2026 IL App (1st) 250495-U

FOURTH DIVISION
Order filed: August 20, 2026

No. 1-25-0495

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

In re MARRIAGE OF:	)	Appeal from the
	)	Circuit Court of
GUADALUPE AGUILAR,	)	Cook County.
	)	
Petitioner-Appellee,	)	
	)	No. 2020 D 2435
and	)	
	)	
LAURA SALAZAR,	)	Honorable
	)	Gregory Ahern,
Respondent-Appellant.	)	Judge, presiding.

JUSTICE QUISH delivered the judgment of the court.
Presiding Justice Navarro and Justice Ocasio concurred in the judgment.

ORDER

¶ 1 *Held*: Circuit court did not abuse its discretion when it ordered husband to pay $2,000 of wife's attorney fees based on work done related to wife's successful dissipation claim and declined to order any additional contribution based on the parties' relative income.

¶ 2 Respondent Laura Salazar appeals from the order of the circuit court of Cook County granting in part her petition seeking contribution for attorney fees from petitioner Guadalupe Aguilar pursuant to section 508 of the Illinois Marriage and Dissolution of Marriage Act ("Act").

750 ILCS 5/508 (West 2024). On appeal, Salazar argues that the circuit court abused its discretion when it ordered Aguilar to pay only $2,000 towards her attorney fees. For the following reasons, we affirm.

¶ 3 As this appeal pertains only to attorney fees, we briefly recount the procedural history of the case. Aguilar and Salazar were married in 2006 and had two children together. In March 2020, Aguilar filed a petition for dissolution of marriage. Salazar initially appeared *pro se*, but eventually retained attorney Anthony J. Peraica to represent her through the remainder of proceedings.

¶ 4 In October 2021, Salazar filed a petition for interim and prospective attorney fees under sections 501 and 508 of the Act. The circuit court entered and continued the petition until trial. In March 2022, Salazar filed a notice of intent to claim dissipation of marital assets. See 750 ILCS 5/503(d)(2) (West 2022). The notice asserted that Aguilar had dissipated marital assets including: (1) collected rents of approximately $12,500 a month; (2) income from weekly underground gambling games of $3,000 per week; (3) a 2017 withdrawal of $225,000 from the parties' shared bank account; (4) cashing out $7,975.32 from his retirement account with D.C. Taylor; and (5) the purchase of various jewelry, electronics, and furniture, including a diamond ring valued at $7,876.49 for his girlfriend. Salazar asserted that she was entitled to half of the value of those assets. Salazar also filed a claim for maintenance.

¶ 5 After numerous continuances, the matter eventually proceeded to trial on three court dates in November 2023 and January 2024. The record on appeal does not include a transcript from the trial proceedings. The record shows that the parties submitted closing statements and proposed findings of fact and proposed judgments to the court, but none of these documents is in the record.

¶ 6 In August 2024, the circuit court entered a judgment for dissolution of marriage, resolving the division of marital assets, dissipation, maintenance, and child support. Relevant to this appeal, the court granted in part Salazar's claim for dissipation. The court found that Aguilar dissipated $60,000 of the $225,000 withdrawn from the bank account, and that Salazar was entitled to reimbursement of $30,000. The court found that Salazar was entitled to half of the post-tax amount of Aguilar's D.C. Taylor pension, valued at $3,190.13. The court additionally found that Aguilar dissipated $10,300 by purchasing a diamond ring for his girlfriend, and that Salazar was entitled to reimbursement of $5,150. The court found Salazar failed to establish by clear and convincing evidence the remainder of her claim for dissipation as it related to alleged rental income, gambling income, or the purchase of other unspecified jewelry, electronics or furniture.

¶ 7 The court rejected Salazar's claim for maintenance, finding that the difference between the parties' incomes was negligible when accounting for $57,000 in commission that Salazar earned as a real estate broker based on a single sale. The court noted that Salazar's "earning capacity far exceeds that of [Aguilar]" based on her real estate broker's license. Aguilar was awarded the parties' former marital residence where Salazar resided through trial, and Salazar was ordered to vacate the residence. Aguilar was ordered to reimburse Salazar for her contribution towards the down payment for the residence. The court reserved ruling on Salazar's request for attorney fees, ordering Salazar to file a new petition to account for work related to the successful dissipation claims. The court allowed Aguilar additional time to file a motion to reconsider.

¶ 8 Aguilar filed a "Motion for Clarification and/or Reconsideration" asking the circuit court to (1) clarify the start date for Aguilar's payments to reimburse Salazar and pay child support; (2) clarify Aguilar's right to charge Salazar rent to stay at the parties' former marital residence until

Salazar vacated the residence; (3) clarify Aguilar's responsibility towards private high school tuition for the parties' minor child, and (4) modify the judgment to allow Aguilar to claim the parties' minor child as a dependent on his tax returns either in consecutive years or in odd years, as Salazar claimed the child as a dependent on her taxes in 2024.

¶ 9 Salazar filed a renewed petition for attorney fees, seeking an order that Aguilar pay $48,290.84 in fees actually incurred in litigating the divorce and $5,000 in prospective fees for a total of $53,290.84. The motion stated that Salazar had paid $20,950 in fees by the date on which the petition was filed. The petition sought prospective fees "to contend with the Motion for Clarification filed by [Aguilar]." The petition attached an affidavit from Peraica, a retainer agreement between Salazar and Peraica, and the hourly rates of Peraica and his staff. No billing records were attached to the petition, nor do they appear elsewhere in the record.

¶ 10 On January 6, 2025, the circuit court entered a memorandum order and opinion granting Aguiliar's motion for clarification, in part. The court ordered Salazar to amend her 2024 tax return to remove her claim of the parties' minor child as a dependent, and allowed Aguilar to claim the dependent exemption for 2024, assuming he made timely child support payments. The court also amended the judgment for dissolution to clarify portions related to child support, child-related costs, responsibility for Salazar's residence, and Aguilar's repayment of the dissipated assets.

¶ 11 The sole remaining issue before the circuit court was Salazar's fee petition. The court heard oral argument on the motion on January 6, 2025, but no transcript of that proceeding appears in the record. The circuit court entered a memorandum order and opinion granting the fee petition in part. The court noted that, following argument, Salazar's attorney submitted records of billing from 2021 through September 2024. These records are not included in the record on appeal. The court denied the request for interim attorney's fees and found that Salazar was not entitled to contribution for fees incurred in defending against Aguilar's motion for clarification as the court made multiple amendments to the original judgment of dissolution, and therefore, Salazar did not "substantially prevail" on Aguilar's motion.

¶ 12 The court proceeded to evaluate whether Salazar was entitled to contribution to her attorney fees based on the parties' respective financial positions. The court found that Salazar was underemployed given her active real estate licenses and observed that the judgment of dissolution equally distributed marital property between the parties. It therefore denied Salazar's request for contribution to her attorney fees based on the parties' relative ability to pay.

¶ 13 The court did order Aguilar to contribute $2,000 towards Salazar's attorney fees based on her preparation and presentation of the successful dissipation claim. The court stated that "[t]his sum was calculated using the billing records provided by counsel for [Salazar] and adding approximately two (2) hours of time to account for paralegal preparation and discovery and two (2) hours of time related to counsel's preparation for trial and actual argument during trial related to the successful dissipation claims." The court found that those fees were reasonable and necessary and benefited Salazar and the charges were commensurate with customary changes for such work in Cook County with a similarly-situated attorney. The court rejected Salazar's claim for fees based on section 508(b) of the Act, as there was no evidence that Aguilar failed to comply with any order entered in the case. See 750 ILCS 5/508(b) (West 2024). Salazar appealed.

¶ 14 On appeal, Salazar argues that the circuit court abused its discretion in ordering Aguilar to contribute only $2,000 to her attorney fees and costs because (1) Salazar substantially prevailed on Aguilar's motion for clarification and thus was entitled to fees for work done defending against the motion; (2) the circuit court failed to explain the basis for the fees it awarded; and (3) the fee award did not account for the court's division of marital property. Aguilar did not file an appearance or brief on appeal, so this court took the appeal on Salazar's brief only. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 15 Section 508 of the Act allows the court to order one party to a divorce proceeding to pay a reasonable amount of the other party's attorney fees, based on the court's consideration of the financial resources of the parties. 750 ILCS 5/508(a) (West 2024). An award of fees after judgment "shall be based on the criteria for division of marital property" under section 503 of the Act, and the criteria for maintenance, if any is awarded. 750 ILCS 5/503(j) (West 2024). This includes the parties' relative economic circumstances and ability to earn income in the future. 750 ILCS 5/503(d)(5) (West 2024).

¶ 16 To justify a contribution award, the spouse seeking contribution must establish that they lack the ability to pay their attorney fees and that the other spouse has the ability to pay. *Shen v. Shen*, 2015 IL App (1st) 130733, ¶ 99. A party lacks the ability to pay when requiring them to pay fees would strip them of their means of support or undermine their financial stability. *In re Marriage of Streur*, 2011 IL App (1st) 082326, ¶ 36. The circuit court's order awarding a fee contribution is reviewed for an abuse of discretion. *In re Marriage of Patel and Sines-Patel,* 2013 IL App (1st) 112571, ¶ 67 (citing *In re Marriage of Schneider*, 214 Ill. 2d 152, 174 (2005)). An abuse of discretion occurs when no reasonable person would take the view adopted by the circuit court. *Id.*

¶ 17 Salazar first argues that the circuit court erred in denying her request for fees to defend against Aguilar's motion for clarification. A party may seek contribution for attorney fees for the defense of a post-judgment motion under section 2-1401 of the Code of Civil Procedure only if the party "substantially prevails." 750 ILCS 5/508(a)(4) (West 2024). While Aguilar's motion for clarification does not cite section 2-1401, the circuit court considered it as such in determining whether Salazar was entitled to fees on that basis. The court concluded that Salazar did not "substantially prevail" on Aguilar's motion for clarification because the court modified multiple provisions of the judgment of dissolution based on Aguilar's motion.

¶ 18 Salazar relies solely on *In re Marriage of Murphy*, 203 Ill. 2d 212, 221 (2003) and section 508(a)(3.1) of the Act, arguing that since the circuit court denied some of the claims in Aguilar's motion for clarification, she was entitled to fees on those claims. However, *Murphy* involved the interpretation of section 508(a)(3.1) of the Act, which allows for fees for "[t]he prosecution of any claim *on appeal* (if the prosecuting party has substantially prevailed)." 750 ILCS 5/508(a)(3.1) (West 2024) (emphasis added). Here, Salazar did not seek fees for "the prosecution of any claim on appeal," but rather for defending against Aguilar's post-judgment motion. Thus, *Murphy* and section 508(a)(3.1) do not apply. While Aguilar's motion for clarification was not brought under section 2-1401, even if we consider it as such, fees are available for defending a section 2-1401 motion "only to the party who substantially prevails." 750 ILCS 5/508(a)(4). We cannot find that the circuit court erred when it found that, because it granted Aguilar's motion for clarification in part, made several modifications to the judgment of dissolution, and ordered Salazar to amend her 2024 tax return, Salazar did not substantially prevail on the motion. Therefore, we hold that the circuit court did not abuse its discretion when it denied Salazar's request for attorney fees for work done defending against Aguilar's motion for clarification.

¶ 19 Salazar next argues that the circuit court abused its discretion by failing to provide any itemization or details for how it arrived at a $2,000 award. The record contradicts Salazar's argument. In its written order, the court stated that the $2,000 award was calculated using the billing records submitted by Peraica with additional time added for work done by counsel and a paralegal on the successful dissipation claim. Because the billing records do not appear in the record on appeal, we must presume that the circuit court accurately assessed them. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) ("Any doubts which may arise from the incompleteness of the record will be resolved against the appellant."). The court's order explained that it was awarding fees for work done on the dissipation claim and detailed why it added certain hours. Salazar does not cite any authority to support her argument that detailed accounting or itemization of the fee award was required, and therefore, has forfeited this argument. Ill. Sup. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (The argument portion of a brief "shall contain the contentions * * * and the reasons therefor, with citations to authorities * * *."); *Velocity Investments, LLC v. Alston*, 397 Ill. App. 3d 296, 297 (2010).

¶ 20 The sole case cited by Salazar, *Olsher v. Olsher*, 78 Ill. App. 3d 627 (1979), is distinguishable. The case does not hold that the "absence of a basis for the award or denial of attorney's fees is grounds" for reversal, as Salazar argues. Rather, in *Olsher*, the trial court awarded the attorney more than he even asked for without providing an explanation. *Id.* at 637. This court found that to be an abuse of discretion in "light of the scarcity of funds available upon the dissolution of this marriage." *Id.* Here, the circuit court did not award more than what the attorney sought and it did provide an explanation for its ruling, explaining that it reviewed the billing records submitted by counsel and adjusted them accordingly to reflect time spent on the successful dissipation claim. Based on the record on appeal, which does not contain any of these billing records, we cannot find that the court's fee award was an abuse of discretion or that the circuit court failed to adequately explain the basis for its award.

¶ 21 Salazar's final argument is that the court's fee award did not account for the division of marital property and the parties' relative income. Salazar fails to cite any authority in support of this argument, and therefore, she forfeited it. Ill. Sup. Ct. R. 341(h)(7); *Velocity Investments, LLC*, 397 Ill. App. 3d at 297. Even if this argument were not forfeited, we would reject it. The circuit court observed in the judgment of dissolution and the order on Salazar's fee petition that her earning capacity was higher than Aguilar's based on her active real estate license and the fact that she earned $57,000 in commission from one sale. While Aguilar was awarded the parties' former residence in the judgment of dissolution, the remaining real property was divided roughly equally between the parties. Also, Salazar was reimbursed for money she contributed towards the down payment for the residence. We cannot find that the circuit court abused its discretion when it concluded that the parties were on relatively equal footing financially and declined to order Aguilar to contribute towards Salazar's fees based on any income disparity.

¶ 22 For the foregoing reasons, we affirm the order of the circuit court of Cook County.

¶ 23 Affirmed.