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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-168

Filed 3 December 2024

Durham County, No. 14CVD1272

CHARLES DOZIER, Plaintiff,

v.

REGINA DOZIER, Defendant.

Appeal by defendant from order entered 25 August 2023 by Judge Dorothy Hairston Mitchell in Durham County District Court. Heard in the Court of Appeals 10 September 2024.

Patrick Law PLLC, by Kirsten A. Grieser, for plaintiff-appellee.

Law Offices of John M. Kirby, PLLC, by John M. Kirby, for defendant-appellant.

GORE, Judge.

Defendant appeals from an Order Finding her in Civil Contempt (“Contempt Order”). We affirm.

Plaintiff, Charles Dozier, and defendant, Regina Dozier, were married on 6 July 1985 and separated on 22 October 2014—the parties are now divorced. On 8 October 2015, a Consent Order for Equitable Distribution (“ED Consent Order”) was

filed with the District Court, Durham County. Under “Paragraph 3(d)” of the ED Consent Order, the parties agreed, *inter alia*, to obtain an appraisal of their house located in California (“California Property”). Defendant alleges she obtained an appraisal of the California Property after the 2014 separation, but plaintiff contests the validity of that appraisal.

On 18 December 2017, defendant filed a Rule 60 Motion asking to be relieved from Paragraph 3(d) of the ED Consent Order. Plaintiff filed a motion for a finding of contempt, specifically requesting the appraisal to proceed as ordered. Plaintiff also filed a motion to dismiss defendant’s Rule 60 motion, which the trial court granted. After dismissal, defendant refused to allow an appraisal of the California Property and filed a notice of appeal to this Court on 22 March 2021.

In an unpublished opinion filed 3 May 2022, we affirmed the trial court’s dismissal order, noting that defendant “fails to demonstrate her claim has merit.” *Dozier v. Dozier*, 871 S.E.2d 581, 2022 WL 1313568, at *3 (N.C. Ct. App. 2022). Several days after our opinion was issued, plaintiff asked defendant (through counsel) if she would allow the appraisal—defendant refused.

After a hearing on plaintiff’s motion for a finding of contempt, over one year after defendant’s prior appeal, the trial court entered the Contempt Order on 25 August 2023. The trial court found that, *inter alia*, “defendant admitted that she had the ability to obtain the appraisal, but [she] stated, in essence, that she did not agree with the ED Consent Order, and therefore had refused to comply with the Order.”

The trial court found and concluded: the ED Consent Order remains in effect; the purpose of the ED Consent Order may be served by compliance; defendant has failed to comply with the ED Consent Order; defendant's noncompliance is willful; and defendant can comply with the ED Consent Order.

Defendant filed a timely notice of appeal to this Court on 22 September 2023. Defendant's appeal from the Contempt Order is interlocutory but immediately appealable. *See Guerrier v. Guerrier*, 155 N.C. App. 154, 158 (2002) (citations omitted) (stating that "[t]he appeal of any contempt order . . . affects a substantial right and is therefore immediately appealable."). This Court has jurisdiction to hear and decide defendant's appeal pursuant to N.C.G.S. §§ 7A-27(b)(3)(a) and 1-277(a).

Defendant presents three issues on appeal: (1) whether the trial court erroneously failed to make a finding that she had previously obtained an appraisal; (2) whether the trial court erred in requiring defendant to consent to an appraisal as of the date of distribution rather than the date of separation; and (3) whether the trial court erred in finding defendant in contempt for failing to obtain or "allow" an appraisal when, in defendant's view, she was not required to obtain an appraisal and not yet required to allow an appraisal.

Upon review, defendant's arguments lack merit. Consequently, we affirm the trial court's Contempt Order.

"In contempt proceedings[.]" 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 on their sufficiency to warrant the judgment.” *Clark v. Clark*, 294 N.C. 554, 571 (1978) (citation omitted). Our review of a contempt order is, therefore, “limited to determining whether there is competent evidence to support the findings of fact and whether the findings support the conclusions of law.” *Middleton v. Middleton*, 159 N.C. App. 224, 226 (2003) (cleaned up). Our “appellate courts are deferential to trial courts in reviewing their findings of fact.” *Harrison v. Harrison*, 180 N.C. App. 452, 454 (2006) (citation omitted). “When a trial court sits as the trier of fact, the court’s findings and judgment will not be disturbed on the theory that the evidence does not support the findings of fact if there is any evidence to support the judgment, even though there may be evidence to the contrary.” *Atl. Veneer Corp. v. Robbins*, 133 N.C. App. 594, 599 (1999).

Civil contempt is defined by our statutes:

(a) Failure to comply with an order of a court is a continuing civil contempt as long as:

(1) The order remains in force;

(2) The purpose of the order may still be served by compliance with the order;

(2a) The noncompliance by the person to whom the order is directed is willful; and

(3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable the person to comply with the order.

N.C.G.S. § 5A-21(a) (2023). Noncompliance with a court order is willful when it

involves “either a positive action (a ‘purposeful and deliberate act’) in violation of a court order or a stubborn refusal to obey a court order (acting ‘with knowledge and stubborn resistance’).” *Hancock v. Hancock*, 122 N.C. App. 518, 525 (1996).

“A person who is found in civil contempt may be imprisoned as long as the civil contempt continues,” subject to certain time limitations. § 5A-21(b). “The order of the court holding a person in civil contempt must specify how the person may purge himself of the contempt.” § 5A-22(a) (2023). “The purpose of civil contempt is not to punish, but to coerce the defendant to comply with the order.” *Bethea v. McDonald*, 70 N.C. App. 566, 570 (1984).

Defendant first argues the trial court “completely ignored and failed to address” her “uncontradicted evidence that the parties obtained an appraisal.” She asserts the trial court was, at a minimum, “required to make findings on this critical issue.” We disagree.

“While a trial court need not make findings as to all of the evidence, it must make the required ultimate findings, and there must be evidence to support such findings.” *Cnty. of Durham v. Hodges*, 257 N.C. App. 288, 296 (2018). Here, defendant has not alleged the Contempt Order is missing statutorily required findings, nor has she challenged any portion of the trial court’s ultimate findings as unsupported by the evidence. Instead, defendant vaguely asserts, “the lower court erred because its findings are not supported by the evidence.” Defendant’s failure to offer any substantive argument regarding the trial court’s findings constitutes

waiver. *See Wade v. Wade*, 72 N.C. App. 372, 376 (1985) (noting that a vague argument “generally challenging the sufficiency of the evidence to support numerous findings of fact, as here, is broadside and ineffective.”); *see also Yeun-Hee Juhnn v. Do-Bum Juhnn*, 242 N.C. App. 58, 63 (2015) (citation omitted) (“[W]here a trial court’s findings of fact are not challenged on appeal, they are deemed to be supported by competent evidence and are binding on appeal.”).

Critically, we note defendant “supports” her argument by superficial citation to three inapposite cases, all of which have no bearing on civil contempt proceedings. *See Lamond v. Mahoney*, 159 N.C. App. 400, 402–03 (2003) (reviewing statutory visitation provisions of a child custody order); *Rosario v. Rosario*, 139 N.C. App. 258, 259 (2000) (examining statutorily required factors for distribution by a court of marital and divisible property under N.C.G.S. § 50-20); *Matter of Kowalzek*, 37 N.C. App. 364, 370 (1978) (determining that the trial court failed to make required findings as to the best interests of a juvenile in a child custody proceeding). These cursory references are preceded by an inordinate volume of self-serving testimony and conclusory remarks. Defendant’s argument lacks citation to authority upon which she relies, *see* N.C.R. App. P. 28(b)(6) (“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.”), and her noncompliance with our appellate rules “constitute[s] a default precluding substantive review[.]” *Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 200 (2008). We deem this issue abandoned.

Next, defendant argues the trial court erred by requiring defendant to consent to an appraisal as of the date of distribution rather than the date of separation. We dismiss this issue as not properly before us.

We reiterate, defendant has not challenged—with specificity—any portion of the trial court’s findings of fact on the Contempt Order. Here, defendant appears to collaterally attack provisions of the 2015 ED Consent Order as ambiguous and unenforceable, and plaintiff’s decision to file a motion for contempt as improper. The 2015 ED Consent Order is not, however, presently under judicial review. Defendant’s new argument concerning her interpretation of the 2015 ED Consent Order must be raised, argued, and ruled on in the trial court below. *See* N.C.R. App. P. 10(a)(1). Defendant’s argument is improperly raised for the first time on appeal, and therefore, unpreserved. *See State v. Hunter*, 305 N.C. 106, 112 (1982) (“The theory upon which a case is tried in the lower court must control in construing the record and determining the validity of the [issues raised].”).

Finally, defendant argues the trial court erred in finding her in contempt for failing to obtain or “allow” an appraisal where, in defendant’s view, such conduct was not expressly required by Paragraph 3(d) of the 2015 ED Consent Order. We disagree.

The trial court’s unchallenged, and therefore binding finding of fact 10 states:

10. During the hearing on Plaintiff’s Motion for Finding of Contempt, over a year after the Defendant’s appeal was dismissed, Defendant admitted that she had the ability to

DOZIER V. DOZIER

Opinion of the Court

obtain the appraisal, but stated, in essence, that she did not agree with the ED Consent Order, and therefore had refused to comply with the Order.

The trial court then concluded as a matter of law that “defendant has failed to comply with the ED Consent Order, and her noncompliance is willful,” and that “defendant has the ability to comply with the ED Consent Order” by consenting to an appraisal of the California Property.

We determine that the trial court’s findings of fact support its conclusions of law. *See Middleton v. Middleton*, 159 N.C. App. 224, 226 (2003) (cleaned up) (“Our review of a contempt order is, therefore, “limited to determining whether there is competent evidence to support the findings of fact and whether the findings support the conclusions of law.”). We discern no error.

For the foregoing reasons, we affirm the trial court’s 25 August 2023 Order Finding Defendant in Civil Contempt.

AFFIRMED.

Judge HAMPSON concurs.

Judge STROUD concurs in result only.

Report per Rule 30(e).