2026 IL App (2d) 240507
No. 2-24-0507
Opinion filed September 17, 2026

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF MICHELLE STEELE, Petitioner-Appellee and Cross-Appellant,

and

CHAD SCHROEDER, Respondent-Appellant and Cross-Appellee.

Appeal from the Circuit Court of Kane County.
Honorable Kimberly M. DiGiovanni, Judge, Presiding.
No. 16-D-527

JUSTICE McLAREN delivered the judgment of the court, with opinion.
Justices Schostok and Mullen concurred in the judgment and opinion.

OPINION

¶ 1 Respondent, Chad Schroeder, appeals from the trial court's order (1) counting Chad's withdrawals from his individual retirement account (IRA) as income for support purposes, (2) holding Chad in indirect civil contempt of court, and (3) finding unenforceable the unallocated support cap contained in the marital settlement agreement of Chad and petitioner, Michelle Steele. We (1) reverse and remand for further proceedings, (2) affirm, and (3) vacate. In the cross-appeal, Michelle appeals from the trial court's decision that employer-paid contributions for Chad's health and life insurance costs did not constitute income to Chad. We affirm the trial court on the issue raised in the cross-appeal.

¶ 2 I. BACKGROUND

¶ 3 The marriage of Michelle and Chad was dissolved on May 26, 2017. The judgment of dissolution incorporated a marital settlement agreement (MSA) resolving issues including property distribution and support for Michelle and Chad's son, B.S., who was born in 2012. Chad was obligated to pay Michelle (1) $2,200 a month in child support, which represented 20% of Chad's base gross annual income of $187,000, (2) $2,800 a month in maintenance, and (3) unallocated support of 30% of any additional gross annual income over $187,000 and under $338,000, to be calculated and paid each year after tax preparations and a "true-up" between the parties. As part of the property distribution, Chad received a Morgan Stanley IRA that, at the end of March 2017, was valued at $234,425.

¶ 4 In February 2023, Michelle filed a five-count verified motion to enforce judgment and petition for rule, seeking a rule to show cause against Chad for failing to (1) pay support calculated on all of his income, (2) properly pay reimbursement for child-related expenses, (3) provide proof of life insurance, (4) provide proof of disability insurance, and (5) provide proof of an updated withholding order from his new employer (in violation of a prior court order). After a series of stipulations were entered into by the parties, the court heard opening statements on all counts except count II (reimbursement), which is not part of this appeal. The court orally issued a rule to show cause on counts I, III, IV, and V, then, at the parties' request, changed the application of the rule to only count I. The court then heard testimony from Chad and Michelle.

¶ 5 The parties stipulated that Chad owed $16,563.38 in unallocated support based upon more income attributed to Chad than what was indicated as Chad's "wage" income on his tax returns and more income than was included in his W-2s. He argued that the failure to pay this amount was not willful, wanton, and without justification. However, he argued that $205,000 in withdrawals from his IRA made between 2019 and 2022 were not income for support purposes, especially for unallocated support.

¶ 6 On July 12, 2024, the trial court issued its written order in which it found Chad to be in indirect civil contempt related to count I of the motion as it related to additional income from employment. The court also found that Chad owed child support on the IRA withdrawals but declined to find him in contempt on that issue. Chad's medical insurance and life insurance premiums, paid by his employer, were not found to be income for purposes of child support, maintenance, and the true-up calculation. The court also declined to find Chad in contempt on counts III through V of the petition. However, the court then held that "a cap on income cannot be enforced for child support purposes as a matter of public policy notwithstanding the clear language in the MSA on same and no request to modify the language of the MSA being on file or litigated at hearing in this matter."

¶ 7 Chad owed Michelle a total of $49,576.08, including interest. He could purge himself of the contempt by making payment of $16,162.60, which was deemed to be owed in relation to the contempt finding. A payment schedule was established for the remainder of the unpaid support. The court also granted Michelle leave to file a petition for fees. This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 Chad first contends that the trial court erred in including his IRA withdrawals as income for support purposes. The interpretation of the term "income" in the context of section 505 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/505 (West 2024)) is solely a question of law; therefore, our review is *de novo*. *In re Marriage of McGrath*, 2012 IL 112792, ¶ 10. Michelle argues that, pursuant to *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226, 233 (2008), this court is to review "the ultimate conclusion for abuse of discretion and the underlying factual finding of the IRA inclusion for whether it was against the manifest weight of the evidence." This argument is incorrect. *Eberhardt* involved a motion to modify child support; as the court therein stated, "We review the trial court's factual findings *in ruling on a motion to modify child support* under the abuse of discretion standard." (Emphasis added.) *Id.* Such a motion may be granted if the party seeking relief "can show a substantial change in circumstances" and carries the burden "of showing a change in circumstances *substantial enough to warrant a change* in support." (Emphasis added.) *Id.* at 231. Determining whether a change has been substantial enough to warrant change is an exercise of discretion; no such exercise is required in this case, where the question is whether a use of funds fits the statutory definition of "income." The proper standard of review on this issue is *de novo*.

¶ 10 Section 505(a)(3)(A) of the Act defines " 'gross income' " as "the total of all income from all sources," with specific exclusions for certain public assistance programs and other children in the household. 750 ILCS 5/505(a)(3)(A) (West 2024). Quoting Webster's Third New International Dictionary 1143 (1986), our supreme court has defined the term "income" as "a gain or recurrent benefit received by an individual." (Internal quotation marks omitted.) *In re Marriage of Dahm-Schell*, 2021 IL 126802, ¶ 40. The court further explained that income is "[t]he money or other form of payment that one receives" and "includes gains and benefits that enhance a noncustodial parent's wealth and facilitate that parent's ability to support a child." (Internal quotation marks omitted.) *Id.* The definition is "broad and expansive" (*id.* ¶ 39) and includes "any form of payment to an individual, regardless of its source and regardless of whether it is nonrecurring" (*id.* ¶ 40).

¶ 11 There is a "rebuttable presumption that any such gain or benefit is income for child support unless specifically excluded by the statute," and caselaw has included as income imputed to a noncustodial parent: lump-sum workers' compensation, gifts from parents, employee deferred compensation, military allowances, pensions, investment income, deferred compensation, and distributions from a trust. *Id.* ¶ 41 (citing cases). In addition, payments that would not be taxable as income under the Internal Revenue Code of 1986 (Internal Revenue Code) (26 U.S.C. § 1 *et seq.* (2024)) may qualify as income for purposes of section 505(a)(3) of the Act, as our supreme court has recognized that the "Internal Revenue Code is designed to achieve different purposes than our state's child support provisions" and does not determine "what constitutes income under the statutory child support guidelines enacted by the General Assembly." (Internal quotation marks omitted.) *Id.* ¶ 42.

¶ 12 In *McGrath*, our supreme court considered whether the trial court erred in including in its calculation of net income for child support purposes funds that the unemployed father regularly withdrew from his savings account. The supreme court found that the trial court had indeed erred:

> "Money that a person withdraws from a savings account simply does not fit into any of these definitions [of income]. The money in the account already belongs to the account's owner, and simply withdrawing it does not represent a gain or benefit to the owner. The money is not coming in as an increment or addition, and the account owner is not 'receiving' the money because it already belongs to him." *McGrath*, 2012 IL 112792, ¶ 14.

¶ 13 In delineating the issue on appeal, the court had noted that, because the case did "not involve disbursements from an IRA, we agree with the appellate court that this appeal is not the appropriate forum in which to resolve the current split in the appellate court over whether IRA disbursements should be considered income under section 505(a)." *Id.* ¶ 10 n. 2. However, we believe that the ruling in *McGrath* does, in fact, answer whether IRA disbursements should be considered income under section 505(a).

¶ 14 The Merriam-Webster Online Dictionary defines an IRA as "a retirement *savings account* in which income taxes on certain deposits and on all gains are deferred until withdrawals are made." (Emphasis added.) Merriam-Webster Online Dictionary, https://www.merriam-webster.com/dictionary/IRA (last visited Aug. 24, 2026) [https://perma.cc/TR8V-9BQB]. Black's Law Dictionary provides the definition as

> "A *savings or brokerage account* to which a person may contribute up to a specified amount of earned income each year. The contributions, along with any interest earned in the account, are not taxed until the money is withdrawn after a participant reaches 59½ (or before then, if a 10% penalty is paid)." Black's Law Dictionary (12th ed. 2024).

¶ 15 According to the Internal Revenue Service, a traditional individual retirement arrangement is "a tax-advantaged *personal savings plan* where contributions may be tax deductible." (Emphasis added.) *Individual Retirement Arrangements (IRAs)*, Internal Revenue Serv. (updated July 31, 2026), https://www.irs.gov/retirement-plans/individual-retirement-arrangements-iras [https://perma.cc/5DZJ-CBF2]. An IRA has also been defined as "a long-term, tax-advantaged *savings account* that individuals with earned income can use to save for the future." (Emphasis added.) Investopedia, https://www.investopedia.com/terms/i/ira.asp (last visited Aug. 24, 2026) [https://perma.cc/4LTC-2E5D]. Importantly, "[y]ou can only contribute to an IRA *if you have earned income*. Income from interest and dividends, Social Security benefits, or child support does not count." *Id.* (citing *Topic No. 451, Individual Retirement Arrangements (IRAs)*, Internal Revenue Serv. (updated June 5, 2026), https://www.irs.gov/taxtopics/tc451 [https://perma.cc/3TGA-HTTX] ("you must have *taxable compensation* for purposes of contributing to an IRA" (emphasis added))).

¶ 16 By definition, an IRA is a *savings account*. Only income earned by the account holder may be deposited into such an account. The benefits accruing to such an account and the limitations placed on its use are only *tax*-related. The *McGrath* court clearly concluded and held that "[m]oney that a person withdraws from a savings account simply does not fit into any of these definitions [of income]." *McGrath*, 2012 IL 112792, ¶ 14. We can see no reason why withdrawals or distributions from a tax-deferred savings account funded by the owner should in any way be treated differently from a regular savings account for purposes of calculating net income for child support purposes. The funds were earned and saved just like those deposited in a regular savings account.

¶ 17 Our supreme court has addressed and distinguished the support impacts of mandatory distributions or withdrawals taken from an *inherited* IRA from those taken from a regular IRA. In *Dahm-Schell*, 2021 IL 126802, ¶ 5, the husband, during the pendency of divorce proceedings, inherited approximately $615,000; this included checking accounts and investment accounts, the majority of which were held in two IRAs. The parties stipulated that the inheritance was the husband's nonmarital property, and he was subsequently awarded all of the inheritance in the dissolution judgment. *Id.* ¶ 6. When calculating child support and maintenance obligations, the trial court did not include the inheritance as part of the husband's income. *Id.* Upon reconsideration, the court reaffirmed its prior determination that only the dividends from the inheritance would be considered and added to the husband's monthly income for maintenance and child support purposes. *Id.* ¶ 9.

¶ 18 The husband petitioned the court to reduce the ordered amount of child support and maintenance, as his employer had reduced his pay by 20% and one child had graduated high school and had become emancipated. *Id.* ¶ 8. At that time, he was, pursuant to the Internal Revenue Code, taking required distributions of approximately $894.25 per month from the inherited IRAs. *Id.*

¶ 10. The trial court entered an order declining to include the " 'inherited mandatory retirement income when calculating maintenance and child support.' " *Id.* ¶ 13. It then certified a question to the appellate court, which reframed it and answered in the affirmative:

> " ' "Whether mandatory distributions or withdrawals taken from an inherited individual retirement account (IRA) containing money that has never been imputed against the recipient for the purposes of maintenance and child support calculations constitute 'income' under 750 ILCS 5/504(b-3) (West 2018) and 750 ILCS 5/505(a)(3) (West 2018)." ' " *Id.* ¶ 16 (quoting *In re Marriage of Dahm-Schell*, 2020 IL App (5th) 200099, ¶ 1).

¶ 19 Our supreme court considered the certified question as reformulated and affirmed the appellate court. The court, looking at *McGrath*, stated that, while not expressly stated therein, "it seems that the funds had *already been considered income at some time prior to the withdrawals*." (Emphasis added.) *Id.* ¶ 50. Thus, the money withdrawn from the savings account in *McGrath* "could not constitute income because there would be the issue of impermissible double counting. [Citation.] The *McGrath* court held that, because *the savings account had already been considered income at some time before the withdrawals*, the money withdrawn from the account could not also constitute income." (Emphasis added.) *Id.*

¶ 20 The *Dahm-Schell* court found that it "would be improper for funds to be considered income first when they are received or earned and then again when they are withdrawn for purposes of the Act." *Id.* ¶ 51. Because the inheritance that was received predissolution was never included in the initial calculations of the husband's support obligations, including the mandatory distributions and withdrawals in income did not constitute double counting. *Id.* ¶ 52.

> "The determination of support is based on whether that money has been *previously imputed as income against the individual receiving the distributions*. [Citations.] The relevant focus under the Act is the parent's economic situation at the time the support calculations are made by the circuit court." *Id.* ¶ 53.

As the husband never earned or contributed to the inherited IRAs, "any distributions or withdrawals he receives from the accounts are an addition that increases his wealth." *Id.* ¶ 52.

¶ 21 Here, there is no evidence that Chad's IRA was an inherited IRA; Chad earned the funds that he deposited into the IRA. He received the IRA as part of his distribution of property at the time of dissolution. The withdrawals from the IRA were not income attributable to Chad for support purposes; they were liquidations of an established and fully owned asset. The money that an individual earns and places in an IRA already belongs to him. When he withdraws money that he placed into an IRA, he does not gain anything, as the money was already his; it is not a gain and not income. See *In re Marriage of O'Daniel*, 382 Ill. App. 3d 845, 850 (2008). The only portion of the IRA that would constitute a gain for the individual would be the interest and/or appreciation earnings from the IRA. *Id.*; see *In re Marriage of Budorick*, 2020 IL App (1st) 190994, ¶ 79 ("We follow *O'Daniel* and conclude that IRA disbursements of interest, not principal, are income for purposes of calculating child support."). This court, while determining that IRA disbursements are income for purposes of calculating net income under section 505 of the Act in *In re Marriage of Lindman*, 356 Ill. App. 3d 462, 470-71 (2005), also recognized a "potential 'double counting' issue" that the petitioner did not raise but could arise in future cases. However, to the extent that this court's decision in *Lindman* conflicts with our determination here, we disavow it.

¶ 22 To count all of Chad's withdrawals as income for support purposes would constitute an impermissible double counting, as the money deposited in the IRAs had been previously imputed to him as income. However, any portion of the withdrawals that was interest and/or appreciation earnings, and not principal, is a gain and is to be counted as income for support purposes. Therefore, the trial court's order finding that Chad owed child support on the entirety of the IRA withdrawals must be reversed, and the cause must be remanded for further proceedings as to the principal/interest composition of the withdrawals and the inclusion of the interest in the support calculations.

¶ 23 Chad next contends that the trial court erred in holding him in indirect civil contempt.

¶ 24 In its July 12, 2024, written order, the trial court found that Chad:

> "has willfully and without compelling cause or justification failed to timely provide his income tax returns, to provide calculations for the true up for the years 2019 to 2022, and to timely pay his true up on additional income from employment to MICHELLE and therefore Chad is found to be in indirect civil contempt related to Count I of the Motion to Enforce filed on 2-1-23 as it relates to additional income from employment."

The court explicitly stated that it did not find Chad in contempt on the issue of including the IRA distributions in support calculations. In addition, the court denied the request for contempt findings as to counts III, IV, and V of Michelle's motion, relating to failure to provide proof of life insurance, disability insurance, and an updated withholding order.

¶ 25 In general, civil contempt occurs when a party fails to do something ordered by the trial court, resulting in the loss of a benefit or advantage to the opposing party. *In re Marriage of Knoll*, 2016 IL App (1st) 152494, ¶ 50. "Proof of willful disobedience of a court order is essential to any finding of indirect civil contempt." (Internal quotation marks omitted.) *Id.* Initially, the burden falls on the petitioner to establish, by a preponderance of the evidence, that the alleged contemnor has violated a court order; if that burden is satisfied, the burden then shifts to the contemnor, who has the burden of showing that the violation was not willful and contumacious and that he had a valid excuse for failing to follow the order. *Id.*

¶ 26 "Contumacious conduct consists of conduct calculated to embarrass, hinder, or obstruct a court in its administration of justice or lessening the authority and dignity of the court." (Internal quotation marks omitted.) *Id.* As the question of whether a party is guilty of contempt is a question of fact for the trial court, a reviewing court should not disturb the trial court's determination unless it is against the manifest weight of the evidence or the record reflects an abuse of discretion. *In re Marriage of Spangler*, 2025 IL App (2d) 240303, ¶ 26. "A decision is against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the court's findings are unreasonable, arbitrary, and not based on any of the evidence." (Internal quotation marks omitted.) *Knoll*, 2016 IL App (1st) 152494, ¶ 50.

¶ 27 The court's written order provided that the court made its findings "for the reasons stated on the record"; however, no report of proceedings for the date of the order has been provided. An appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error; in the absence of such a record, we will presume that the order entered by the trial court was in conformity with law and had a sufficient factual basis. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts that may arise from the incompleteness of the record will be resolved against the appellant. *Id.* at 392. "An issue relating to a circuit court's factual findings and basis for its legal conclusions obviously cannot be reviewed absent a report or record of the proceeding." (Internal quotation marks omitted.) *In re Marriage of Gulla*, 234 Ill. 2d 414, 422 (2009). Where there is no record to show the reasons given by a trial court for its findings and its rulings on the pleadings, we must presume that the trial court acted in conformity with the law and ruled properly after considering the pleadings and the evidence. See *id.* at 423-24. This is particularly true when, as here, the challenged decision—a finding of indirect civil contempt—is discretionary; review of such a decision is impossible absent a report of proceedings explaining the trial court's reasoning.

¶ 28 Chad raises multiple arguments as to why he believes that the finding of contempt was improper. While we have transcripts of the presentation of evidence heard by the court, Chad has failed to provide us with the transcript in which the trial court made factual findings and explained the reasoning behind its exercise of discretion. Therefore, we must presume that the trial court acted in conformity with the law and ruled properly, and we find no error here.

¶ 29 Chad next contends that the trial court erred in finding the MSA's unallocated support cap to be unenforceable. In its July 12, 2024, order, the trial court held:

> "The Court rules that a cap on income cannot be enforced for child support purposes as a matter of public policy notwithstanding the clear language in the MSA on same *and no request to modify the language of the MSA being on file or litigated at hearing in this matter.*" (Emphasis added.)

¶ 30 "A judgment of dissolution or of legal separation or of declaration of invalidity of marriage may be enforced or modified by order of court *pursuant to petition*." (Emphasis added.) 750 ILCS 5/511 (West 2024). Such a petition must be filed "with notice mailed to the respondent at his last known address, or by the issuance of summons to the respondent." *Id.* § 511(a). The Act does not permit a trial court to *sua sponte* modify a judgment of dissolution when no postdissolution petition requesting such relief has been filed. See *In re Marriage of Petrik*, 2012 IL App (2d) 110495, ¶ 21 (citing numerous cases). Here, the trial court explicitly stated that it made its ruling on the MSA's income cap while no request to modify the language of the MSA was on file or litigated at hearing in the matter. The portion of the trial court's order modifying the MSA must, therefore, be vacated.

¶ 31 Chad next contends that the trial court erred in granting Michelle leave to seek fees pursuant to section 508(b) of the Act (750 ILCS 5/508(b) (West 2024)). Chad argues that such fees may be awarded only where "the court finds that the failure to comply with the order or judgment was without compelling cause or justification" (*id.*) and that "[t]he key prerequisite to any contempt finding is the wilfulness of the contemptuous conduct *** connot[ing] conduct without cause or justification" (*In re Marriage of Stanley*, 133 Ill. App. 3d 963, 974 (1985)). Here, the trial court specifically found that Chad "has *willfully and without compelling cause or justification* failed to timely provide his income tax returns, to provide calculations for the true up for the years 2019 to 2022, and to timely pay his true up on additional income from employment." (Emphasis added.) As we have not reversed that finding, the trial court did not err in granting Michelle leave to seek section 508(b) fees.

¶ 32 Michelle cross-appeals from the trial court's July 12, 2024, order. As part of the MSA adopted by the order of dissolution, Chad was ordered to maintain hospitalization and major medical, dental, and optical insurance for B.S.; Chad was to be "solely responsible for the cost of the premiums." Michelle now contends that the court erred in determining that Chad's employer-paid medical insurance and life insurance premiums are not income for purposes of child support, maintenance, and the true-up calculation. Again, the interpretation of the term "income" in the context of section 505 of the Act is solely a question of law; therefore, our review is *de novo*. *McGrath*, 2012 IL 112792, ¶ 10.

¶ 33 As of May 26, 2017, the date of the judgment of dissolution, child support was calculated based upon percentages of " '[n]et income' *** minus the following deductions," which included deductions for "[d]ependent and individual health/hospitalization insurance premiums and premiums for life insurance ordered by the court to reasonably secure payment of ordered child support." 750 ILCS 5/505(a)(3)(f) (West 2016). Michelle argues that the statute has now been amended such that deductions from income for insurance premiums no longer exist.

¶ 34 We note that the General Assembly amended the Act as it applies to child support calculations effective after the May 26, 2017, dissolution judgment. See Pub. Acts 99-764, § 5, 100-15, § 5 (eff. July 1, 2017). "It is well-established law of this State that the presumption is that a statute is intended to operate prospectively only, and that it will not be construed to have retroactive operation unless the language employed is so clear that it will admit of no other construction." *People v. Capo*, 393 Ill. 342, 345 (1946); see *People v. Brown*, 2026 IL 130930, ¶ 40. Substantive amendments—those that establish rights, rather than procedural amendments that prescribe the method of enforcing rights—may not be applied retroactively. *Brown*, 2026 IL 130930, ¶ 40.

¶ 35 Further, the amended guidelines contained in Public Act 99-764 apply to child support proceedings commenced after July 1, 2017. See *In re Marriage of Connelly*, 2020 IL App (3d) 180193, ¶ 16. "If a child support judgment was entered prior to July 1, 2017, the amended guidelines will be applied only if the obligor can establish a substantial change in circumstances." *Id.* As the legislature has provided:

> "The court may grant a petition for modification that seeks to apply the changes made to subsection (a) of Section 505 by Public Act 99-764 to an order entered before the effective date of Public Act 99-764 *only upon* a finding of a substantial change in circumstances that warrants application of the changes. The enactment of Public Act 99-

764 itself does not constitute a substantial change in circumstances warranting a modification." (Emphasis added.) 750 ILCS 5/510(a) (West 2018).

¶ 36 We further note that Michelle filed a verified motion to enforce judgment and petition for rule, seeking to enforce the existing May 26, 2017, judgment of dissolution. She prayed for "[e]ntry of [an] order compelling CHAD SCHROEDER to comply with the parties' Judgment and incorporated Marital Settlement Agreement," not to modify the judgment or to apply subsequent statutory amendments. The 2017 amendments to the Act are in no way applicable to the motion at issue here.

¶ 37 Based upon the statute in effect at the time of the judgment being enforced, we conclude that company-paid life and health insurance premiums are not, as a matter of law, to be included in income calculations for support purposes, and we express no opinion related to the current Act. Therefore, we can find no error in the trial court's order finding that Chad's premiums are not income for purposes of child support, maintenance, and the true-up calculation.

¶ 38 III. CONCLUSION

¶ 39 For these reasons, the circuit court's judgment is affirmed in part, reversed in part, and vacated in part, and the cause is remanded for further proceedings consistent with the views expressed in this opinion.

¶ 40 Affirmed in part, reversed in part, and vacated in part; cause remanded.

***In re Marriage of Steele*, 2026 IL App (2d) 240507**

Decision Under Review:	Appeal from the Circuit Court of Kane County, No. 16-D-527; the Hon. Kimberly M. DiGiovanni, Judge, presiding.
Attorneys for Appellant:	Matthew D. Elster and Jamie R. Fisher, of Beermann LLP, of Chicago, for appellant.
Attorneys for Appellee:	Michael G. DiDomenico, Sean M. Hamann, and Lillian M. O'Neill, of Lake Toback DiDomenico, of Chicago, for appellee.