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.

FILED
Aug 05 2009, 8:56 am
CLERK
of the supreme court, court of appeals and tax court

ATTORNEY FOR APPELLANT:

ADRIAN G. RANGEL
Pro Se Appellant
Chicago, Illinois

ATTORNEY FOR APPELLEE:

DIANE R. HURTT
Lafayette, Indiana

IN THE
COURT OF APPEALS OF INDIANA

IN RE THE MARRIAGE OF	)	
	)	
ADRIAN G. RANGEL,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 79A05-0901-CV-22
	)	
JANELL RANGEL,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE TIPPECANOE CIRCUIT COURT
The Honorable Donald L. Daniel, Judge
Cause No. 79C01-0801-DR-13

August 5, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

Adrian Rangel ("Adrian") appeals the trial court's order that dissolved his marriage to Janell Rangel ("Janell"), divided the marital estate, awarded Janell custody of Lu.R., and ordered him to pay Janell child support. Adrian raises five issues on appeal, which we consolidate and restate as:

I. Whether the trial court violated Adrian's rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution by not ruling on Adrian's petition contesting paternity;

II. Whether the trial court violated Adrian's rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution by not considering the child support worksheet filed by Adrian;

III. Whether the trial court abused its discretion by ordering Adrian to make certain rent and property tax payments; and

IV. Whether the trial court abused its discretion by not admitting certain evidence.

We affirm.

The relevant facts follow. Adrian and Janell married on September 24, 2005. During the marriage, two children were born, Le.R., born on July 12, 2006, and Lu.R., who was born on September 22, 2008. In 2007, as a result of allegations that Le.R. was a child in need of services, Le.R. was removed from Adrian and Janell's care and placed in the custody of Janell's parents, Thomas and Denise Schmidt, who were appointed her guardians on December 7, 2007.

On December 30, 2007, Adrian and Janell got into an argument. At one point, Adrian grabbed Janell, threw her to the floor, and punched her in the head and face

multiple times. The police were notified of the incident and arrested Adrian for domestic battery. As a result of her injuries, Janell was hospitalized. After being released from the hospital, Janell moved out of the marital residence and into her parents' home in Michigan.

On January 25, 2008, Adrian filed a *pro se* petition for dissolution of marriage. Janell filed a counter petition for dissolution of marriage on February 25, 2008. On April 18, 2008, Adrian filed a petition contesting paternity. On October 28, 2008, the trial court scheduled a final hearing for November 25, 2008. Adrian filed a child support worksheet with the trial court on November 20, 2008.

Adrian did not attend and was not represented by counsel at the final hearing conducted by the trial court on November 25, 2008. At the hearing, Denise Schmidt ("Denise") testified that during the marriage, Adrian and Janell lived in an apartment/condo that she and her husband Thomas Schmidt owned. Pursuant to an oral lease agreement, Adrian and Janell agreed to pay three hundred and fifty dollars per month in rent to the Schmidts. They also agreed to pay the one hundred and thirty-five dollar per month condo fee, property taxes for the residence, and all utilities. Between October 2005 and December 2007, the total amount of unpaid rent owed by Adrian and Janell was $5,300. After Janell moved into her parents' home in Michigan, Adrian continued to live in the marital residence from January 2008 through the end of March 2008. During this three-month period, Adrian did not pay rent. Denise also testified that Adrian and Janell had never paid the property taxes for the residence.

During the hearing, Janell testified that she was pregnant with Lu.R. at the time Adrian filed his January 25, 2008, petition for dissolution of marriage. Janell stated that her monthly income from Social Security disability payments was $582. During Janell's testimony, her counsel filed a child support obligation worksheet with the court.[1] Based on the calculations in the worksheet, Janell requested that the trial court order Adrian to pay $42.58 per week in child support for Lu.R. Janell noted that she was not seeking child support for Le.R. because support for her had already been provided for in the guardianship proceedings.

After the hearing, the trial court issued an order containing the following relevant findings and conclusions:

> 2. The marriage of the parties is irretrievably broken. The allegations of the wife's counter petition are true and the parties are each restored to the state of unmarried persons.
>
> 3. The parties are the parents of two minor children, [Le.R.] born July 12, 2006 and [Lu.R.] born September 22, 2008 and [Janell] is not now pregnant.
>
> 4. It is in the best interest of [Lu.R] to be in the sole custody of [Janell].
>
> 5. The Court determines that the Tippecanoe Superior Court No. 3 now has jurisdiction over [Le.R.] and the Court enters no order as to custody of said child at this time. The Court notes that it is in the best interest of [Le.R.] to be in the sole custody of [Janell].

* * * * *

[1] Janell's child support obligation worksheet was apparently not admitted as an exhibit during the hearing because it was not included in the record of exhibits from the November 25, 2008, hearing. Additionally, Adrian has not included a copy of Janell's child support obligation worksheet in his appendix.

> 7. The Child Support Obligation Worksheet is submitted. The Court orders that [Adrian] shall pay, for support of [Lu.R.] to the Indiana State Central Collection Unit, PO Box 7130, Indianapolis, Indiana 46206-7130 beginning Friday, November 28, 2008 the sum of $42.58 each week.
>
> * * * * *
>
> 11. Each party shall pay one half of the indebtedness owing to Denise Schmidt and Thomas Schmidt for rent owing as of December 31, 2007 for the premises located at 907 N. 20th Street #2, Lafayette, Indiana.
>
> 12. [Adrian] shall pay the indebtedness for rent, condo fees, and taxes now owing to Denise Schmidt and Thomas Schmidt on said rental property which accrued after December 31, 2007 in the amount of $3,454.85.

Appellant's Brief at 5-7. Thereafter, this appeal ensued.

Before we reach the merits of Adrian's claims, we note that where, as here, the trial court enters findings of fact and conclusions of law pursuant to Indiana Trial Rule 52, we apply a two-tiered standard of review. Tompa v. Tompa, 867 N.E.2d 158, 163 (Ind. Ct. App. 2007). First, we determine whether the evidence supports the findings and then whether the findings support the judgment. Id. "The trial court's findings and conclusions will be set aside only if they are clearly erroneous, that is, if the record contains no facts or inferences supporting them." Id. "A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made." Id. We will not reweigh the evidence or assess the credibility of witnesses and we will only consider the evidence most favorable to the judgment. Id. "We review conclusions of law de novo." Id.

Janell has not filed an appellee's brief. "When an appellee fails to submit a brief, we do not undertake the burden of developing arguments for her and we apply a less stringent standard of review with respect to showings of reversible error." Zoller v. Zoller, 858 N.E.2d 124, 126 (Ind. Ct. App. 2006). In this situation, "we may reverse if the appellant establishes prima facie error, which is an error at first sight, on first appearance, or on the face of it." Id.

Additionally, we note that Adrian has filed this appeal *pro se*. "An appellant who proceeds *pro se* is 'held to the same established rules of procedure that a trained legal counsel is bound to follow and, therefore, must be prepared to accept the consequences of his or her action.'" Thacker v. Wentzel, 797 N.E.2d 342, 345 (Ind. Ct. App. 2003) (quoting Ramsey v. Review Bd. of Ind. Dep't of Workforce Dev., 789 N.E.2d 486, 487 (Ind. Ct. App. 2003)). "It is well settled that the duty of presenting a record adequate for intelligent appellate review on points assigned as error falls upon the appellant, as does the obligation to support the argument presented with authority and references to the record pursuant to App. R. 46(A)(8)." AutoXchange.com, Inc. v. Dreyer & Reinbold, Inc., 816 N.E.2d 40, 44 (Ind. Ct. App. 2004).

Adrian's appellant's brief, in large part, does not comply with the requirements of Ind. App. R. 46(A)(8)(a), in that a majority of his contentions are not supported by cogent reasoning, or citations to authorities and relevant parts of the record. Accordingly, as will be discussed further below, many of Adrian's arguments are waived. See Davis v. State, 835 N.E.2d 1102, 1113 (Ind. Ct. App. 2005) (noting that the failure to present a cogent

argument or citation to authority constitutes waiver of the issue for appellate review), trans. denied. Waiver notwithstanding, when possible, we will attempt to address the merits of Adrian's claims. See AutoXchange.com, 816 N.E.2d at 45 (noting that although the court had the authority to waive appellants' entire argument because their brief did not comply with Ind. App. R. 46(A)(8), the court would attempt to address the merits of appellants' claims).[2]

I.

The first issue is whether the trial court violated Adrian's rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution by not ruling on his April 18, 2008 petition contesting paternity. Adrian does not explain how the trial court's actions violated his rights under the Fourteenth Amendment. Nor does he support his constitutional argument with cogent reasoning or citations to authorities. Therefore, Adrian's argument that his rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution were violated is waived. See Ind. App. R. 46(A)(8)(a); Davis, 835 N.E.2d at

[2] We also note that Adrian's appellant's brief and appendix do not comply with the Indiana Rules of Appellate Procedure. Adrian's appellant's brief does not contain a statement of the issues or summary of argument, as required by Indiana Appellate Rule 46(A)(4) and (7). Adrian's statement of the case is incomplete in that it does not provide a complete account of the proceedings below. Contrary to Indiana Appellate Rule 46(A)(6)(a), Adrian's statement of facts is not supported by references to the record. In the argument portion of his brief, Adrian fails to provide the applicable standard of review as required by Indiana Appellate Rule 46(A)(8)(b). And, as already noted, Adrian's contentions are not supported by cogent reasoning or citations to authority, which is required by Indiana Appellate Rule 46(A)(8)(a).

Adrian's appendix does not comply with Indiana Appellate Rule 50(A)(2)(a) and (b) in that it does not include the chronological case summary or a copy of the appealed order. Additionally, documents contained in the appendix must have been part of the record below. See Ind. App. R. 46(A)(2)(f), (g), and (h). None of the documents contained in Adrian's appendix are file-stamped. Thus, we cannot determine whether these documents were part of the record below.

1113 (noting that the failure to present a cogent argument or citation to authority constitutes waiver of the issue for appellate review).

Waiver notwithstanding, the chronological case summary supports Adrian's assertion that the trial court did not issue an order specifically ruling on Adrian's petition contesting paternity. However, at the beginning of the November 25, 2008 hearing, the trial court noted that Adrian's petition contesting paternity was still pending. In its final order, the trial court ruled on Adrian's petition when it concluded that Adrian and Janell were the parents of Le.R. and Lu.R.

During the final hearing, evidence was introduced that Adrian and Janell were married on September 24, 2005. Le.R. and Lu.R. were both born during Adrian and Janell's marriage. Le.R. was born on July 12, 2006. Janell testified that she was pregnant with Lu.R. at the time Adrian filed his petition for dissolution of marriage on January 25, 2008, and that Lu.R. was born on September 22, 2008. Adrian did not attend the November 25, 2008 final hearing and, thus, did not introduce any evidence suggesting that he was not the father of Le.R. and Lu.R. or that either child was not born during his marriage to Janell. Ind. Code § 31-14-7-1 provides that a man is presumed to be a child's biological father if the man and the child's biological mother have been married to each other and the child is born during the marriage. Based on the presumption provided for in Ind. Code § 31-14-7-1 and the evidence presented, we cannot say that the trial court's conclusion that Adrian is the father of Le.R. and Lu.R. was clearly erroneous.

II.

The second issue is whether the trial court violated Adrian's rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution by not considering his child support worksheet. Adrian contends that the trial court ignored his child support worksheet and based its child support award solely on Janell's child support worksheet. Again, Adrian does not explain how the trial court's actions violated his rights under the Fourteenth Amendment. His constitutional argument is not supported by cogent reasoning or citations to authorities. Therefore, Adrian's argument that the trial court's child support award violated his rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution is waived. See Ind. App. R. 46(A)(8)(a); Davis, 835 N.E.2d at 1113 (noting that the failure to present a cogent argument or citation to authority constitutes waiver of the issue for appellate review).

Waiver notwithstanding, we have previously stated that "[d]ecisions regarding child support are generally left to the discretion of the trial court." Pryor v. Bostwick, 818 N.E.2d 6, 11 (Ind. Ct. App. 2004). "We will find an abuse of discretion only where the trial court's decision is against the logic and effect of the facts and circumstances before the court." In re Paternity of P.W.J., 846 N.E.2d 752, 757 (Ind. Ct. App. 2006).

Here, the chronological case summary indicates that Adrian filed his child support worksheet with the trial court on November 20, 2008. Because Adrian did not attend the November 25, 2008 hearing, his child support worksheet was not admitted into evidence.

Indiana Child Support Guideline 3(B)(2) provides that income statements made by a parent in his or her child support worksheet "shall be verified with documentation of both current and past income." There is no indication in the record that Adrian provided documentation with his child support worksheet that verified his current and past income. Nor did Adrian submit evidence or provide testimony at the November 25, 2008 hearing that would have verified his current and past income. Without some verification of Adrian's current and past income, we cannot say that the trial court abused its discretion by not relying upon Adrian's child support worksheet to make its child support calculation.

III.

The third issue is whether the trial court abused its discretion by ordering Adrian to make certain rent and property tax payments. Adrian's principal argument is that the trial court could not order him to pay rent and property taxes without the existence of a written lease or contract. Adrian has not supported his argument with adequate citation to authority. Therefore, this argument is waived. See Ind. App. R. 46(A)(8)(a); Lyles v. State, 834 N.E.2d 1035, 1050 (Ind. Ct. App. 2005) (noting that a party waives an issue when the party fails to provide adequate citation to authority), trans. denied.

Waiver notwithstanding, we initially note that a contract need not be in writing to be valid and that a solely oral contract is enforceable. Sand Creek Country Club, Ltd. v. CSO Architects, Inc., 582 N.E.2d 872, 875 (Ind. Ct. App. 1991). We also point out that "[m]arital property includes both assets and liabilities." McCord v. McCord, 852 N.E.2d

35, 45 (Ind. Ct. App. 2006), trans. denied. Thus, any debts, including unpaid rent and property taxes, incurred by Adrian and Janell during the marriage were marital property subject to division by the trial court. See Ind. Code § 31-15-7-4. "The division of marital assets is within the trial court's discretion, and we will reverse only for an abuse of discretion." McCord, 852 N.E.2d at 44.

The trial court made two relevant findings regarding the payment of rent and property taxes. First, the trial court found that Adrian and Janell should each pay one-half of the indebtedness owed to the Schmidts for rent owed as of December 31, 2007. Second, the court found that Adrian should pay all rent, condo fees, and taxes incurred after December 31, 2007.

The evidence introduced at the November 25, 2008 hearing indicated that during the marriage, Adrian and Janell lived in an apartment/condo owned by Denise and Thomas Schmidt. Pursuant to an oral lease agreement, Adrian and Janell agreed to pay three hundred and fifty dollars per month in rent to the Schmidts, the one hundred and thirty-five dollar per month condo fee, property taxes for the residence, and all utilities. Between October 2005 and December 2007, the total amount of unpaid rent owed by Adrian and Janell was $5,300. After Janell moved into her parents' home in Michigan, Adrian continued to live in the marital residence from January 2008 through the end of March 2008. Adrian did not pay rent during this three-month period. Denise also testified that Adrian and Janell never paid any of the property taxes for the residence.

This evidence indicates that Adrian and Janell incurred debt in the form of unpaid rent and property taxes during the course of their marriage. Pursuant to Ind. Code § 31-15-7-4, the trial court was obligated to divide this debt between Adrian and Janell in a just and reasonable manner. As such, we cannot say that the trial court abused its discretion by ordering Adrian to pay a portion of the unpaid rent and property taxes.

IV.

The fourth issue is whether the trial court abused its discretion by not admitting certain evidence. Adrian contends that "despite having properly filed paperwork to the court his evidence was denied based solely on the fact that he could [not] physically attend the last hearing." Appellant's Brief at 3. He asserts that this violated his rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Adrian does not explain how the trial court's actions violated his rights under the Fourteenth Amendment. He does not specifically identify what documents he filed with the trial court that the court refused to admit into evidence, nor does he explain how the content of these documents was relevant. Adrian does not support his argument with cogent reasoning or citations to authority. Therefore, this argument is waived. See Ind. App. R. 46(A)(8)(a); Davis, 835 N.E.2d at 1113 (noting that the failure to present a cogent argument or citation to authority constitutes waiver of the issue for appellate review).[3]

[3] We would note that if Adrian wished to have certain documents admitted into evidence at the November 25, 2008 hearing, he could have attended the hearing and submitted the documents to the trial

For the foregoing reasons, we affirm the trial court's judgment.

Affirmed.

CRONE, J., and MAY, J., concur.

---

court. It was not the trial court's responsibility to submit documents into evidence on Adrian's behalf. If Adrian was unable to attend the hearing, he could have sought a continuance.

On a similar note, Adrian contends that the trial court erred by not asking Janell why she received Social Security disability benefits. Again, if Adrian wished to elicit further testimony on this matter, he could have attended the hearing and either introduced documents concerning Janell's Social Security benefits or asked Janell questions on this issue during cross-examination. The trial court had no obligation to ask Janell any questions about her Social Security benefits.