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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
VIOLETA TOBIN,)	of Lake County.
)	
Petitioner-Appellee,)	
)	
and)	No. 13-D-844
)	
BRIAN TOBIN,)	Honorable
)	D. Christopher Lombardo,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly granted petitioner’s petition to reduce her child-support obligation to zero, as the court was entitled to credit her testimony that her poor health prevented her from obtaining gainful employment.

¶ 2 Respondent, Brian Tobin, appeals from an order of the circuit court of Lake County granting petitioner Violeta Cristea’s¹ petition to reduce child support. Because there was a substantial change in circumstances that justified the reduction in child support, we affirm.

¹ Petitioner’s married name was Tobin, but pursuant to the dissolution of marriage she changed her name to Cristea.

¶ 3

I. BACKGROUND

¶ 4 The parties' marriage was dissolved on January 20, 2015. Pursuant to the dissolution, respondent was required to pay petitioner \$1600 per month in maintenance. The maintenance was to terminate in three years. Petitioner was required to pay respondent \$666 per month in child support.

¶ 5 On March 16, 2018, petitioner filed a *pro se* petition to reduce child support. She alleged that she could not continue to pay child support, because she suffered from chronic fibromyalgia, posttraumatic stress disorder, and migraines that rendered her unable to maintain gainful employment.

¶ 6 The trial court conducted a hearing on the petition. Petitioner testified that maintenance, which had until recently been her only source of income, had terminated. A few months before the hearing, she had obtained employment of 15 hours per week at \$8.25 per hour.

¶ 7 According to petitioner, in 2012 she was diagnosed with several conditions, including fibromyalgia. She had become unresponsive to antibiotics and required two surgeries. Although she had obtained a real estate license, she was unable to work as a realtor, because of her medical condition. She explained that, on many days upon arriving at work, the pain in her jaw was so severe that she would have to return home. She testified that she underwent lymphatic drainage therapy, physical therapy, infrared therapy, and acupuncture. According to petitioner, because of her poor health, she was unable to obtain or keep gainful employment.

¶ 8 Respondent asserted that petitioner obtained low-paying jobs only so that she would not have to pay child support. He also asserted that she falsely claimed that she was in poor health to avoid her child-support obligation. He did not, however, submit any other evidence to dispute that petitioner was in poor health or unable to obtain gainful employment.

¶ 9 The trial court granted the petition and reduced child support to zero. It did so because petitioner's income was "negligible at best" and because of her "unemployability due to [her] current condition." The court added that, if petitioner's health were to improve, respondent could file a petition to increase child support. Respondent then filed a timely notice of appeal.

¶ 10

II. ANALYSIS

¶ 11 On appeal, respondent contends *pro se* that the trial court erred in reducing child support to zero. He argues that petitioner falsified her medical conditions, exaggerated her inability to work, and failed to submit evidence to support her request for a reduction in child support.

¶ 12 A judgment requiring child support generally can be modified only upon a showing of a substantial change in circumstances. *In re Marriage of Verhines*, 2018 IL App (2d) 171034, ¶ 51. The burden of showing a substantial change in circumstances is on the party seeking the modification. *Verhines*, 2018 IL App (2d) 171034, ¶ 51. We review the trial court's decision to modify child support for an abuse of discretion. *Verhines*, 2018 IL App (2d) 171034, ¶ 51. A court abuses its discretion when no reasonable person would agree with the decision or when it is obvious that the court acted arbitrarily or without conscientious judgment. *Verhines*, 2018 IL App (2d) 171034, ¶ 51. The trial court's factual findings supporting the modification will stand unless they are against the manifest weight of the evidence. *Verhines*, 2018 IL App (2d) 171034, ¶ 51. A decision is against the manifest weight of the evidence only when an opposite conclusion is apparent or when the court's findings appear to be unreasonable, arbitrary, or not based on the evidence. *Verhines*, 2018 IL App (2d) 171034, ¶ 51.

¶ 13 In this case, petitioner identified several serious medical conditions that rendered her unable to maintain gainful employment. Other than his assertion that petitioner was lying about her health to avoid paying child support, respondent offered no evidence to refute petitioner's

testimony. The trial court was in the best position to assess the credibility of the witnesses and weigh the evidence. See *Melamed v. Melamed*, 2016 IL App (1st) 141453, ¶ 37. Thus, the court was entitled to find that petitioner's poor health prevented her from obtaining gainful employment and constituted a substantial change of circumstances. The finding in that regard was not against the manifest weight of the evidence.

¶ 14 Nor did the trial court abuse its discretion in reducing the child support to zero. Considering petitioner's serious health concerns, which rendered her unable to maintain gainful employment, it was not unreasonable to reduce the child support to zero.²

¶ 15

III. CONCLUSION

¶ 16 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 17 Affirmed.

² We note that, should petitioner's health improve to where she can maintain gainful employment, respondent may seek an increase in child support. See *In re Marriage of Hughes*, 322 Ill. App. 3d 815, 819 (2001).