

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

<i>In re</i> MARRIAGE OF GILBERT T. TSO,	)	Appeal from the Circuit Court
	)	of Lake County.
Petitioner-Appellant,	)	
	)	
v.	)	No. 11-D-1102
	)	
REBECCA MURRAY,	)	Honorable
	)	David P. Brodsky,
Respondent-Appellee.	)	Charles D. Johnson
	)	Judges, Presiding.

---

JUSTICE McLAREN delivered the judgment of the court.  
Justices Hudson and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* (1) The trial court properly exercised jurisdiction over the reserved issue of child support, even after all the parties moved to Colorado; the Colorado court did not accept jurisdiction over any aspect of the case for several months after petition to set child support was filed and declined to take jurisdiction over the issue of child support; (2) petitioner was not denied due process and equal protection by delays and continuances; (3) petitioner's accusations of conflict of interest and abuse of legal process against the trial court were scurrilous and impugned the dignity of the trial court; and (4) the trial court did not err in the setting of child support.

¶ 2 Petitioner, Gilbert Tso, appeals from the trial court's order granting the petition of respondent, Rebecca Murray, to enforce judgment as to child support. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The marriage of Gilbert and Rebecca was dissolved on November 9, 2012 in the circuit court of Lake County. In the judgment of dissolution, the trial court, Judge Brodsky presiding, granted residential custody of M.T., the Tso's four-year-old daughter, to Rebecca and granted leave to Rebecca to remove M.T. to Colorado. The court ordered Gilbert and Rebecca to produce a joint parenting agreement within 30 days of the judgment.<sup>1</sup> The court found that, in April 2012, Gilbert had obtained then voluntarily left a job that paid him \$155,000 a year. As Gilbert was "unemployed, albeit\*\*\*voluntarily," the trial court reserved the issue of child support "for a period of six months or until Gilbert is employed, whichever is sooner." The court noted, however, that, "[o]nce this judgment is entered[,] Gilbert will owe a duty of child support." Gilbert was ordered to "make a continuing good faith effort to obtain full-time employment," keep a log of his efforts that he was to furnish to Rebecca every 45 days, and notify Rebecca within 72 hours of any change in employment status or ability to pay child support. The court also ordered Gilbert to, within six months, either: (1) refinance the mortgage on the marital house and remove Rebecca's name from the mortgage; or (2) place the house for sale.

¶ 5 On June 4, 2013, Rebecca filed a petition to enforce the terms of the judgment as to child support, alleging that, in the six months since the entry of the dissolution judgment, Gilbert had not informed her of any change in employment status or ability to pay child support. Rebecca requested that the court impute to Gilbert "an income approximate to the earnings of his prior employment that he voluntarily terminated" and order him to begin paying child support immediately. Rebecca also filed a petition to enforce the judgment as to the disposition of the

---

<sup>1</sup> A joint parenting agreement, awarding joint custody to Gilbert and Rebecca, was filed in January 2013.

marital house. The trial court, Judge Johnson now presiding, continued the matters until July 9 for hearing.

¶ 6 On July 2, Gilbert filed a petition to transfer jurisdiction and venue to the 2nd Judicial District of Colorado, alleging that he had established residency in Denver County, where Rebecca and M.T. also lived. He had filed a petition to register a foreign decree with the clerk of the district court in Denver County on June 26. According to Gilbert, under the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA) (750 ILCS 36/101 *et seq.* (West 2012), no substantial factors associated with M.T.'s welfare remained in Illinois, and her best interests would be served by transferring jurisdiction to Denver County.

¶ 7 Gilbert also filed responses to Rebecca's petitions. Gilbert admitted that he remained unemployed but stated that he was actively seeking employment. He had timely tendered his job log to Rebecca but alleged that she and her attorneys had used the log to harass recruiters, professionals he networked with, and prospective employers. He was currently unable to pay child support, as he was "without income and liquid assets to afford even his current financial obligations." He requested the court to deny Rebecca's petition and to reserve "the child support decision for an additional nine months, or until Gilbert secures employment, whichever is sooner." As to the marital home, Gilbert stated that he had placed the house for sale after this court had affirmed the trial court's judgment regarding the removal of M.T. to Colorado. See *In re Marriage of Tso*, 2012 IL App (2d) 121257-U (April 12, 2013) (unpublished order under Supreme Court Rule 23). Gilbert requested that the court "[o]rder Rebecca to cooperate with Gilbert to resolve the matter of the marital home while minimizing the shared financial burden, or otherwise quit claim her role as Trustee and agree to terminate the Trust entirely to facilitate any transactions."

¶ 8 On July 9, the trial court ordered Gilbert to list the marital residence for sale with a realtor within 14 days. The court set Gilbert's petition to transfer venue for hearing on August 28, 2013, and entered and continued Rebecca's petitions pending the decision on Gilbert's petition.

¶ 9 In the meantime, Rebecca filed additional petitions to enforce judgment regarding personal property in the marital home and visitation exchange and a petition for a rule to show cause regarding Gilbert's alleged failure to continue paying the mortgage, insurance, and taxes on the marital home. On August 28, the trial court granted the petitions regarding personal property and visitation exchange and entered and continued the petition for rule to show cause and the petitions regarding child support and the sale of the marital house. The court granted Gilbert's petition to transfer venue with the proviso that "unless [and] until the Denver Colorado court assumes jurisdiction, this Court retains jurisdiction to enforce the terms of this Court's orders, and jurisdiction over the now-pending petitions" filed by Rebecca. The matter was continued to October 31, 2013 for status.

¶ 10 On October 31, the trial court addressed a petition filed by Rebecca involving Gilbert's prior counsel and set the matter for hearing on December 18, 2013. Rebecca's counsel then reminded the court of the pending petitions to enforce judgment that had been filed in June, and the court set them for hearing on December 18. Gilbert informed the court that a hearing was scheduled for November 8 in Colorado on his petition for transfer of jurisdiction. The court advised Gilbert to "[k]eep this court advised [*sic*] of anything that happens on that matter" and that, "If the Colorado court assumes jurisdiction over all matters then, God bless, they can have it."

¶ 11 On December 17, Gilbert filed motions to dismiss Rebecca’s various petitions. In the motion to dismiss the petition to enforce judgment regarding child support, Gilbert alleged that, on October 23, he had filed in the Colorado court motions to conduct a hearing to establish child support and to modify parenting time. He also alleged that, on December 6, the Colorado court, in a minute order, had “registered and entered the November 9, 2012 Judgment (Foreign Decree) into Colorado jurisdiction.” However, according to Gilbert, the Colorado court did “ ‘not accept jurisdiction of all matters specifically retained by (the) Illinois court in its 8/28/13 order.’ ” The Colorado court further stated in the minute order that Gilbert “ ‘may file a motion to modify, if appropriate, once Illinois has set the initial amount.’ ”<sup>2</sup> Gilbert argued that the Colorado court erred in its order in that it “ruled on the understanding that *Illinois sought to retain jurisdiction* of those matters specified in the Illinois court order of August 28, 2013” (emphasis in original) and that the Colorado court “presently has the authority to assume jurisdiction over all pending motions and matters in this cause and with respect to the entire Decree.” Gilbert also filed an amended response to Rebecca’s petition to enforce judgment regarding child support.

¶ 12 The next day, Rebecca was granted leave to respond Gilbert’s motions by February 12, 2013. Gilbert informed the court that he had conflicts with the first two dates that the court recommended for hearing on the motions and petitions and with all Fridays for the next three months. The court suggested Wednesday, February 19, 2013, to which Gilbert agreed.

¶ 13 On February 19, the court stated for the record that he had received an e-mail from Gilbert on February 18 in which Gilbert said that he was financially unable to attend the hearing. Gilbert asked the court to “consider a continuance until such time the question of jurisdiction is

---

<sup>2</sup> In his motion, Gilbert stated that the Denver court’s minute order of December 6 was attached to his motion as “Exhibit B.” However, the record does not contain any such exhibit attached to his motion.

fully reviewed and resolved,” to provide clarification as to why Illinois should have continuing jurisdiction, or to dismiss all pending matters. The court found that no appropriate motion for a continuance had been filed and proceeded with the hearing. As to Rebecca’s child support petition, the court stated that, pursuant to the UCCJEA, it had conferred with the judge handling the case in Denver County. As a result of that conference, the Colorado court “is handling issues relating to visitation and parenting time, whereas the Court here in Illinois retained jurisdiction for child support purposes.” The court therefore denied Gilbert’s motion to dismiss the petition.

¶ 14 Proceeding to hearing on the motion, the court noted that, in the judgment of dissolution, Judge Brodsky had found that Gilbert was voluntarily unemployed. Rebecca stated that she had made requests of Gilbert to produce a financial affidavit, pay stubs, and tax returns, but had received nothing; she therefore sought support based on Gilbert’s income prior to his voluntary unemployment. The court noted that the record contained no orders relating to formal discovery or production of financial documents relating to Rebecca’s petition. The court stated that it would “in fact fall back on” an unidentified “local court rule which requires each party to produce financial affidavits in relation to any motion regarding financial obligations.” Finding no such affidavit by Gilbert, the only evidence before the court was “the ruling of my predecessor that the unemployment is of a voluntary nature.” The court therefore imputed to Gilbert an income of \$155,000, the income referenced in the judgment of dissolution. As a result, the court set child support at \$2015 per month, which represented 20% of a “net imputed income” of \$120,900. The court then found an arrearage of \$17,291 and ordered Gilbert to pay \$403 a month until the arrearage was paid in full. The court also ordered that the “matter is now closed.” This appeal followed.

¶ 15

## II. ANALYSIS

¶ 16 Gilbert first contends that the trial court acted capriciously in issuing the February 19 support order. According to Gilbert, the State of Illinois had no overriding interest concerning the issue of support, as neither the child nor the parents lived in Illinois and jurisdiction had been transferred to Colorado. He contests both the trial court's retention of jurisdiction over the child support aspect of this case and Rebecca's motivation for pursuing enforcement of the support order in Illinois instead of Colorado.

¶ 17 The judgment of dissolution entered on November 9, 2012 reserved the issue of child support "for a period of six months or until Gilbert is employed, whichever is sooner." Rebecca filed her petition to enforce the terms of the judgment as to child support on June 4, 2013, soon after the expiration of the six-month period. At that time, there had been no attempt to transfer jurisdiction to Colorado. Gilbert did not begin that process for almost another month, and Colorado did not assume even limited jurisdiction in the matter until December 6, 2013. On June 4, there was no place else for Rebecca to file her petition other than the circuit court of Lake County.

¶ 18 Gilbert asserts that the court was aware of "the question and challenge of jurisdiction" when he filed his petition to transfer the case to Colorado in July 2013. Gilbert overstates his position in July 2013. He provided no "challenge" to the trial court's jurisdiction; even in his petition to transfer, he acknowledged that the judgment of dissolution was "bifurcated, and the remaining matters of trial support and disposition of the marital home are currently docketed before this court." Further, on the same day that he filed the petition to transfer, Gilbert filed a response to Rebecca's petition to enforce the child support judgment in which he asked the trial court to "[r]eserve the child support decision for an additional nine months, or until Gilbert secures employment, whichever is sooner." This is hardly a challenge to jurisdiction.

¶ 19 Even more inaccurate is Gilbert’s claim that “a comparable pleading [to Rebecca’s child support petition] was timely filed in Colorado on June 26, 2013.” This “comparable” pleading was Gilbert’s petition to register a foreign decree. This petition did not, as Gilbert alleges, manifest any “intent to commence proceedings to enforce judgment, to establish an originating child support order, \*\*\* and to motion for a modification of custody.” It merely listed contact information for the parties and stated that exemplified copies of the court files were submitted along with the petition. There was no challenge to the Illinois trial court’s jurisdiction and no competing pleading in Colorado when the proceedings in Lake County began.

¶ 20 Gilbert next argues that the case entered Colorado jurisdiction on December 6, 2013 such that, “absent a clear and overriding state interest for Illinois to retain continuing jurisdiction on the matter of issuing an originating child support order, the Illinois Circuit Court erred in demanding to retain jurisdiction.” We first note that Gilbert fails to point to any evidence in the record that showed the trial court here “demanding” to retain jurisdiction. The trial court stated on the record that it had conferred with the judge handling the case in Denver County and that, as a result of that conference, the Colorado court “is handling issues relating to visitation and parenting time, whereas the Court here in Illinois retained jurisdiction for child support purposes.” In his filings in the trial court, Gilbert asserted merely that the Colorado court did “not accept jurisdiction of all matters specifically retained by [the] Illinois court in its 8/28/13 order.’ ” There simply is no evidence that the trial court’s retention of jurisdiction over Rebecca’s petition was anything other than an act of comity between two competent courts. The fact also remains that the Colorado court never accepted jurisdiction over the enforcement of the support order. Therefore, Illinois was the only state that had jurisdiction over the issue and could rule on the pending petition.



¶ 21 Citing to the Uniform Interstate Family Support Act (UIFSA) (750 ILCS 22/100 *et seq.* (West 2012)), Gilbert next argues that Colorado had “jurisdiction to establish an originating support order.” Noting, again, that Colorado did not accept jurisdiction over child support issues, we also note that “an originating support order” already existed. The trial court stated in the 2012 judgment of dissolution that, “[o]nce this judgment is entered[,] Gilbert will owe a duty of child support.” An originating support obligation already existed; all that remained was a determination as to how much Gilbert was to pay. The Colorado court was also aware of this as, according to Gilbert, that court stated in its minute order that Gilbert “ ‘may file a motion to *modify*, if appropriate, once Illinois has set the initial amount.’ ” (Emphasis added.) We determine that no error occurred.

¶ 22 Gilbert next contends that he was denied due process and equal protection by delays and continuances. Gilbert complains that eight months transpired before the trial court ruled on Rebecca’s petition. He also complains that he was required to appear “no less than three (3) times on the same matter, only to have the matter continued” without any substantive reason given, before the hearing held on February 19, 2013. We first note that the record does not show Gilbert complaining about, let alone objecting to, any of the continuances. In his initial response to Rebecca’s petition regarding child support, filed July 2, 2013, Gilbert even requested that the trial court “[r]eserve the child support decision for an additional nine months, or until Gilbert secures employment, whichever is sooner,” a request that was repeated in his December 2013 amended response. Further, several continuances granted in this case were based on Rebecca’s needing an opportunity to respond to Gilbert’s filings; most relevantly, the hearing date of December 18, 2013 was continued to February 19, 2014 because Gilbert filed a series of pleadings, including the amended response to Rebecca’s petition and a motion to dismiss the

petition , on December 17. It was also at that time that the trial court set the February 19 hearing date specifically around Gilbert's conflicts. Far from being victimized by continuances, Gilbert caused many of them.

¶ 23 Gilbert also makes a scurrilous accusation that the trial court operated under a conflict of interest and abused legal process in this case, suggesting, among other things, that the trial court retained jurisdiction over the petition in order to obtain federal incentive payments for the establishment and collection of child support. Such a baseless, defamatory allegation deserves no response from this court other than an admonishment that such libel will not be countenanced, and any such actions in the future will be sanctioned.

¶ 24 Gilbert also attacks the actual order of support, first accusing Rebecca's counsel of violating a "duty of candor" in the original dissolution proceedings and in the proceedings on the child support petition. According to Gilbert, Rebecca's counsel obtained knowledge that Gilbert became unemployed involuntarily but continued to contend that Gilbert was voluntarily unemployed. We first note that the trial court's findings of fact from the judgment of dissolution are not at issue in this appeal. In that judgment, the trial court found that Gilbert had obtained, then voluntarily left, a job that paid him \$155,000 a year. Under the rule of the law of the case, once an issue is litigated and decided, that is the end of the matter, and the unreversed decision of a question of law or fact made during the course of litigation settles that question for all subsequent stages of the suit. *McDonald's Corp. v. Vittorio Ricci Chicago, Inc.*, 125 Ill. App. 3d 1083, 1086-87 (1984). The trial court's finding of fact that Gilbert was voluntarily unemployed in November 2012 is the law of the case and may be fairly commented on.

¶ 25 Gilbert also argues that the trial court erred in issuing a judgment "where the record on file created a question of fact regarding the circumstances of Mr. Tso's employment and

financial situation.” Gilbert apparently misapprehends the nature of the proceedings at issue here, arguing that “summary judgment was inappropriate” here. However, the trial court issued a judgment on the merits after a hearing, not on a motion for summary judgment. Thus, this argument is without merit. Finally, Gilbert references “evidence” that he entered into the record that refuted the fact that he “was and remains” voluntarily unemployed. Contrary to Gilbert’s assertions, the exhibits attached to his pleadings were not competent evidence. The fact remains that Gilbert failed to appear for the hearing on Rebecca’s petition, and he did not introduce any evidence for the court’s consideration. We determine that no error occurred.

¶ 26

### III. CONCLUSION

¶ 27 For these reasons, the judgment of the circuit court of Lake County is affirmed.

¶ 28 Affirmed.