated that the trial court heard evidence, obtained the parties' arrearage calculations, and determined that Father was "current as of . . . May 4, 2007." Appellee's App. p. 18. In short, it is apparent that the trial court adjudicated the issue at that prior hearing, and Mother never appealed the determination in a timely manner. Thus, Mother has waived the issue and it cannot be appealed at this juncture.

Similarly, there is no merit to Mother's contention that the trial court never determined the amount of medical expenses that Father was to pay in 2006. Specifically, the May 15, 2008, OBE states that Father owed no arrearage when his child support obligation was terminated on May 7, 2007. Appellant's App. p. 74. And, in accordance with Indiana Child Support Guideline 3(H), 7, uninsured medical expenses are part of—and not separate from—child support. More specifically, once the custodial parent pays

the required 6% of the total weekly support on uninsured medical expenses, the percentages of remaining uninsured medical expenses are calculated using a Child Support Obligation Worksheet (Worksheet). Those calculations are then inserted on the Worksheet. Here, because the 2008 order determined that Father owed nothing in back support as of May 4, 2007, Mother's claim that the trial court did not decide an arrearage issue in 2006 is erroneous.

Mother also cannot complain about a supervised visitation order that was entered on August 24, 2007, because she never appealed that order. Additionally, while Mother argues in her appellate brief that K.A., who turned eighteen years old on January 8, 2010, should be emancipated, we have no transcript before us indicating whether that matter was either raised or denied.

Finally, we note that Mother's remaining arguments that pertain to support modification, a contempt citation regarding unpaid medical expenses, and the payment of attorney and GAL fees cannot be addressed in this appeal in light of her failure to present us with a transcript of the relevant hearings.

Because Mother is appealing, it is her burden to demonstrate error. Estate of Wilson v. Steward, 937 N.E.2d 826, 828 (Ind. Ct. App. 2010). And pursuant to Appellate Rule 46(A)(8)(a), the appellant must support his or her contentions by "parts of the record on appeal relied on. . . ." A party waives an issue when there are not adequate citations to the record and relevant authority. Davis v. State, 835 N.E.2d 1102, 1113 (Ind. Ct. App. 2005).

In this case, Mother cannot direct us to the relevant portions of the record because one was never requested and obtained. In short, there is no testimony to review and we do not know what exhibits were offered and admitted at the hearing. And absent certification of exhibits from the hearings, we cannot determine whether the uncertified documents included in Mother's appendix are actual copies of the exhibits that were admitted at the hearing. As a result, we are compelled to dismiss Mother's appeal.

Appeal dismissed.¹

VAIDIK, J., and BARNES, J., concur.

¹ Father has moved to strike portions of Mother's appellate brief for making immaterial, impertinent, scandalous, and disparaging remarks about Father, opposing counsel, and the trial judge. He also asserts that Mother has failed to include mandatory citations in her brief because she failed to obtain or file a transcript in violation of Appellate Rule 43(A)(8). Father has also filed a "Motion to Strike from Appendix" alleging, among other things, that Mother's appendix failed to contain any pages of the trial transcript in violation of Appellate Rule 50(A)(1).

We issued separate orders directing that Father's motions be held in abeyance until this case was assigned to the writing judge. We find that Father's assertions are well-taken. As noted above, Mother never requested a transcript of any of the hearings that are relevant to this appeal. Thus, for all the reasons set forth above, we grant Father's motions.