COURT OF APPEALS
DECISION
DATED AND FILED

January 9, 2002

Cornelia G. Clark
Clerk of Court of Appeals

Appeal No. 01-0608 **Cir. Ct. No. 00-PA-10**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

IN RE THE PATERNITY OF JALYSSE N. F.:

KAREN M.

PETITIONER-RESPONDENT,

V.

CRAIG P.

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Kenosha County: BARBARA A. KLUKA, Judge. *Affirmed*.

¶1 SNYDER, J.[1] Craig P. appeals from a judgment of paternity establishing child support at 17% of his gross income and finding him in contempt

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(h) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

of court for failure to provide court-ordered financial information and documentation. Craig makes many vague, nonspecific arguments in favor of reversing the judgment. Because the trial court's decision was not an erroneous exercise of discretion, we affirm the judgment.

FACTS[2]

¶2 On January 6, 2000, a paternity action was filed by the State, with Karen M. as co-petitioner, alleging that Craig, a resident of South Carolina, was the father of Jalysse N. F., born on August 29, 1989. On April 3, 2000, at an initial hearing, Craig did not appear in person but appeared by his attorney, Marcus Johnson; Johnson stated that Craig was prepared to enter an admission of paternity. At a subsequent hearing on June 12, 2000, in an appearance by telephone, Craig admitted paternity. Based upon this admission, the trial court made a finding of paternity and subsequently entered an adjudication of paternity on October 16, 2000.

¶3 At the June 12, 2000 hearing, the State determined there were no longer any state interests in the action and withdrew from the proceedings. While paternity was established, there was still a dispute about custody, placement and child support, and the matter was sent to mediation. Karen asked that child

[2] Neither party has provided in the briefs on appeal citations to the record to corroborate the facts set out in those briefs. Such failure is a violation of WIS. STAT. RULE 809.19(1)(d) and (3) of the rules of appellate procedure, which requires parties to set out facts "relevant to the issues presented for review, with appropriate references to the record." An appellate court is improperly burdened where briefs fail to cite to the record. ***Meyer v. Fronimades***, 2 Wis. 2d 89, 93-94, 86 N.W.2d 25 (1957). This court may impose an appropriate penalty upon a party or counsel for a rule violation. WIS. STAT. RULE 809.83(2). We therefore hold the parties to those facts set forth in this decision and the parties will not be heard on reconsideration to challenge the facts.

support be set at 17% of Craig's gross income. Craig, noting that he had a family to support in South Carolina, asked that child support be set below 17%, suggesting $200 per month. However, because the trial court did not have a financial disclosure statement from Craig, the court set child support at 17%, subject to review of all requested financial data. A review of mediation was scheduled for August 7, 2000.

¶4 On July 28, 2000, Craig, acting pro se, filed a motion to revise the court's June 12, 2000 determinations; in addition, he argued that as a South Carolina resident, the court did not have jurisdiction over him. That same day, Johnson filed a motion to withdraw as Craig's attorney. On August 8, 2000, the trial court issued an order granting Johnson's request to withdraw as Craig's counsel.

¶5 A hearing was held on August 7, 2000, where Craig appeared in person. There was some confusion about Craig's motions, as it appeared that he had not been serving Karen or Karen's counsel with copies of his submissions to the court. The trial court then appointed a guardian ad litem (GAL) because a mediation report indicated that mediation had failed.

¶6 In an order filed on August 28, 2000, the trial court rejected Craig's jurisdictional claims, concluding that Craig had waived all jurisdiction arguments. Furthermore, Craig was ordered to provide all of his tax returns and W-2 forms from the year 1990 to the present. If Craig was unable to obtain that information, he was to provide proof that he had requested that information from the appropriate governmental agency. Furthermore, Craig was ordered to provide proof of his current income and a financial disclosure form which would include his wife's current income.

¶7 In addition, Craig was directed to make up the difference in the amount of child support he had paid and the court-ordered 17% of his gross income. Apparently, Craig's employer was withholding 17% of his net income, not his gross income. Craig was then further directed to pay 17% of his gross income; if the appropriate amount was not withheld from his paycheck, he was directed to pay the difference himself. A hearing was then set for review of the GAL's report on September 7, 2000.

¶8 Craig did submit some financial information to the court on September 6, 2000, including an annual escrow account disclosure statement, property tax payment receipts, car loan statements and credit card statements. However, these submissions did not include proof of his current income, a financial disclosure form including his wife's current income, and his tax returns and W-2 forms from the year 1990 to the present or proof that he had requested this information from the appropriate governmental agency, as required by the court's August 28, 2000 order.

¶9 A hearing was held on September 7, 2000. The GAL did not provide a written report or recommendation, but simply gave her recommendation orally on the record. While the GAL indicated that there were some inappropriate comments made during conversations between Craig and Jalysse, the GAL said the child was happy and well-adjusted. The GAL did not recommend that the child go to South Carolina for visitation, but instead recommended that if Craig wished to establish a relationship with the child, he should continue to have telephone contact with her. In addition, the GAL recommended that supervised visitation start in Wisconsin.

¶10 The trial court allowed Craig to have supervised visitation with Jalysse upon forty-eight hours' notice in Wisconsin. The trial court also instructed Craig to have phone contact with the child. An evidentiary hearing was scheduled for November 8, 2000.

¶11 On October 18, 2000, Karen filed an order to show cause for contempt. Karen alleged that previously, on June 12, 2000, Craig had been ordered to pay 17% of his gross income as child support for Jalysse. However, Karen's order to show cause alleged that Craig had not paid the difference between the 17% of his net income that he was paying and the 17% of his gross income that he was ordered to pay, and that Craig continued to pay less than 17% of his gross income.

¶12 A hearing was held on November 2, 2000. Craig did not appear at this hearing, either by telephone or in person. At this hearing, Karen asked that Craig be found in contempt for failure to pay 17% of his gross income in child support, and for his continued failure to provide court-ordered financial materials, specifically, all of his tax returns and W-2 forms from 1990 to the present, or proof that he had requested that information from the appropriate governmental agency. At that time, the court declined to proceed for lack of proof of service on Craig.

¶13 On November 8, 2000, another hearing was held at which Craig appeared in person. This hearing was originally scheduled for an evidentiary hearing on issues of custody, placement and child support, but was also scheduled to address Karen's motion. Karen's attorney announced that the parties had reached an agreement regarding custody and placement, but some contested issues regarding child support remained. The parties agreed that Karen would have sole

custody and primary placement of the child. The parties recognized that there was currently in place an order that any visitation between Craig and the child be supervised in the state of Wisconsin. The parties also agreed that if the child wanted to have periods of placement with Craig in South Carolina, for reasonable periods of time, Karen would not interfere with this visitation. The trial court asked Karen's attorney to reduce this agreement to writing, submit it to Craig and the GAL for their signatures, and then file the agreement with the court.

¶14 The trial court then addressed the issue of child support. Karen alleged that Craig's employer was withholding 17% of his net income, despite the court order to withhold 17% of his gross income, and that Craig was failing to make up the difference. Craig asked the court to deviate from the 17% standard. Again, the court temporarily ordered that 17% of Craig's gross income be withheld for child support and took the issue of contempt and Craig's request for deviation from the 17% standard under advisement. However, the court then changed its order. Because of Craig's employer's difficulty in withholding 17% of his gross income, the court set child support at a specific dollar amount, $238 per paycheck. Another hearing was scheduled for December 4, 2000, at 1:30 p.m. to discuss Craig's request for deviation from the child support standards and Karen's request for a finding of contempt. Craig provided the trial court with a phone number where he could be reached on December 4, 2000.

¶15 On December 4, 2000, Karen filed a financial disclosure statement. That same day a hearing was held to address Craig's motion for deviation from the child support standards and Karen's motion for a finding of contempt. Craig did not appear; when the trial court called the number provided by Craig, he was unavailable. The hearing was rescheduled for December 28, 2000.

¶16 On December 28, 2000, a hearing was again commenced to address Craig's motion for a deviation from child support standards and Karen's motion for a finding of contempt. Again Craig did not appear. Craig had made arrangements with the trial court's clerk to appear at this hearing by telephone; he was notified of the date and time of the hearing and again provided the clerk with a phone number where he could be reached. The trial court made an effort to call Craig at the phone number he left with the clerk, but he was not available at that number.

¶17 The trial court stated:

> First of all, on the question of deviation from the 17% guideline, [Craig] has failed to appear twice now as previously arranged. I'm satisfied he had notice of today's hearing. As a courtesy to him I allowed the possibility of appearing by telephone, and neither time has he been available, thus indicating to me his unwillingness or intention to not appear and participate in these proceedings ….

The trial court then denied Craig's motion for a deviation from the 17% child support standard. The trial court also ordered that Karen be allowed to claim the tax exemption for Jalysse. Craig was again ordered to produce all of his tax returns and W-2 statements from the year 1990 through the present or, if unable to obtain that information, to provide proof that he had requested the information from the appropriate governmental agency.

¶18 The trial court then found Craig in contempt of the August 28, 2000 order that required him to provide all of the above information. Craig was ordered committed to the Kenosha county jail for six months as a result of the contempt finding; Craig could purge the finding of contempt if he complied with the conditions set forth by the court with respect to his tax returns and a financial

disclosure statement within thirty days of the date a copy of the order was personally served on him.

¶19 In addition, Karen's attorney reminded the court that at the November 8, 2000 hearing, the court had asked counsel to reduce the custody and placement agreement to writing and have all parties sign it. However, when the agreement was sent to Craig, he refused to sign it despite his earlier agreement to do so. The court then allowed Karen to submit an order for the court's signature implementing the previous agreement.

¶20 A written judgment memorializing all of the above was filed on January 18, 2001. Craig appeals this judgment.

DISCUSSION

¶21 Craig makes many vague arguments about the alleged inaccuracy or impropriety of the trial court's decision. However, most, if not all, of his arguments are contained in a jumbled, disorganized diatribe against the trial court and the proceedings herein, without citation to any legal authority. We are not required to consider undeveloped arguments, ***Truttschel v. Martin***, 208 Wis. 2d 361, 369, 560 N.W.2d 315 (Ct. App. 1997), and we may decline to review issues which are inadequately briefed. ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992). Thus, we will limit our review to the two major issues decided at the December 28, 2000 hearing, as memorialized in the judgment of paternity: establishment of child support at 17% and the finding of contempt.

¶22 A determination of child support is committed to the sound discretion of the circuit court. ***Raz v. Brown***, 213 Wis. 2d 296, 300, 570 N.W.2d 605 (Ct. App. 1997). We will sustain a discretionary decision if we find that the

trial court examined the relevant facts, applied a proper standard of law and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach. ***Id***.

¶23 A trial court, in setting child support, is statutorily obligated to use the percentage standards established by the Department of Health and Family Services. ***Id***. However, pursuant to WIS. STAT. § 767.25(1m), the trial court can deviate from these percentage standards. The party requesting a deviation from the percentage standards bears the burden of establishing by the greater weight of credible evidence that use of the percentage standard is unfair to the child or to any of the parties. ***Raz***, 213 Wis. 2d at 301, 303.

¶24 Here, the motion to deviate from the child support percentage standards was Craig's motion. However, Craig failed to appear at the hearing to address his own motion.[3] No evidence was presented in support of his motion and consequently Craig failed to meet his burden of proof. A denial of Craig's motion to deviate from the percentage standards was therefore not an erroneous exercise of discretion.

¶25 Craig also appears to challenge the trial court's finding of contempt. A person may be held in contempt of court if that person refused to abide by a valid court order; we will uphold a finding of contempt unless it is clearly erroneous. ***Haeuser v. Haeuser***, 200 Wis. 2d 750, 767, 548 N.W.2d 535 (Ct. App. 1996).

[3] Craig argues that on December 28, 2000, the court called the wrong phone number. However, the court called the number that Craig had provided to the court. Furthermore, this does not explain his unavailability at the December 4, 2000 hearing, wherein the trial court called the phone number Craig provided to the clerk at the November 8, 2000 hearing.

¶26 Here, the trial court found Craig in contempt for failure to comply with the court's order regarding full financial disclosure. On more than one occasion, Craig was ordered to provide all of his tax returns and W-2 statements from the year 1990 through the present, or proof that he had requested the information from the appropriate governmental agency, and a financial disclosure statement including information about his wife's current income. While Craig did provide the court with some financial information, he did not provide it with this specific court-ordered information, despite many requests or opportunities to do so, nor did Craig ever provide an explanation for his failure to comply with this court order.[4] We cannot say that the trial court erroneously exercised its discretion in finding Craig in contempt.

CONCLUSION

¶27 Craig did not appear at either the December 4 or the December 28, 2000 hearing. Therefore, he did not meet his burden of proof to allow the court to deviate from child support percentage standards. Furthermore, there is no evidence in the record that Craig ever provided all of his tax returns and W-2 statements from the year 1990 through the present, or proof that he had requested the information from the appropriate governmental agency, or a financial disclosure statement including information about his wife's current income, despite several court orders to do so. A finding of contempt was therefore an appropriate exercise of discretion and we affirm the judgment of the trial court.

[4] At the August 7, 2000 hearing, Craig implicitly refused to provide a financial disclosure statement including his wife's income and tax returns because "that's personal information - I don't know that that's related. They're jointly filed." Craig was informed that his wife's income was relevant because he continued to argue that he did not have the financial means to pay the percentage ordered.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.