

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-19

Filed 17 September 2024

Mecklenburg County, No. 20 CVD 15708

DAVID W. HANDS, Plaintiff,

v.

TYYAWDI M. HANDS, Defendant.

Appeal by Plaintiff from Orders entered 9 June 2023, 6 July 2023 and 11 July 2023 by Judge Dennis J. Redwing in Mecklenburg County District Court. Heard in the Court of Appeals 15 May 2024.

*Justice in Action Law Center, by Alesha S. Brown, for Plaintiff-Appellant.*

*Tin Fulton Walker & Owen, PLLC, by Zachary Ezor, for Defendant-Appellee.*

HAMPSON, Judge.

**Factual and Procedural Background**

David W. Hands (Plaintiff) appeals from an Order Re: Contempt, Order Denying Plaintiff's Motion to Change Venue, and Order denying Plaintiff's Motions under Rule 52 and Rule 59. The Record before us tends to reflect the following:

Plaintiff and Tyyawdi M. Hands (Defendant) were married on 6 September

HANDS V. HANDS

*Opinion of the Court*

2008 and had two children during the marriage. On or about 15 October 2019, the parties separated. Plaintiff initiated this suit by filing a Complaint for Equitable Distribution in Mecklenburg County on 20 November 2020. On 25 November 2020, Defendant filed an Answer as well as counterclaims, including a claim for child support. The case was initially assigned to a Mecklenburg County District Court judge; however, at the parties' joint request, the matter was reassigned to the Honorable Dennis J. Redwing of Gaston County. The parties were granted a divorce on 30 November 2020. They agreed to equitable distribution by consent judgment and to a custody arrangement; however, they did not reach an agreement on child support and so proceeded to trial on that issue.

During discovery, Plaintiff failed to timely comply with some discovery requests and provided "severely deficient" responses to other requests. Plaintiff failed to appear for his scheduled deposition on 3 May 2021. In response, Defendant filed a Motion to Compel and a Motion for Sanctions the same day. The trial court heard arguments on Defendant's Motions on 15 March 2022. On 18 March 2022, the trial court granted Defendant's Motion to Compel, ordering Plaintiff to attend a rescheduled deposition and reimburse Defendant for related attorney fees and costs totaling \$2,311.00. In its Order, the trial court made Findings of Fact detailing Plaintiff's unexcused absence from his deposition and the costs Defendant incurred as a result.

On 3 August 2022, Plaintiff filed an abbreviated financial affidavit in violation

HANDS V. HANDS

*Opinion of the Court*

of Local Rules. In response, Defendant filed a Motion in Limine on 12 August 2022. On 15 August 2022, Defendant's child support claim came on for trial. At trial, the trial court granted Defendant's Motion in Limine and, as a sanction for discovery violations and violations of the North Carolina Rules of Civil Procedure and Local Rules, precluded Plaintiff from presenting evidence about his expenses, including expenses related to the minor children.

On 28 October 2022, the trial court entered an Order Re: Permanent Child Support and Attorney's Fees (the 28 October Order). In the 28 October Order, the trial court made over 150 Findings of Fact detailing, among other matters, both parties' finances, Plaintiff's discovery and Rules violations, the needs and expenses of the minor children, and how the trial court calculated expenses and income. It also ordered Plaintiff to pay Defendant child support in the amount of \$2,785.09 per month effective 1 January 2022, as well as child support arrears and attorney fees.

On 7 November 2022, Plaintiff filed Motions for New Trial, Amendment of Findings, Additional Findings, and Amendment of Judgment pursuant to Rule 52(b) and Rule 59 of the North Carolina Rules of Civil Procedure. In response, Defendant filed a Motion to Dismiss, Motion for Sanctions, and Motion for Contempt and Attorney's Fees on 28 December 2022. On 17 March 2023, Plaintiff additionally filed a Motion to Change Venue and Motion to Modify Child Support. Defendant again filed a Motion to Dismiss and Motion for Sanctions. On 19 April 2023, the trial court issued an Order to Show Cause. Defendant filed an Amended Motion for Contempt

HANDS V. HANDS

*Opinion of the Court*

on 25 May 2023. The trial court issued a Second Order to Show Cause the same day.

On 30 and 31 May 2023, the trial court held hearings to address the pending Motions. During the hearing on Defendant's Motion for Contempt, Plaintiff argued he had not paid the full amount of child support owed because he could not afford to. Plaintiff attempted to introduce evidence about his income and expenses, purporting to show Plaintiff's income was lower than the trial court had found in its 28 October Order. Defendant objected, arguing the trial court had already established Plaintiff's income, "[a]nd until there's a modification, his income is as reflected in the Court's [O]rder." Further, "the Court determined what [Plaintiff's] income was and his ability to pay was and effectively re-litigating that issue isn't appropriate for contempt." The trial court sustained Defendant's objection and precluded Plaintiff from testifying about the new financial affidavit he had filed a week before the hearing, as well as expenses not listed on his original 2022 financial affidavit. Over the two days of hearings, the trial court also heard arguments on Plaintiff's Rule 52(b) and Rule 59 Motions, Motion to Change Venue, and Motion to Modify Child Support.

On 9 June 2023, the trial court entered an Order Re: Contempt, holding Plaintiff in civil contempt and ordering him to pay Defendant \$44,652.24, "consisting of \$11,175.45 in unpaid child support. . . ; \$4,570.18 in additional child support arrears . . . ; \$8,982.61 in unpaid child support arrears . . . ; \$7,000 in unpaid attorney's fees awarded to Defendant/Mother under the Order . . . ; and \$12,924.00 in reasonable attorneys' fees related to the prosecution of Defendant/Mother's *Motion*

*for Contempt[.]*” On 6 July 2023, the trial court denied Plaintiff’s Motion to Change Venue. Plaintiff filed Notice of Appeal from the trial court’s Order Re: Contempt and Order Denying Plaintiff’s Motion to Change Venue the next day. On 11 July 2023, the trial court entered an Order denying Plaintiff’s Motions under Rule 52(b) and Rule 59. On 14 July 2023, Plaintiff filed Notice of Appeal from that Order.

### **Issues**

The issues on appeal are whether the trial court erred by: (I) granting Defendant’s Motion in Limine; (II) denying Plaintiff’s Rule 52 and Rule 59 Motions; (III) holding Plaintiff in civil contempt and awarding attorney fees to Defendant; and (IV) denying Plaintiff’s Motion to Change Venue.

### **Analysis**

At the outset, we note Plaintiff does not appeal from the underlying 28 October Order, which calculated his income, granted Defendant’s Motion in Limine, and awarded child support and attorney fees to Defendant. Consequently, with respect to several of his arguments addressed below, Plaintiff is limited to challenging the trial court’s decision not to revisit determinations made in that Order.

#### **I. Defendant’s Motion in Limine**

To properly contextualize Plaintiff’s claims, we begin with Defendant’s Motion in Limine. Plaintiff argues the trial court abused its discretion in declining to revisit its decision to grant Defendant’s Motion in Limine. We disagree.

Rule 37 of the North Carolina Rules of Civil Procedure provides that a court may impose sanctions on a party for discovery violations. The statute provides:

If a party . . . fails (i) to appear before the person who is to take the deposition, after being served with a proper notice, . . . the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under subdivisions a, b, and c of subsection (b)(2) of this rule.

N.C. Gen. Stat. § 1A-1, Rule 37(d) (2023). Such sanctions include “[a]n order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the party from introducing designated matters in evidence[.]” N.C. Gen. Stat. § 1A-1, Rule 37(b)(2)(b) (2023).

“[T]he trial judge has broad discretion in imposing sanctions to compel discovery under Rule 37.” *F.E. Davis Plumbing Co. v. Ingleside W. Assocs.*, 37 N.C. App. 149, 153, 245 S.E.2d 555, 557, *cert. denied*, 295 N.C. 648, 248 S.E.2d 250 (1978) (citation omitted). “[T]he imposition of particular sanctions under Rule 37(d) is subject to the sound discretion of the trial judge.” *Batlle v. Sabates*, 198 N.C. App. 407, 418, 681 S.E.2d 788, 796 (2009) (citing *Hammer v. Allison*, 20 N.C. App. 623, 627, 202 S.E.2d 307, 309, *cert. denied*, 285 N.C. 233, 204 S.E.2d 23 (1974) and *Hursey v. Homes by Design, Inc.*, 121 N.C. App. 175, 177, 464 S.E.2d 504, 505 (1995)). “This Court reviews the trial court’s action in granting sanctions pursuant to Rule 37 . . . for abuse of discretion.” *Fayetteville Publ’g Co. v. Advanced Internet Techs., Inc.*, 192 N.C. App. 419, 424, 665 S.E.2d 518, 522 (2008) (citing *Baker v. Charlotte Motor*

*Speedway, Inc.*, 180 N.C. App. 296, 299, 636 S.E.2d 829, 831 (2006)). An abuse of discretion occurs where “a decision is manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision.” *Stephens v. Stephens*, 213 N.C. App. 495, 503, 715 S.E.2d 168, 174 (2011) (citation omitted).

On 12 August 2022, Defendant filed a Motion in Limine to prohibit Plaintiff “from presenting any testimony, evidence, or arguments to the Court regarding his or the parties’ minor children’s expenses, and rental property expenses in defense of Defendant/Mother’s claim for child support.” Defendant’s Motion was based on Plaintiff’s numerous discovery violations, violations of the North Carolina Rules of Civil Procedure, and violations of local court rules. On 15 August 2022, at the hearing on child support and child custody, the trial court orally granted Defendant’s Motion.

In its 28 October Order, the trial court addressed Defendant’s Motion and Plaintiff’s numerous discovery and rules violations, including making the following Findings:

9. While Plaintiff/Father filed and served what he purported to be his Financial Affidavit on August 3, 2022, his Financial Affidavit was incredibly incomplete and failed to comply with the Local Rules.
10. Despite very clear instructions in the Local Rules, Plaintiff/Father only completed the first and second page of the Financial Affidavit thereby failing to complete and/or serve the entire form as required by the Local Rules. . . .
11. Plaintiff/Father’s Financial Affidavit indicated that he receives rental income in the amount of \$500.00 per month, but

Plaintiff/Father failed to complete the Rental Expense Worksheet as required by the Local Rules.

12. Plaintiff/Father's failure to properly complete his Financial Affidavit with evidence of his or the minor children's expenses, left Defendant/Mother without information regarding same with which to adequately prepare for trial. In addition, Plaintiff/Father's failure to provide the required information made it impossible for this Court to make a determination about the reasonable needs and expenses of Plaintiff/Father and the minor children when in his care.

13. A court may impose sanctions against a parent who fails to provide suitable documentation of his income upon motion of a party or by the court on its own motion. *See State ex rel. Midgett v. Midgett*, 199 N.C. App. 202, 680 S.E.2d 876 (2009).

14. As a result of Plaintiff/Father's failure to file a complete Financial Affidavit, in the Court's discretion to impose a sanction, and upon Defendant/Mother's Motion *in Limine*, the Court precluded Plaintiff/Father from presenting evidence of his or the minor children's expenses or expenses related to his rental property during trial.

The trial court clearly articulated Findings of Fact supporting its decision to grant Defendant's Motion in Limine. Further, as the trial court noted, when a party fails to provide adequate documentation of his income, "sanctions may be imposed . . . on the motion of [a party] or by the court on its own motion." *State ex rel. Midgett v. Midgett*, 199 N.C. App. 202, 210, 680 S.E.2d 876, 881 (2009) (quoting N.C. Child Support Guidelines, "(4) Income Verification"). Given the trial court's Findings, as well as its authority to impose sanctions for failure to provide suitable documentation to verify income, the trial court did not abuse its discretion in declining to revisit its decision on Defendant's Motion in Limine.



II. Plaintiff's Rule 52 and Rule 59 Motions

Plaintiff filed Motions pursuant to Rule 52(b) and Rule 59 of the North Carolina Rules of Civil Procedure to reopen the Judgment, take additional testimony, amend the trial court's Findings, make additional Findings, and amend the Judgment. The trial court denied these Motions in an Order Re: Plaintiff/Father's Motions Under Rule 52 and 59 (Rule 52 and 59 Order), which Plaintiff contends was an abuse of discretion.

"Child support orders entered by a trial court are accorded substantial deference by appellate courts and our review is limited to a determination of whether there was a clear abuse of discretion." *Leary v. Leary*, 152 N.C. App. 438, 441, 567 S.E.2d 834, 837 (2002) (citation omitted). "In a child custody case, the trial court's findings of fact are conclusive on appeal if supported by substantial evidence, even if there is sufficient evidence to support contrary findings. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Carpenter v. Carpenter*, 225 N.C. App. 269, 270, 737 S.E.2d 783, 785 (2013) (quoting *Peters v. Pennington*, 210 N.C. App. 1, 12-13, 707 S.E.2d 724, 733 (2011)). An abuse of discretion occurs where a court's action is "so arbitrary that it could not have been the result of a reasoned decision." *Spicer v. Spicer*, 168 N.C. App. 283, 287, 607 S.E.2d 678, 682 (2005) (citation omitted).

Rule 52(b) of the North Carolina Rules of Civil Procedure provides: "Upon motion of a party made not later than 10 days after entry of judgment the court may

HANDS V. HANDS

*Opinion of the Court*

amend its findings or make additional findings and may amend the judgment accordingly.” N.C. Gen. Stat. § 1A-1, Rule 52(b) (2023). Rule 59 provides grounds upon which a new trial may be granted including, as Plaintiff’s Motions alleged,

(1) Any irregularity by which any party was prevented from having a fair trial;

. . . .

(3) Accident or surprise which ordinary prudence could not have guarded against;

. . . .

(6) Excessive or inadequate damages appearing to have been given under the influence of passion or prejudice; [and]

(7) Insufficiency of the evidence to justify the verdict or that the verdict is contrary to law[.]

N.C. Gen. Stat. § 1A-1, Rule 59(a) (2023).

On appeal, Plaintiff contends the trial court incorrectly calculated his income for purposes of determining child support, constituting an abuse of discretion. Plaintiff specifically contests the inclusion of certain items in his gross income, including proceeds from the sales of property, two deposits sent to him by family members, and various deposits he characterizes as cash advances, reimbursements, and refunds. Plaintiff also contends the trial court erred by failing to amend the 28 October Order to include Plaintiff’s expenses. Additionally, Plaintiff argues the trial

court's award of attorney fees to Defendant was in error. We address each issue in turn.<sup>1</sup>

A. *Plaintiff's Income*

Plaintiff first contends the trial court erred in calculating his child support obligation by treating certain alleged “single deposits” as income. Specifically, Plaintiff contests the inclusion of the proceeds from the sales of property totaling \$362,892.40; what he refers to as “loans” of \$100,000 from his then-fiancée and \$50,000 from his brother; and a variety of other deposits he alleges were cash advances from his credit card company, reimbursements from his mother for payments made on her behalf, refunds for certain purchases and overpayments, and transfers from some of his other accounts. Further, he contends it was error for the trial court to include the proceeds from the sales of property in his income while it did not include the equitable distribution award made to Defendant and other assets she received pursuant to the Equitable Distribution Order in her income.

The North Carolina Child Support Guidelines define “Gross Income” in pertinent part as follows:

“Income” means a parent’s actual gross income *from any source*, including but not limited to income from employment or self-

---

<sup>1</sup> In its Order denying Plaintiff’s Rule 52 and 59 Motions, the trial court found: “Plaintiff/Father’s Post-Trial [motions] are a nullity because Plaintiff/Father filed them, *pro se*, at a time when he was represented by his then-counsel of record, Michael E. Navarro.” Although the trial court addressed Plaintiff’s substantive arguments, it also concluded his Motions should be dismissed as a nullity. However, as neither party addresses this issue, we do not reach it. *But see State v. Farook*, 381 N.C. 170, 185, 871 S.E.2d 737, 750 (2022) (Defendant’s *pro se* filing while represented considered a legal nullity).

## HANDS V. HANDS

### *Opinion of the Court*

employment (salaries, wages, commissions, bonuses, dividends, severance pay, etc.), ownership or operation of a business, partnership, or corporation, rental of property, . . . gifts, prizes and alimony or maintenance received from persons other than the parties in the instant action. When income is received on an irregular, non-recurring, or one-time basis, the court may average or prorate the income over a specified period of time. . . .

N.C. Child Support Guidelines, “(1) Gross Income” (emphasis added).

While property sales generally are treated as income for purposes of calculating child support, distributive awards are not. Indeed, our statute defining the term “distributive award” expressly states this term “shall not include alimony payments or other similar payments for support and maintenance *which are treated as ordinary income to the recipient* under the Internal Revenue Code.” N.C. Gen. Stat. § 50-20(b)(3) (2023) (emphasis added). This Court has rejected attempts to analogize equitable distribution and child support, noting specifically that the purposes of each are “so dissimilar.” *Spicer*, 168 N.C. App. at 290, 607 S.E.2d at 683. “[W]hile our equitable distribution laws are designed to protect the property interests of divorcing spouses, child support laws are designed to protect the welfare of children.” *Id.* In light of those differing purposes, it was not an abuse of discretion for the trial court not to revisit its treatment of Plaintiff’s proceeds from the sale of properties differently than it treated the distributive award paid to Defendant.

Second, although on appeal Plaintiff differentiates the various items he believes were unfairly considered income, the evidence presented to the trial court regarding those items presented them as non-descript deposits. As above, the

definition of “income” under our Child Support Guidelines is broad, and it expressly contemplates income received on “an irregular, non-recurring, or one-time basis.” N.C. Child Support Guidelines, “(1) Gross Income”. Moreover, Plaintiff did not provide testimony, records, or any other documentation establishing that those items were what he now claims they were. Indeed, in the 28 October Order, the trial court found: “Plaintiff/Father offered no testimony or evidence that the deposits were loans or anything other than income that was available to Plaintiff/Father for his use and enjoyment.” The large deposits from his then-fiancée and brother, as well as the numerous smaller items appear on Plaintiff’s bank statements in evidence merely as “deposits.” Without additional evidence, the trial court did not err in failing to revisit its determination that these deposits constituted income under the definition of gross income set out by our Guidelines.

B. *Plaintiff’s Expenses*

Plaintiff argues the trial court erroneously failed to amend the 28 October Order to include Plaintiff’s expenses in its child support calculation. As Plaintiff notes, this Court has held: “In order to determine the reasonable needs of the child, the trial court must hear evidence and make findings of specific fact on the child’s actual past expenditures and present reasonable expenses.” *Jackson v. Jackson*, 280 N.C. App. 325, 331, 868 S.E.2d 104, 109 (2021) (quoting *Atwell v. Atwell*, 74 N.C. App. 231, 236, 328 S.E.2d 47, 50 (1985)). Further, “[t]he trial court must consider competent evidence of the minor child’s yearly expenses incurred by both parents . . .

to determine the minor child's reasonable needs fully and accurately." *Id.* at 331, 868 S.E.2d at 110.

Here, although the trial court made no Findings as to Plaintiff's expenses, we conclude it did not err in failing to amend its Order because it had no evidence before it at trial on which to base such Findings. As discussed above, Plaintiff was precluded from offering evidence about his income and expenses as a reasonable sanction for his numerous discovery and Rules violations. Further, although Plaintiff claims he submitted a full and accurate financial affidavit, the trial court expressly found "[Plaintiff's] Financial Affidavit was incredibly incomplete and failed to comply with Local Rules." "Despite very clear instructions in the Local Rules, Plaintiff/Father only completed the first and second page of the Financial Affidavit thereby failing to complete and/or serve the entire form as required by the Local Rules." Further,

Plaintiff/Father's failure to properly complete his Financial Affidavit with evidence of his or the minor children's expenses, left Defendant/Mother without information regarding same with which to adequately prepare for trial. In addition, Plaintiff/Father's failure to provide the required information made it impossible for this Court to make a determination about the reasonable needs and expenses of Plaintiff/Father and the minor children when in his care.

Accordingly, the trial court did not have competent evidence on which to make Findings about Plaintiff's expenses.

Moreover, "Rule 52(b) is not intended to provide a forum for the losing party to relitigate aspects of their case." *K&S Res., LLC v. Gilmore*, 284 N.C. App. 78, 82, 875

S.E.2d 538, 541 (2022). Here, Plaintiff had ample opportunity to provide the trial court with accurate information about his income and expenses in a timely fashion, consistent with Local Rules as is required of every litigant. He failed to do so and, in fact, presented statements and evidence which the trial court found unreliable, inaccurate, and not credible. On that basis, the trial court properly precluded Plaintiff from offering further evidence of his expenses. Thus, we conclude the trial court's decision not to reopen or amend the 28 October Order to make findings regarding Plaintiff's expenses was not erroneous.

C. *Attorney Fees*

Plaintiff contends the trial court's award of attorney fees to Defendant should be reversed because there was insufficient evidence Defendant did not have the means to defray the cost of this suit or that Plaintiff refused to provide adequate support. We disagree.

"The recovery of attorney's fees is a right created by statute. A party can recover attorney's fees only if such recovery is expressly authorized by statute." *Burr v. Burr*, 153 N.C. App. 504, 506, 570 S.E.2d 222, 224 (2002) (citations and quotation marks omitted). The question of whether statutory requirements have been met for an award of attorney fees is a question of law reviewable *de novo*. *Hudson v. Hudson*, 299 N.C. 465, 472-73, 263 S.E.2d 719, 724 (1980).

In an action or proceeding for the custody or support, or both, of a minor child, . . . the court may in its discretion order payment of reasonable attorney's fees to an interested party acting in good

## HANDS V. HANDS

### *Opinion of the Court*

faith who has insufficient means to defray the expense of the suit. Before ordering payment of a fee in a support action, the court must find as a fact that the party ordered to furnish support has refused to provide support which is adequate under the circumstances existing at the time of the institution of the action or proceeding[.]

N.C. Gen. Stat. § 50-13.6 (2023). Thus, under our statutes, to award attorney fees in a child support proceeding, a trial court must find that one party has insufficient means to defray the expense of the suit and make “the additional finding: ‘the party ordered to furnish support has refused to provide support which is adequate under the circumstances existing at the time of the institution of the action or proceeding.’” *Limerick v. Rojo-Limerick*, 288 N.C. App. 29, 32-33, 885 S.E.2d 96, 98 (2023) (quoting *Hudson*, 299 N.C. at 472-73, 263 S.E.2d at 724).

Here, the trial court found Defendant “is an interested party who brought her child support claim in good faith” and “has insufficient means to defray the legal fees incurred to prosecute this action.” In support of this Finding, the trial court had before it significant evidence regarding Defendant’s finances, including her income, assets, and expenses. The trial court also had evidence regarding the extent of attorney fees Defendant incurred over the course of this litigation, which were in part attributable to Plaintiffs repeated uncooperativeness, attempts at obfuscation, and discovery and Rules violations. Based on this evidence, the trial court’s Finding that Defendant had insufficient means to defray the expenses of this lawsuit was adequate. Thus, because it had made an adequate Finding supported by competent



evidence, the trial court did not abuse its discretion by declining to revisit that Finding.

The trial court also found Plaintiff “failed and refused to provide permanent child support that was adequate under the circumstances at the time of the institution of this action and through the date of hearing.” The trial court found, consistent with testimony at the hearing, that Plaintiff “did not pay Defendant/Mother any child support until the day after his deposition was taken in March of 2022”. At that point, Plaintiff began to pay Defendant “the inadequate amount of \$265.00 per month”—an amount far below the child support actually awarded to Defendant. Thus, the trial court’s Finding was based on competent evidence and, therefore, the decision not to revisit that Finding was not an abuse of discretion.

### III. Contempt

Plaintiff contends the trial court erred in holding him in contempt for failing to pay child support and attorney fees related to Defendant’s Motion for Contempt. In holding Plaintiff in contempt, the trial court found Plaintiff owed Defendant “a total of \$36,769.56 in past due child support, additional child support arrears, child support arrears, and attorney’s fees.”

We review a trial court’s determination of civil contempt to determine “whether there is competent evidence to support the findings of fact and whether the findings support the conclusions of law.” *Watson v. Watson*, 187 N.C. App. 55, 64, 652 S.E.2d

310, 317 (2007) (citation omitted). The trial court's Findings of Fact "are conclusive on appeal when supported by any competent evidence and are reviewable only for the purpose of passing upon their sufficiency to warrant the judgment." *Id.* (citation omitted).

In its Order holding Plaintiff in contempt, the trial court made specific Findings detailing Plaintiff's ability to pay, as well as his deliberate obfuscation of his financial information. The trial court noted that even after rescheduling the hearing on Plaintiff's Motions and Defendant's Motion for Contempt, Plaintiff's own attorney filed for a continuance because she had not received the necessary financial documents from Plaintiff to prepare for the hearing. When the hearing did occur in May 2023, Plaintiff's argument was that he could not afford to pay the child support ordered. At this hearing, although the trial court refused to admit a new financial affidavit, Plaintiff testified his monthly income at the time of the contempt hearing was \$8,128.33.

While Plaintiff is correct that the trial court failed to make express findings regarding his income at the time of the contempt hearing, on the facts of this case, we conclude the trial court did not reversibly err in holding Plaintiff in contempt and awarding attorney fees as part of its Contempt Order. The trial court found Plaintiff owed thousands of dollars in unpaid child support, child support arrears, and attorney fees awarded under the 28 October Order, which Plaintiff does not appeal.

Further, the trial court made multiple Findings regarding Plaintiff's finances and available assets which could be used to meet the support obligations:

39. Despite his child support obligation, Plaintiff/Father has continued to spend lavishly on steak dinners, flowers, and even an engagement ring for his now fiancée – all while ignoring the Court's Order.

40. Plaintiff/Father has been gainfully employed through Hands Law Firm, which he solely owns and operates, as he was during the original trial from which the Order resulted.

41. Moreover, Plaintiff/Father has a history of manipulating his income in an effort to reduce his child support obligation, which the Court uncovered—and found in the Order—as follows:

a. It is clear that Plaintiff/Father's reported income is much lower than what he actually earns for child support purposes[.]

b. Plaintiff/Father failed to present reliable evidence as to his current income[.]

c. Plaintiff/Father misrepresented his income to this Court in his inaccurate, yet verified Financial Affidavit[.]

d. It is clear that Plaintiff/Father has other sources of income not listed on his Financial Affidavit[.]

e. Plaintiff/Father has undertaken extensive efforts to conceal his true income from the Court, including a wholly deficient Financial Affidavit and demonstrating uncooperativeness and resistance throughout the discovery process[.]

42. Plaintiff/Father also has sufficient assets, including, but not limited to, a home valued over \$1,000,000.00 and commercial property that is available to be rented.

....

44. Plaintiff/Father has had and continues to have the ability to pay and has the current ability to pay the cash child support, child support arrears, and attorney's fees as set forth in the Order.

In light of these Findings, which are consistent with the trial court's Findings in its 28 October Order, the trial court did not err by finding Plaintiff had the ability to comply with the 28 October Order. Thus, in turn, the trial court did not err in holding Plaintiff in civil contempt.

Additionally, attorney fees are a common condition courts may require in order to purge a party of contempt in child support cases. *See, e.g., Eakes v. Eakes*, 194 N.C. App. 303, 312, 669 S.E.2d 891, 897 (2008) ("North Carolina courts have held that the contempt power of the trial court includes the authority to require the payment of reasonable attorney's fees to opposing counsel as a condition to being purged of contempt for failure to comply with a child support order."); *Blair v. Blair*, 8 N.C. App. 61, 63, 173 S.E.2d 513, 514 (1970) ("We hold that this power [to punish for contempt] includes the authority for a district court judge to require one whom he has found in wilful [sic] contempt of court for failure to comply with a child support order . . . to pay reasonable counsel fees to opposing counsel as a condition to being purged of contempt."). Thus, we conclude the trial court did not err by holding Plaintiff in contempt nor by ordering Plaintiff to pay Defendant attorney fees as a condition to purge his contempt.

#### IV. Motion to Change Venue

Plaintiff also contends the trial court erred by denying his Motion to Change Venue. Plaintiff's Motion alleged the presiding judge, although a visiting judge who is based in Gaston County, "is often in Mecklenburg County and handles many cases

in Mecklenburg County.” Further, “upon information and belief, [Defendant] and Judge Redwing have a professional and personal relationship as Judge Redwing has run into [Defendant] occasionally in chambers.” Finally, Plaintiff’s Motion argued “due to [Defendant]’s professional reputation in Mecklenburg County, it is not possible for [Plaintiff] to receive a fair and impartial trial in this matter.”

“A motion for change of venue . . . to promote the ends of justice is addressed to the sound discretion of the trial judge, and his action thereon is not reviewable on appeal unless an abuse of discretion is shown.” *Phillips v. Currie Mills, Inc.*, 24 N.C. App. 143, 144, 209 S.E.2d 886, 886 (1974) (citing *Piner v. Ryder Truck Rentals, Inc.*, 10 N.C. App. 742, 743, 179 S.E.2d 900, 901 (1971)). An abuse of discretion occurs where “a decision is manifestly unsupported by reason, or so arbitrary that it could not have been the result of a reasoned decision.” *Stephens*, 213 N.C. App. at 503, 715 S.E.2d at 174 (citation omitted). “[T]he determination of whether a trial court has abused its discretion [in denying a motion to change venue] is a case-by-case determination based on the totality of facts and circumstances in each case.” *Zetino-Cruz v. Benitez-Zetino*, 249 N.C. App. 218, 226, 791 S.E.2d 100, 106 (2016) (quoting *N.C. Farm Bureau Mut. Ins. Co., Inc. v. Paschal*, 231 N.C. App. 558, 562, 752 S.E.2d 775, 778, *disc. review improvidently allowed per curiam*, 367 N.C. 642, 766 S.E.2d 282 (2014)).

Our statutes provide: “The court may change the place of trial . . . [w]hen the convenience of witnesses and the ends of justice would be promoted by the change.”

HANDS V. HANDS

*Opinion of the Court*

N.C. Gen. Stat. § 1-83(3) (2023). Further, when a party suggests “on oath or affirmation” that “there are probable grounds to believe that a fair and impartial trial cannot be obtained in the county where the action is pending,” the trial court “may order a copy of the record of the action removed for trial to any adjacent county, if he is of the opinion that a fair trial cannot be had in said county[.]” N.C. Gen. Stat. § 1-84 (2023). Plaintiff asserts Judge Redwing “has run into [Defendant] occasionally in chambers” and handles “many” cases in Mecklenburg County. However, Judge Redwing serves in Gaston County, and Plaintiff has provided no evidence suggesting he was unable to be impartial.

Moreover, the parties jointly requested the matter be reassigned to an out-of-jurisdiction judge. Plaintiff brought this Motion two and half years after the start of litigation and, in fact, after the trial had already occurred. He has presented no evidence of impropriety or bias on the part of the trial court. Indeed, Plaintiff points only to the trial court’s rulings, which are supported by its well-documented Findings of Facts in each Order. Thus, we conclude the trial court did not err by denying Plaintiff’s Motion to Change Venue.

**Conclusion**

Accordingly, for the foregoing reasons, we affirm the trial court’s Orders.

AFFIRMED.

Judges MURPHY and WOOD concur.

HANDS V. HANDS

*Opinion of the Court*

Report per Rule 30(e).