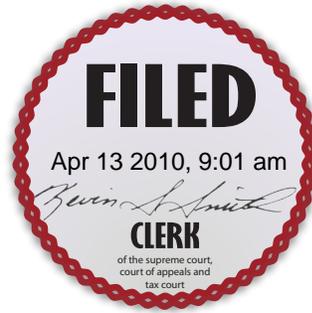


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

JAMES PRESSLER
White Pigeon, Michigan

**IN THE
COURT OF APPEALS OF INDIANA**

JAMES PRESSLER,)
)
Appellant-Respondent,)
)
vs.) No. 20A03-1001-CV-1
)
DEBRA PRESSLER,)
)
Appellee-Petitioner.)

APPEAL FROM THE ELKHART SUPERIOR COURT
TITLE IV-D COURT
The Honorable David C. Bonfiglio, Judge
The Honorable Mona E. Biddlecome, Commissioner
Cause No. 20D06-0212-DR-535

April 13, 2010

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Respondent, James Pressler (Father), appeals the trial court's Order denying his motion to modify child support.

We affirm.

ISSUES

Father raises eleven issues on appeal, which we state as follows:

- (1) Whether the Indiana State Guidelines for child support (Guidelines) were exceeded in this decision;
- (2) Whether the Guidelines special provision for self-employed citizens in an economic downturn should be applied in this case;
- (3) Whether the trial court's decision will drive Father below the subsistence level;
- (4) Whether the Guidelines failed to reflect the past financial resources of Father's family;
- (5) Whether the trial court was unable to discern the difference between a child and an independent adult citizen over the age of 18;
- (6) Whether the Guidelines unfairly obligate Father to pay the same rate of support for one child, as he was obligated to pay for all three of his children;
- (7) Whether the Guidelines are unfairly placing a higher burden on divorced parents than on married parents or state supported children in foster care;
- (8) Whether Father is a self-employed citizen who was unfairly assessed by the ambiguous use of the words "gross income;"

- (9) Whether the trial court's Order will drive Father into noncompliance;
- (10) Whether the trial court's decision was biased; and
- (11) Whether the trial court's Order inappropriately deviated from the Guidelines by labeling Father "willfully underemployed."¹

FACTS AND PROCEDURAL HISTORY

Because Father failed to file an Appendix as required under Indiana Appellate Rule 49, we will take our facts and procedural history from the transcript of proceedings before the trial court. Father and Mother have three children: M.P. born on May 17, 1988, T.P., born on June 18, 1991, and A.P., born on October 27, 1998. Both M.P. and T.P. are enrolled in college. On April 25, 2003, Father and Mother divorced, with Mother getting custody of the children and \$66.00 per week in child support. On July 1, 2009, Father filed a petition to modify child support.

On October 2, 2009, the trial court conducted a hearing on Father's petition. At the start of the hearing, the State indicated that it had not yet done a worksheet as it could not determine Father's income. The State indicated that Father is only working as a tutor, making \$500 in gross income per month. During the hearing, the following colloquy transpired

[TRIAL COURT]: When you were married, what did [Father] do for a living?

¹ Father raises a twelfth issue in which he claims that the transcript of Father's testimony does not accurately reproduce a true, complete, or correct copy of the transcript. On January 12, 2010, the trial court acknowledged that some of Father's assertions regarding errors in the transcript are correct and ordered the transcript corrected. As such, we find Father's twelfth issue to be moot.

[FATHER]: I was a stay-at-home dad. I had worked evenings on body work and cars and I had my own company in Goshen. I was a small portion owner. . . . I did auto body repair, and I've done that for thirty years, but I had to get out of the business because of my health went bad. I was having breathing problems because of the body work. I had absorbed some chemicals through my hands that I did not realize and it caused me to have lacquer thinner and paint thinners and that in my system, . . . , and I had eating problems.

[TRIAL COURT]: So, what business are you starting up now?

[FATHER]: Well, I tutor children to read. I help children read better. I show them how to read and I tutor them. I have started what I call the Reading Institute in Goshen, Indiana, and I have acquired a lot of debt.

. . .

[TRIAL COURT]: So we are looking at support for two kids. How far did you go in school without a mail order Ph.D.?

[FATHER]: Well, I was in college. I went to Indiana University and then I went to Orange Coast College in California and Golden West College. I didn't finish my Bachelor Degree.

[TRIAL COURT]: You have enough education to get a gig teaching as a substitute.

[FATHER]: I have never applied or seen that type of a job.

[TRIAL COURT]: Sounds to me like you are voluntarily underemployed here.

. . .

[TRIAL COURT]: Well, what I have to figure out is what he is capable of earning. I say he is capable of earning more than one hundred dollars a month or a week tutoring.

. . .

[FATHER]: Well, I've tried and a lot of my customers, the ones in real need of it, don't have a lot of money. I've tried to advertise. I'm out there every day. I've never turned a child away. I've had some children that have parents that haven't been able to pay even and many drop out especially when the gas

prices were so high and the economy was in trouble. I don't know how to do it better than I have been.

[TRIAL COURT]: Well, a regular job like with Goshen Community Schools as an aid for classroom. An aid for special ed students which is in line with some skills you have developed as a stay-at-home dad make a lot more sense than this. I cannot support you not helping support these two kids. [Mother] hasn't asked for post-secondary expense for the child who is in Ball State.

...

[TRIAL COURT]: I sure don't think [sixty-six per week] is unreasonable to pay. I'm not hearing any reason why I should take this support order down to zero.

...

[TRIAL COURT]: No, you need to take the classes and apply as a substitute teacher. There are other skills that you have to have, a regular job, and this tutoring business. I can't just say "okay," we forgive your obligation to support these two boys.

...

[TRIAL COURT]: Where all have you applied for a job?

[FATHER]: I haven't applied for jobs. . . I have been so busy trying to create my own curriculum and help the children read better but it takes up all my time.

[TRIAL COURT]: Well, I gotta find that you are currently willfully underemployed. I'm not going to change the support order because you are capable of doing better. I'm not going to increase it. It is pretty minimum.

...

[FATHER]: No it's my only priority really, is to pay my child support. That's all I have besides what little food I do make. I have special food I have to make. I have to make my own bread. It takes a lot of time for my diet. I have to cook all my own food. I never eat out, almost never, I don't go. . . .

[TRIAL COURT]: Good thing oatmeal is cheap.

[FATHER]: Yes, I have oatmeal. I have potatoes. I have bread. That's the few things that I can eat. The fructose sugars I can't digest. My liver just doesn't break it down like normal people. Salty foods makes me dizzy and my ears ring and my throat swells up. I have really some serious. . .

[TRIAL COURT]: Nobody says you have to eat out.

[FATHER]: No, it just takes time and I'm saying that I'm trying to survive. That's part of my situation and I can't drink alcohol or caffeine or any. . .

[TRIAL COURT]: You can't afford it.

[FATHER]: I can't afford it anyway.

[TRIAL COURT]: I can't either but I'm still working and I'm older than you are, so if you think you are disabled, then you need to file for Social Security disability.

(Transcript pp. 3-11). The trial court denied Father's petition to modify his child support.

Father now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

In his Appellate Brief, Father eloquently proclaims grandiose statements, such as

[Father] has created the READING INSTITUTE, which could become one of the fastest growing and leading providers of all methods of teaching reading. The success of this company depends on the free market system our country was founded upon, and its prosperity is due to [Father's] years of creative investment and innovative development. The loss of this business due to the present court ruling, would greatly reduce [Father's] potential income, and have a detrimental effect on the education of America's future students and would be a great loss to the State of Indiana and Elkhart County area.

(Appellant's Br. pp. 15-16); and

[Father] believes that small businesses create innovation and make our country one of the most creative, powerful, and prosperous countries in the world. [Father] believes that to force him to abandon his dreams, passions, years of investment of time and money, his years of research and development, his

creative skills, talents, abilities, goes against everything he believes to be true and proper, in a free market capitalistic system in America.

(Appellant's Br. pp. 20-21).

Despite these ominous sounding statements, Father fails to provide us with any evidence supporting his arguments, citations to authorities, or even references to the record. Instead, Father's Brief is a compilation of rambling claims which are baseless, repetitious, and utterly devoid of any adherence to the rules of appellate procedure.

The purpose of appellate rules, especially Indiana Appellate Rule 46, is to aid and expedite review, as well as to relieve the appellate court of the burden of searching the record and briefing the case. *Shepherd v. Truex*, 819 N.E.2d 457, 463 (Ind. Ct. App. 2004). We will not consider an appellant's assertion when he or she has failed to present a cogent argument supported by authority and references to the record as required by the rules. *Id.* If we were to address such arguments, we would be forced to abdicate our role as an impartial tribunal and would instead become an advocate for one of the parties. This, we clearly cannot do.

Moreover, Father cannot take refuge in the sanctuary of his amateur status. As we have noted many times before, a litigant who chooses to proceed *pro se* will be held to the same rules of procedure as trained legal counsel and must be prepared to accept the

consequences of his action. *Id.* Accordingly, any challenge to the trial court's Order is waived.

CONCLUSION

Based on the foregoing, we conclude that Father waived his contest to the trial court's Order.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.