MEMORANDUM DECISION

APPELLANT PRO SE

Scott C. Quick
Whitestown, Indiana

ATTORNEYS FOR APPELLEE

Jane Dall Wilson
Teresa A. Griffin
Bradley S. Boswell
Faegre Drinker Biddle & Reath LLP
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Scott C. Quick,
Appellant-Respondent,

v.

Sarah G. Billings,
Appellee-Petitioner

July 24, 2023

Court of Appeals Case No. 22A-DR-2022

Appeal from the Boone Circuit Court

The Honorable Thomas R. Lett, Special Judge

Trial Court Cause No. 06C01-1504-DR-301

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

[1] Since their 2016 divorce, Scott C. Quick ("Father") and Sarah G. Billings ("Mother") have been embroiled in litigation over issues related to custody of their children, parenting time, and financial matters. In this appeal, Father raises four narrow issues. Finding that Father is not entitled to relief, we affirm.

Facts and Procedural History

[2] Father and Mother divorced in December 2016. During their marriage, Father and Mother had three children: daughter S.Q. (now 20 years old), son T.Q. (now 16 years old), and daughter D.Q. (now 13 years old). Father and Mother share physical custody of T.Q. and D.Q. Father has legal custody of T.Q., and Mother has legal custody of D.Q. S.Q. has repudiated her relationship with Father.

[3] Father previously worked as an attorney but "let his law license lapse." Appellant's App. Vol. II p. 55. He now works at Lowe's. He is proceeding pro se; however, at earlier times he was represented by pro bono counsel. Mother "left a job at Barnes and Noble to pursue a degree." *Id.* at 56. She has always been represented by counsel and has incurred a significant amount of attorney's fees.

[4] Since their dissolution, Father and Mother—who, in the words of the trial court, have "animosity" for each other on a level rarely seen—have "refuse[d] to cooperate in even the most basic way" and have engaged in constant and contentious litigation over issues related to custody, parenting time, and financial matters. *Id.* at 54, 58. This case has involved the Department of Child Services, multiple law-enforcement agencies, criminal charges that have been dismissed, protection orders, a Parenting Coordinator who quit because it was "one of the most, if not the most, high conflict parenting coordination matters she had been involved in," and a change of judge. *Id.* at 110.

[5] This appeal, however, concerns four narrow issues: (1) Father's motions to show cause against Mother based on D.Q.'s failure to spend parenting time with him, (2) how to apportion future uninsured medical expenses between the parties, (3) whether Mother is entitled to claim the children for federal and state tax purposes in lieu of back child support owed by Father, and (4) Mother's request that Father pay a portion of her $150,000 in attorney's fees. The trial court held hearings over the course of three days (December 2021, March 2022, and April 2022) and issued an order in June 2022. We set forth the trial court's findings on these four issues:

- Father's Motions to Show Cause:

  a. Father did not complete his phase-in parenting time with [D.Q.] because she refused to go to Father's home and refused to get out of Mother's car during exchanges.

b. Mother used physical force, contacted the police for assistance (parenting time exchanges were at the police station) to get [D.Q.] physically out of her car and into Father's car and would ground her if she did not go with Father to parenting time.

c. Mother's attorney contacted Father asking him to work with her collaboratively to find a way to resolve the parenting time problem with [D.Q.]—even suggesting that they involve [D.Q.]'s counselor for resolution ideas—but Father refused to do so.

d. Father has filed numerous motions for contempt for the parenting time he did not receive due to [D.Q.] refusing to participate in parenting time.

e. Father had a co-parenting obligation to help Mother and pursuant to the Equitable Maxim "He who seeks equity must do equity" Father also had an obligation to try to resolve or at least improve the situation. If Father had any interest in spending time with [D.Q.] and improving his relationship with her, he would have made any effort to find out why she was so violently opposed to spending time with him. For these reasons, Father's motions for contempt are denied.

- Tax Deductions for Children and Uninsured Medical Expenses:

d. Father is voluntarily under employed, having left the practice of law for a job at Lowe[']s. Mother is voluntarily under employed, having left a job at Barnes and Noble to pursue a degree. The court imputes the Father's income at $820 and the Mother's income at $500. Pursuant to the Child Support Obligation Worksheet attached hereto, Father's child support obligation is $56 per week [an increase of $19 from his prior obligation]. . . .

* * * *

f. In lieu of back child support, Mother shall claim all Children each year for all state and federal tax purposes.

g. Uninsured medical, dental and optical expenses shall be paid equally, with Mother and Father each paying 50% due to the custodial arrangement. Within ten days of this Order, Father shall reimburse Mother in full for the balance of the outstanding medical expenses.

- Attorney's Fees:

a. Mother has incurred significant attorney fees in this matter (over $150,000 between two attorneys) and owes a balance of approximately $50,000 (no interest included) to Ms. [Christine] Douglas. The Father contributed to this by refusing to negotiate in good faith and by refusing to cooperate with the reasonable requests of Mother. The Mother contributed to this by refusing to accept the Orders of court when she did not agree with them. She also contributed by refusing to cooperate with Father in the every-day tasks of co-parenting.

b. The court has rarely seen the level of animosity between the parties as exhibited in this case. The court has pointed out its belief that both parties are at fault for this. The court feels that the Mother has pursued her own wishes over the best interests of the children in incurring much of this expense. The court further feels that some of this expense was necessitated by the conduct of the Father.

c. Due to Father's advantage of being an attorney, it was necessary for Mother to have counsel to represent her interests in this case.

> d. Although Father is an attorney, Paul Jefferson entered his "Limited Appearance" on June 18, 2018 on behalf of Father and represented him for 2½ years (his Appearance was withdrawn on December 22, 2020) appearing at hearings, depositions, mediations, [and] attorney conferences. Father did not pay Mr. Jefferson for his representation and testified that he received no benefit from his involvement in this case.
>
> e. The Court orders that [Father] pay $10,000.00 of the attorney fees incurred by [Mother] directly to her attorney, Christine Douglas, within ninety (90) days. . . .

Id. at 53-59 (formatting altered).

[6] Father now appeals.

Discussion and Decision

[7] We begin by noting that our review of this case is hindered by Father's failure to submit a transcript. Father sought to proceed in forma pauperis in this Court. When we denied his request, Father said that he would proceed without a transcript. Father does so at his own peril. As our Supreme Court has explained, "Generally, a transcript of the evidence and proceedings at trial must be included in the record for it to be deemed sufficient. Although not fatal to the appeal, failure to include a transcript works a waiver of any specifications of error which depend upon the evidence." *In re Walker*, 665 N.E.2d 586, 588 (Ind. 1996); *see also Garcia v. State*, 193 N.E.3d 1046, 1049 (Ind. Ct. App. 2022) ("An appellant has the responsibility to present a sufficient record that supports his claim in order for this court to conduct an intelligent review of the issues."

(quotation omitted)). Father has thus waived review of any issue that depends on the evidence. With this in mind, we now turn to the four issues that Father raises on appeal.[1]

[8] Father first contends the trial court erred in denying his six motions to show cause, which alleged that Mother should be found in contempt for not doing more to make D.Q. spend parenting time with him as ordered by the court in December 2020. *See Henderson v. Henderson*, 919 N.E.2d 1207, 1210 (Ind. Ct. App. 2010) ("Generally, a person who willfully disobeys any order lawfully issued by any court of record or by the proper officer of the court is guilty of indirect contempt."). Specifically, Father argues that several of the court's findings are erroneous and that the evidence supports "exactly the opposite" of what the court found, namely, that Mother was solely to blame for D.Q.'s failure to spend parenting time with him. Appellant's Br. p. 37. But without a transcript, Father can't challenge the court's findings on this issue. And the findings that the court made support its determination that Mother should not be held in contempt for not doing more to make D.Q. spend parenting time with Father given that Father himself could have done more.

[9] Father next contends the trial court erred in allowing Mother to claim the children for state and federal tax purposes "[i]n lieu of back child support." In

---

[1] Father appears to raise additional issues in his reply brief. However, it is well settled that a party may not raise an argument for the first time in its reply brief. *See Akin v. Simons*, 180 N.E.3d 366, 375 (Ind. Ct. App. 2021).

the Final Settlement Agreement, the parties agreed to a procedure for claiming the children on their taxes. However, in July 2019, the trial court found that Father owed $2,072.00 in back child support and $2,139.45 in uninsured medical expenses and ordered that Father "shall not be entitled to claim the children as a deduction pursuant to the Final Settlement Agreement until his arrearage has been paid and he is current on his child support obligations." Appellant's App. Vol. II p. 99. In its December 2020 order, the court found that Father was still "behind on child support." *Id.* at 123; Appellee's App. Vol. II p. 33 (amended order dated February 2021).

[10] Father claims that at the time of the hearings that are the basis of the order now being appealed, he no longer owed back child support or, if he did, the amount was so low ($1,482) as to not justify allowing Mother to claim the children on her taxes (which he asserts is worth $25,000-$50,000). In support of these claims, Father notes that the trial court did not calculate the alleged amount of back child support he owed in its order. The problem with Father's argument is that we don't have a transcript of the hearings to determine whether back child support was addressed or calculated. We only have the trial court's finding—which Father can't challenge without a transcript—that he owed back child support. Father has thus waived review of this issue.

[11] Father next contends the trial court erred in "split[ting] all uninsured medical expenses 50%-50%, without regard to the 6% Rule." Appellant's Br. p. 19. Indiana Child Support Guideline 7 describes the 6% Rule as follows:

> Ordinary uninsured health care expenses are paid by the parent who is assigned to pay the controlled expenses (the parent for whom the parenting time credit is not calculated) up to six percent (6%) of the basic child support obligation (Line 4 of the Child Support Obligation Worksheet).

The commentary further explains:

> After the custodial parent's obligation for ordinary uninsured health care expenses is computed, provision should be made for the uninsured health care expenses that may exceed that amount. The excess costs should be apportioned between the parties according to the Percentage Share of Income computed on Line 2 of the Worksheet.[2] **Where imposing such percentage share of the uninsured costs may work an injustice, the court may resort to the time-honored practice of splitting uninsured health care costs equally, or by using other methods.**

(Emphasis added).

[12] Father claims the trial court should have explained why it did not use the 6% Rule. But as Mother points out, the court did just that when it ordered that "Uninsured medical, dental and optical expenses shall be paid equally, with Mother and Father each paying 50% **due to the custodial arrangement**." Again, the custodial arrangement is that Mother and Father share physical custody of T.Q. and D.Q. while Father has legal custody of T.Q. and Mother

[2] Here, Father's percentage share is 62.12% and Mother's is 37.88%. Notably, Father does not assert that the 50-50 split of uninsured health-care expenses puts him in a worse position than if Mother had to pay the first 6% and he had to pay 50% of the remaining (as opposed to 62.12%).

has legal custody of D.Q. Given this arrangement, the court acted well within its discretion in "resort[ing] to the time-honored practice of splitting uninsured health care costs equally."[3]

[13] Finally, Father contends the trial court erred in ordering him to pay $10,000 of Mother's $150,000 in attorney's fees, which she incurred between November 2019 (when Christine Douglas entered an appearance for Mother) and April 2022 (the date of the last hearing). *See* Appellant's App. Vol. II p. 214.[4] Specifically, Father argues that many of the trial court's findings on this issue are not "accurate." Appellant's Br. p. 25.[5] But as already explained, without a transcript Father cannot challenge the accuracy of the court's findings. And the findings that the court made—specifically, that Mother has incurred over $150,000 in attorney's fees, both parties are to blame for the post-dissolution litigation, and Father contributed to some of Mother's attorney's fees—

[3] In his reply brief, Father says this issue is likely "moot" "as the Children are primarily covered by Father's insurance, and any remaining balances are generally covered by their own Medicare policies." Appellant's Reply Br. p. 15.

[4] Father claims that the original judge ordered the parties to pay their own attorney's fees through December 2020 and therefore the trial court shouldn't have considered the full amount of Mother's attorney's fees when determining how much Father was responsible for. Although the court's December 2020 order provides that the parties are responsible for their own attorney's fees, *see* Appellant's App. Vol. II p. 133, the court later granted Mother's motion to reconsider and entered an amended order on February 1, 2021, which provides that "Attorneys fees of the parties and other financial issues not previously addressed remain pending," Appellee's App. Vol. II p. 43. The new judge assumed jurisdiction on February 22, 2021.

[5] Father did not cite any statute or case law on this issue in his opening brief. In his reply brief, Father cites several statutes and argues that attorney's fees are not available under them. Father, however, cannot raise new issues in his reply brief.

adequately support its determination that Father is responsible for just $10,000 of Mother's attorney's fees.

[14] Affirmed.

Mathias, J., and Pyle, J., concur.