MEMORANDUM DECISION

APPELLANT PRO SE

Meleeka Clary-Ghosh
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APPELLEE PRO SE

Michael Ghosh
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IN THE COURT OF APPEALS OF INDIANA

Meleeka Clary-Ghosh,
Appellant / Cross-Appellee-Respondent,

v.

Michael Ghosh,
Appellee / Cross-Appellant-Petitioner.

December 4, 2023

Court of Appeals Case No. 23A-DC-1049

Appeal from the Madison Circuit Court

The Honorable Mark K. Dudley, Judge

The Honorable C. William Byer, Jr., Master Commissioner

Trial Court Cause No. 48C06-1906-DC-305

Memorandum Decision by Judge Tavitas
Judges Pyle and Foley concur.

Tavitas, Judge.

Case Summary

[1] This appeal stems from the dissolution of marriage between Michael Ghosh ("Father") and Meleeka Clary-Ghosh ("Mother"). The trial court awarded physical custody of the parties' child (the "Child") to Father and, in 2014, ordered Mother to pay child support. Mother filed motions to modify her child support obligations in 2015 and 2016. In 2016 and 2018, the trial court issued orders that denied Mother's motions to modify child support, resolved other pending motions, and awarded attorney fees to Father. The trial court's 2018 denial of Mother's motion for modification of child support, however, was reversed and remanded on appeal, and the trial court later reduced Mother's child support obligations.

[2] Mother then filed a motion for relief from judgment and argued that both the 2016 and 2018 attorney fee awards should be set aside. Father opposed the motion and requested additional attorney fees for defending against it. The trial court denied both Mother's motion for relief from judgment and Father's request for additional attorney fees. Both parties appeal and argue that the trial court abused its discretion. We disagree with both parties and affirm the trial court.

Issues

[3] Mother raises one issue on appeal, which we restate as whether the trial court abused its discretion by denying her motion for relief from judgment. Father

raises one additional issue, which we restate as whether the trial court abused its discretion by denying his request for additional attorney fees.

Facts

[4] In a previous appeal, this Court recounted the history of this litigation as follows:

> Father and Mother were married, and in 2009, Father filed a petition for dissolution of the marriage. The parties share one child ("Child"), who was born on June 26, 2008, and Mother has two adult daughters ("Daughters") from a prior relationship. In August 2010, the trial court awarded physical and legal custody of Child to Father, and the court awarded parenting time to Mother. The trial court did not order Mother to pay child support. However, in July 2014, the trial court ordered Mother to pay Father child support in an amount of $63[.33] per week based on imputed income to Mother of $40,000 per year.

Ghosh v. Clary-Ghosh, No. 21A-DC-2882, slip op. at 2 (Ind. Ct. App. Aug. 8, 2022) (mem.). In reaching its child support determination, the trial court considered evidence that Father was working at a law firm and earning approximately $92,000 per year and that Mother was an unemployed, full-time doctoral student receiving student loans. *Clary-Ghosh v. Ghosh*, 18A-DR-821, slip op. at 5 (Ind. Ct. App. Dec. 5, 2018) (mem.). Accordingly, the trial court imputed annual income of $40,000 to Mother. *Id*.

[5] Mother filed a motion to modify her child support obligations on October 28, 2015. The trial court held several hearings on this motion,[1] and on October 27, 2016, the trial court issued a detailed order ("2016 Order"). Regarding Mother, the trial court found: (1) Mother had been a full-time doctoral student for eight years and had "income" from student loans, which totaled $44,975 in 2015 after deducting tuition; (2) although Mother claimed she was unemployed and earned no income, Mother had signed a credit application "wherein she claim[ed] to be employed by MCM Fashions earning $100,000 per year in a position she had held for four years"; and (3) Father obtained via third-party production a bank account in MCM Fashions's name, which Mother used "as her personal checking account," although Mother denied the existence of the account. Appellant's App. Vol. II pp. 76-77. Regarding Father, the trial court found that Father was earning substantially less than before because Father left the law firm and started his own practice.

[6] The trial court found that, since the 2014 child support order, Mother's income had increased and Father's income had decreased. Accordingly, the trial court increased Mother's child support payments to $131 per week. Additionally, the trial court found, "[Father] has incurred substantial fees in this proceeding. Much of those fees have resulted from the efforts of [Mother] to delay and oppose discovery regarding the very facts she is required to present to support

[1] The record does not include transcripts of these proceedings.

her claim for modification." *Id*. at 81. The trial court awarded Father $17,000 in attorney fees. Mother did not appeal the trial court's order.

[7] On December 2, 2016, Father petitioned to hold Mother in contempt for failing to pay child support. On December 5, 2016, Mother filed a second motion to modify her child support obligations. Mother also filed motions to modify custody and parenting time. The trial court held several hearings on these motions[2] and issued a comprehensive order on February 27, 2018 ("2018 Order"). The trial court found the following:

> [M]other has the ability to pay her child support obligations. In addition to working part time, she apparently has the time and resources to spend working on her dissertation, and she apparently has time and resources sufficient to travel to audition for movies, and to travel extensively for enjoyment and/or other personal reasons. . . . The Court additionally finds that Mother has willfully disregarded her obligations to pay child support. . . .

Id. at 88. Accordingly, the trial court granted Father's contempt petition and denied Mother's motion to modify her child support obligations. The trial court also denied Mother's motions to modify custody and parenting time and awarded Father $14,000 in attorney fees "as same are attributable only to the

[2] The record does not include transcripts of these proceedings.

six Motions and Petitions filed and argued in this case since December 2, 2016."[3] *Id*. at 91.

[8] Mother appealed the 2018 Order. In an unpublished opinion, a panel of this Court determined that the trial court abused its discretion by denying Mother's second motion to modify her child support obligations in light of evidence that "[f]ollowing the [2016 Order], Mother obtained a job and [worked] twenty hours a week with a base pay of $8 an hour or $160 per week." *Clary-Ghosh*, 18A-DR-821, slip op. at 21. Accordingly, the Court remanded for further proceedings on the issue of Mother's child support payments. The Court, however, affirmed the trial court's denial of Mother's motions to modify custody and parenting time, contempt finding, and award of attorney's fees to Father. *See generally id*. Regarding the attorney fee award, this Court catalogued the six litigation events to which the trial court referred in awarding those fees and stated:

> While we note that Mother was successful in her motion to change the judge[4] and the appointment of a GAL, Mother

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[3] The six litigation events included: (1) Father's December 2, 2016 petition to hold Mother in contempt for failing to pay child support; (2) Mother's December 5, 2016 petition to modify child support; (3) Mother's December 12, 2016 motion for change of judge and venue; (4) Mother's January 3, 2017 motion to modify legal custody and parenting time and to appoint a parenting time coordinator and guardian ad litem; (5) Mother's emergency motion to hold Father in contempt regarding "phone calls, texting, the right of first refusal, and the sharing of school information"; and (6) the trial court's denial of Mother's motion to correct error. *Clary-Ghosh*, 18A-DR-821, slip op. at 28.

[4] Judge William J. Hughes recused himself from the case on December 14, 2016. In his notice of recusal, Judge Hughes noted that Mother sought Judge Hughes's removal "on three occasions . . . within days after she received adverse rulings" and that Mother had filed a tort claim against Judge Hughes based on one of his rulings. Appellee's App. Vol. II p. 2. Judge Hughes denied actual bias; however, he recused himself

> persisted in filing motions seeking to achieve the same result, and Father presented evidence of the legal fees he has incurred since December 2016. Mindful of the trial court's discretion in awarding attorney's fees and Mother's numerous filings, we cannot say that the trial court improperly granted Father an award of attorney's fees.

Id. at 28-29. The opinion was certified on May 8, 2019.

[9] Following Mother's appeal, venue was transferred from the Hamilton Superior Court to the Madison Circuit Court. On November 10, 2020, the trial court issued an order that reduced Mother's child support payments to "$16 per week retroactive to December 5, 2016."[5]

[10] On February 14, 2023, Mother filed a motion for relief from judgment under Trial Rule 60(B)(7). Mother argued that both the 2016 award of $17,000 in attorney fees and the 2018 award of $14,000 in attorney fees should be vacated because the awards were "based on the denial" of Mother's motions to modify child support. Appellant's App. Vol. II p. 70.

[11] Father opposed the motion for relief from judgment and argued that he was entitled to additional attorney fees for defending against it. He argued that Mother's motion was not filed within a reasonable time and was frivolous.

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because presiding over the proceedings while also being a party to litigation with Mother in another matter would create the appearance of an impropriety.

[5] The record does not include this order, which we cite from Odyssey. Father and Mother both appealed the November 10, 2020 order, and in an unpublished opinion, this Court affirmed the order in all respects. *Ghosh v. Clary-Ghosh*, No. 21A-DC-2882 (Ind. Ct. App. Aug. 8, 2022) (mem.).

Father also indicated that he had recently been awarded judgment against Mother based on Mother's fraudulent transfer of assets to MCM Fashions.[6]

[12] The trial court held a hearing on Mother's motion for relief from judgment on April 5, 2023. Regarding Mother's challenge to the 2016 and 2018 attorney fee awards, the trial court noted that those awards "[were not] because of the single issue of support modification." Tr. Vol. II p. 10. As for Father's request for additional attorney fees for defending against Mother's motion for relief from judgment, the trial court stated, "[Mother] is here today because she is having [a] difficult time getting attorney fees already ordered paid, so it would probably be hard to ask . . . ." *Id*. at 13-14.

[13] On April 12, 2023, the trial court issued its order denying Mother's motion for relief from judgment and denying Father's request for additional attorney fees. Mother appeals, and Father cross-appeals.

Discussion and Decision

[14] Mother argues that the trial court erred by denying her motion for relief from judgment. On cross-appeal, Father argues that the trial court erred by denying his request for additional attorney fees for defending against Mother's motion

[6] Mother and the other defendants appealed this judgment, and a panel of this Court affirmed except for the trial court's award of attorney fees under Indiana's Uniform Fraudulent Transfer Act. *Clary-Ghosh v. Ghosh*, No. 22A-PL-1411 (Ind. Ct. App. Sep. 18, 2023) (mem.), *reh'g denied*.

for relief from judgment. We are not persuaded by either party, and we affirm the trial court in all respects.

I. Mother's Motion for Relief from Judgment

[15] Trial Rule 60(B) provides in relevant part:

> On motion and upon such terms as are just the court may relieve a party or his legal representative from a judgment, including a judgment by default, for the following reasons:
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> * * * * *
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> (7) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application[.]
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> * * * * *
>
> The motion shall be filed within a reasonable time for reasons (5), (6), (7), and (8). . . .

[16] "'To establish that it is no longer equitable for a final judgment to have prospective application the movant must show that there has been a change of circumstances since the entry of the original judgment and that the change of circumstances was not reasonably foreseeable at the time of entry of the original judgment.'" *Centennial Park, LLC v. Highland Park Estates, LLC*, 151 N.E.3d 1230, 1237 (Ind. Ct. App. 2020) (quoting *McIntyre v. Baker*, 703 N.E.2d at 172, 174-75 (Ind. Ct. App. 1998)), *trans. denied*. The trial court must then "'balance

the alleged injustice suffered by the party moving for relief against the interests of the winning party and society in general in the finality of litigation.'" *Crafton v. Gibson*, 752 N.E.2d 78, 83 (Ind. Ct. App. 2001) (quoting *Chelovich v. Ruff & Silvian Agency*, 551 N.E.2d 890, 892 (Ind. Ct. App. 1990)). On appeal:

> "[o]ur scope of review for the grant or denial of a T.R. 60(B) motion is limited to whether the trial court abused its discretion. An abuse of discretion occurs where the trial court's judgment is clearly against the logic and effect of the facts and inferences supporting the judgment for relief. Second, [when] the trial court enters a general judgment, we will affirm on any theory supported by the evidence of record."

Centennial Park, LLC, 151 N.E.3d at 1233-34 (quoting *McIntyre*, 703 N.E.2d at 174).

[17] In this case, the trial court denied Mother's request to set aside the trial court's 2016 and 2018 attorney fee awards. Pursuant to Indiana Code Section 31-15-10-1(a):

> The court periodically may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this article and for attorney's fees and mediation services, including amounts for legal services provided and costs incurred before the commencement of the proceedings or after entry of judgment.

"In determining whether to order a party to pay some or all of the other party's attorney's fees, the trial court may consider 'the parties' resources, economic condition, ability to engage in gainful employment and earn income,

and other factors bearing on the reasonableness of the award.'" *Israel v. Israel*, 189 N.E.3d 170, 179 (Ind. Ct. App. 2022) (quoting *Ahls v. Ahls*, 52 N.E.3d 797, 803 (Ind. Ct. App. 2016)), *trans. denied*. Additionally, our Courts maintain inherent authority to "award attorney's fees after finding that a party has acted in bad-faith and such conduct is calculatedly oppressive, obdurate, or obstreperous—even when no statutory or common-law exception to the American Rule applies." *River Ridge Dev. Auth. v. Outfront Media, LLC*, 146 N.E.3d 906, 915-16 (Ind. 2020) (internal quotation omitted).

[18] We conclude that the trial court here did not abuse its discretion by denying Mother's motion for relief from the 2016 and 2018 attorney fee awards. Mother argues that both attorney fee awards were based on the denial of her motions to modify her child support obligations. She further argues that the reduction of her child support payments constitutes a change in circumstances that renders the attorney fee awards inequitable.

[19] Contrary to Mother's assertion, the trial court's 2016 award of attorney fees was not based on the denial of Mother's motion to modify child support. Rather, that award was based on Mother's "efforts . . . to delay and oppose discovery . . . ." Appellant's App. Vol. II p. 81; *see* T.R. 26(B)(1) ("Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject-matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party[.]"). Likewise, the trial court's 2018 award of attorney fees was also not based solely on the denial of Mother's motion to modify child support. That award was

based on Mother's repetitive filings, several of which were unsuccessful. The fact that Mother's child support payments were eventually reduced does not cure Mother's conduct during the litigation on which the attorney fee awards were based.

[20] Moreover, throughout the proceedings, Mother was not forthright regarding her finances. In its 2016 Order, the trial court found that, although Mother claimed to be a full-time student earning no income, she signed a credit application wherein she claimed to be employed by MCM Fashions and earning $100,000 per year in a position she held for four years. Mother claimed that the monies she received from MCM Fashions were "loans from her brother[,] who is the true owner of MCM Fashions," although she presented no documentation of her brother's ownership. Appellant's App. Vol. II p. 77. Additionally, Father obtained records of a checking account that Mother denied existed. The account was in MCM Fashions's name; however, Mother used the account as her own.

[21] Meanwhile, in its 2018 Order, the trial court observed that, although Mother claimed she could not pay child support, Mother had an "extensive record" of out-of-state and international travel for personal reasons. *Id*. at 88. Based on Mother's conduct during the litigation, the trial court was well within its equitable discretion to leave the attorney fee awards intact.

Mother also argues that, at the time the trial court awarded the 2016 and 2018 attorney fees to Father, the trial court failed to determine the parties' financial

circumstances. This argument should have been raised in a direct appeal of those attorney fee awards and is not a proper argument under Trial Rule 60(B)(7). Mother already appealed the 2018 attorney fee award and was unsuccessful, and Mother did not appeal the 2016 award. Moreover, the parties' financial information was clearly before the trial court as a part of the child support modification proceedings and, as discussed above, Mother was not forthright regarding her finances. The trial court did not abuse its discretion by denying Mother's motion for relief from judgment.

II. Father's Request for Additional Attorney Fees

[22] As for Father's challenge to the trial court's denial of his request for additional attorney fees, Father argues that the trial court should have awarded him attorney fees for defending against Mother's motion for relief from judgment because Mother did not file the motion within a reasonable time, the motion was frivolous, and because of Mother's "lengthy history of financial obfuscation," including using MCM Fashions to hide her assets. Appellee's Br. p. 15. Father also argues that the trial court did not consider Mother's "true financial condition," which would support an award of additional attorney fees. *Id*. at 16. The trial court observed that Mother was having difficulty paying the existing attorney fee orders. Mindful of the trial court's broad discretion in awarding attorney fees, we cannot say that the trial court abused its discretion by declining to sanction Mother with additional attorney fees.

Conclusion

[23] The trial court did not abuse its discretion by denying Mother's motion for relief from judgment, and it did not abuse its discretion by denying Father's request for additional attorney fees. Accordingly, we affirm.

[24] Affirmed.

Pyle, J., and Foley, J., concur.