

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

NO. 4-26-0518

OF ILLINOIS

FILED

October 16, 2026

Carla Bender

4th District Appellate

Court, IL

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Judge Presiding.

Justices Doherty and Grischow concurred in the judgment.

¶ 2 In September 2025, the trial court granted petitioner, Reina H., a plenary order of protection by default due to respondent Rotwaun C.’s failure to appear. Respondent subsequently filed a motion to vacate the default order, which the court denied. On appeal, respondent argues the court erred when it (1) denied his motion to vacate the default order, (2) improperly utilized an *in camera* interview of the parties’ minor child pursuant to section 604.10(a) of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/604.10(a) (West 2024)), and (3) failed to considered other provisions of the Illinois Domestic Violence Act of 1986 (Domestic Violence Act) (750 ILCS 60/101 *et seq.* (West 2024)). We disagree and affirm.

¶ 3

I. BACKGROUND

¶ 4 In July 2025, petitioner filed a *pro se* emergency petition, alleging respondent had verbally abused and physically threatened their child in common, A.C. The trial granted the petition. The court docket shows the matter was before the trial court again on September 16, 2025, but no report of this proceeding was provided to this court. The record shows the court granted petitioner a two-year plenary order of protection on the same date.

¶ 5 On September 17, 2025, respondent filed a motion to vacate the plenary order, stating he wished the matter be continued due to his absence and permit “all parties” to be heard in the matter. The matter was then continued several times.

¶ 6 On April 7, 2026, the matter proceeded to a hearing. A transcript of that hearing was not provided to this court. However, the trial court’s written order states petitioner testified at the hearing and submitted evidence in the form of text messages showing A.C. feared respondent. Respondent did not testify or submit any evidence at the hearing.

¶ 7 On April 9, 2026, the trial court conducted what it described as an “*in camera* interview” with A.C. The transcript indicated counsel for respondent and petitioner were present prior to the court interviewing A.C. in chambers. Prior to the interview, the court stated it had “met” with both petitioner and respondent and received “consent” from the parties to interview A.C. The court stated the reason for the interview was an “opportunity *** to hear from [A.C.] because [she was] kind of involved in th[e] situation, and [it] just need[ed] to know how [she was] feeling about things and what [she] would like to see happen moving forward.” The court said the *in camera* interview would permit A.C. to be honest and not feel “conflicted” or “pressure[d]” by discussing her feelings in front of her parents.

¶ 8 During the interview, A.C.—who was 12 years’ old at the time of the interview—

described her relationship with her mother, petitioner, as “really good.” The trial court asked A.C. if “something” had occurred that made her feel “uncomfortable” visiting with her father, respondent. A.C. answered she did not want to see respondent “right now.” She qualified her answer that she would desire a relationship with him when she was older. The court asked A.C. why she did not want to have a relationship with respondent “right now.” A.C. discussed communication difficulties with respondent and said conversations with him consistently devolved into arguments. She said she would “usually” end up “crying” and having her mother or sibling pick her up because she did not want to be around respondent any longer. The court asked A.C. what respondent “need[ed] to demonstrate” for her to want to be around him and suggested counseling. A.C. discussed her frustration with respondent’s recurring behaviors and recalled previously having supervised visits with him. The court then asked if A.C. had ever felt threatened. She recalled an incident when respondent was angry with how she dressed and told her he had wished she had died in a motorcycle accident rather than her brother. She also recalled him discussing “ ‘flip[ping] the car’ ” when he drove her to an exchange location. She said respondent texted her later to apologize for what he had said. A.C. described the situation as the type of cycle that “just keeps on going to the same situation over and over again.”

¶ 9 On April 23, 2026, the trial court entered a written order denying respondent’s motion. The court noted a plenary order of protection had been entered on September 16, 2025, and the order protected petitioner and A.C., along with denying respondent any parenting time with A.C. The plenary order also required respondent to obtain a mental health evaluation and to complete any recommended follow-up treatment.

¶ 10 The written order stated it had reviewed the evidence presented at the April 7, 2026, hearing and its *in camera* interview with A.C. and concluded the plenary order of

protection would remain in effect. The trial court denied respondent's request for parenting time and reiterated he was required to "successfully complete Anger Management classes and obtain and successfully complete a mental health evaluation and all recommended treatment/counseling." Upon doing so, the court stated respondent could file a petition with the court to address parenting time with A.C.

¶ 11 This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 We begin by noting petitioner, as the appellee, did not file a brief in this matter. In *Thomas v. Koe*, 395 Ill. App. 3d 570, 577 (2009), this court explained a reviewing court may exercise three discretionary options in the absence of an appellee's brief:

"(1) [a reviewing court] may serve as an advocate for the appellee and decide the case when the court determines justice so requires, (2) it may decide the merits of the case if the record is simple and the issues can be easily decided without the aid of the appellee's brief, or (3) it may reverse the trial court when the appellant's brief demonstrates *prima facie* reversible error that is supported by the record." (citing *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976)).

Because we find the record in this case is simple and the issues can be easily decided without the aid of an appellee's brief, we will proceed to respondent's arguments on appeal.

¶ 14 Additionally, before we may address respondent's arguments on appeal, we note this case involves a minor and is thus subject to an accelerated appeal under Illinois Supreme Court Rule 311(a) (eff. July 1, 2018). Thus, this court is required to issue its decision within 150 days after the filing of the notice of appeal unless there has been good cause shown. Ill. S. Ct. R.

311(a)(5) (eff. July 1, 2018). Here, the notice of appeal was filed on May 1, 2026. Accordingly, we were required to issue a decision by September 28, 2026. Respondent’s appeal was dismissed entirely in May 2026 due to his failure to file a docketing statement with this court. He completed this procedural requirement on July 15, 2026. He subsequently submitted his brief on appeal to this court on August 18, 2026. Time was permitted for petitioner to submit an appellee’s brief. She did not. This matter was not submitted to our docket for review until September 17, 2026. Therefore, we find there is good cause for issuing our decision after the 150-day deadline.

¶ 15 On appeal, respondent contends the trial court erred when it (1) refused to vacate the default order, (2) utilized an *in camera* interview of A.C. to “obtain disputed historical allegations that [he] could not inspect, test, or rebut before” entering the April 23, 2026, order, and (3) “continu[ed] a total denial of parenting time without a procedurally sound adversarial record and fresh consideration of statutory alternatives.”

¶ 16 Respondent first argues the trial court abused its discretion when it refused to vacate the default order entered on September 16, 2025. While he concedes the court had the authority to enter the default order when he failed to appear, he argues “substantial justice” requires reversal due to his immediate action of moving to vacate the default order. In support, respondent cites *In re Haley D.*, 2011 IL 110886, ¶¶ 68-69, noting section 2-1301 of the Code of Civil Procedure (735 ILCS 5/2-1301 (West 2024)) applies regarding his motion to vacate the default order. He discusses several reasons why he believes the court abused its discretion, including (1) the effect the default order has on his parent-child relationship, (2) his promptness in seeking to vacate the default order, and (3) that petitioner would not have been prejudiced by the court vacating the default order and holding a “merits hearing.”

¶ 17 Section 2-1301(e) provides a trial court “may in its discretion, before final order

or judgment, set aside any default, and may on motion filed within 30 days after entry thereof set aside any final order or judgment upon any terms and conditions that shall be reasonable.” *Id.*

§ 2-1301(e). A court’s decision whether to grant or deny a motion to set aside a default judgment is reviewed for an abuse of discretion or denial of substantial justice. *Litvak v. Black*, 2019 IL App (1st) 181707, ¶ 23. “The abuse of discretion standard is the most deferential standard” of review. *People v. Morgan*, 2025 IL 130626, ¶ 23. Under this standard, “the question is whether the trial court’s decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it.” (Internal quotation marks omitted.) *Id.*

¶ 18 We do not know the substance of the testimony presented by petitioner at the hearing from April 7, 2026, because respondent did not provide this court with a transcript of that hearing. Respondent, as

“appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with [the] law and had a sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant.” *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92 (1984).

However, from the record that is before us, we can observe the evidence provided to the court came solely from petitioner and A.C. Respondent did not testify and offered no evidence. Based on our review of the evidence, we find no reason to conclude the trial court’s decision was arbitrary, fanciful, or unreasonable. The evidence we have before us supported petitioner’s contentions from her petition. This, in addition to our presumption there was a sufficient factual basis from petitioner’s testimony at the April 7, 2026, hearing, provides us with no reason to

conclude the veracity of petitioner’s testimony differed from the allegations in her petition. We also find no reason to conclude respondent had been denied substantial justice. The court’s written order stated respondent could revisit the parenting time restrictions within the plenary order if he underwent a mental health evaluation and completed any subsequent recommended treatment. We find nothing unreasonable about this condition. Therefore, we conclude the trial court did not abuse its discretion, nor was respondent denied substantial justice when the court denied his motion to vacate the default judgment.

¶ 19 Respondent next argues the trial court erred when it improperly interviewed A.C. pursuant to section 604.10(a) of the Marriage Act. 750 ILCS 5/604.10(a) (West 2024). While he notes he had agreed to permit the court to conduct the *in camera* interview, he contends the court utilized the interview to “investigate disputed historical misconduct” rather than ascertain A.C.’s wishes regarding the allocation of parental responsibilities. He cites this court’s decision in *In re Marriage of Jessica F.*, 2024 IL App (4th) 231264, in support. He also argues his procedural due process rights were violated because he was not permitted to cross-examine A.C. about her statements during the interview. He cites *In re Marriage of Doe*, 2024 IL App (1st) 230935, in support.

¶ 20 Section 604.10(a) of the Marriage Act provides the trial court “may interview [a] child in chambers to ascertain the child’s wishes as to the allocation of parental responsibilities.” 730 ILCS 5/604.10(a) (West 2024). The section further provides “[c]ounsel shall be present at the interview unless otherwise agreed upon by the parties. The entire interview shall be recorded by a court reporter. The transcript of the interview shall be filed under seal and released only upon order of the court.” *Id.* Section 604.10(a) states a court “may” conduct an *in camera* interview with a child to ascertain the child’s wishes regarding allocation of parental

responsibilities. Because this interview is discretionary, we review a court’s decision regarding whether to conduct an *in camera* interview for an abuse of discretion. *Jessica F.*, 2024 IL App (4th) 231264, ¶ 36. As we stated earlier, an abuse of discretion occurs when a court’s decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it. *Morgan*, 2025 IL 130626, ¶ 23.

¶ 21 *Jessica F.* involved a dispute over the allocation of parenting time following a divorce. *Jessica F.*, 2024 IL App (4th) 231264, ¶¶ 1-2. The respondent moved to have the trial court conduct an *in camera* interview of the child. *Id.* ¶ 7. Ultimately, the court never conducted the *in camera* interview of the child. On appeal, the respondent argued the court erred when it failed to rule on his motion for an *in camera* interview of the child. *Id.* ¶ 34. We said there were “myriad good reasons for a [trial] court to decline interviewing *in camera* a child in the center of a custody battle,” including the pressure it placed on the child and whether “a young child’s” preferences would coincide with his or her best interests. *Id.* ¶ 37. We also stated the appointment of a guardian *ad litem* was superior to an *in camera* interview. *Id.* ¶ 38. We noted section 604.10(a) of the Marriage Act only provided the court with the authority to interview a child regarding their wishes as to the allocation of parental responsibilities and could not be used to resolve or discern factual disputes between the custody-seeking parties. *Id.* ¶ 43. We found the trial court did not abuse its discretion when it declined to conduct an *in camera* interview of the child. *Id.* ¶ 45.

¶ 22 *Doe* involved a postdivorce custody dispute, wherein the petitioner sought an order of protection pursuant to the Domestic Violence Act. *Doe*, 2024 IL App (1st) 230935, ¶ 1. The petitioner alleged the respondent had sexually abused their child. *Id.* ¶ 10. The petitioner moved to have the trial court conduct an *in camera* interview of the child, to which the

respondent objected. *Id.* ¶ 12. The respondent contended an *in camera* interview would violate his due process right to cross-exam the child’s testimony. *Id.* The court granted the petitioner’s motion, citing section 604.10(a) of the Marriage Act, and denied the respondent’s motion to depose the child. *Id.* ¶ 13. On appeal, the respondent argued the trial court erred when it conducted the *in camera* interview. *Id.* ¶ 54. The appellate court stated, “[T]he Domestic Violence Act does not contain a provision permitting *in camera* examinations of witnesses. [Citation]. Nor do the Illinois rules of civil procedure, which govern proceedings to obtain, modify, or reopen or appeal orders of protection.” *Id.* ¶ 56. The appellate court said the trial court “reasoned that it had authority under the Marriage Act” to conduct the *in camera* interview “because the Marriage Act permits a ‘child’ to be interviewed in chambers” to ascertain the child’s wishes regarding allocation of parental responsibilities. *Id.* The court concluded it was an abuse of discretion to conduct the *in camera* interview “for the purpose of [the child] describing [the respondent’s] sexual abuse[, thereby] exceed[ing] the scope of section 604.10 of the Marriage Act.” *Id.* ¶ 57. The court noted the child’s testimony “had nothing to do with her preference regarding allocation of parental responsibility,” which had already been decided, and “[i]t was already abundantly clear that [the child] wanted nothing do with [the respondent].” *Id.*

¶ 23 The appellate court then conducted a *de novo* review of whether the respondent was denied due process due to the trial court’s *in camera* interview. The court discussed the fundamental protections of due process, including the right to confront and cross-examine adverse witnesses. *Id.* ¶ 59. Additionally, the court recognized the respondent’s fundamental right to the care, custody, and control of his child. *Id.* ¶ 60. Citing fairness, the court found it was error to deny the respondent’s attorney the opportunity to cross-examine the child and that the trial court failed to employ “reasonable alternatives” to ensure the respondent’s due process

rights were not violated. *Id.* ¶ 62. The court also found the *in camera* interview was not harmless because the child’s testimony was the basis for the court’s decision. *Id.* ¶ 67. Accordingly, the court reversed and remanded the matter for a new evidentiary hearing. *Id.* ¶ 69.

¶ 24 Returning to the case at bar, we find the above cases distinguishable from the instant case. We agree with respondent regarding the cases and the propositions they stand for. However, we disagree that either of these cases are analogous to the situation before us. First, we disagree with respondent’s framing of the trial court’s interview as a ruse to “investigate disputed historical misconduct.” The court’s interview of A.C. genuinely appeared to ascertain A.C.’s wishes regarding parenting time and sought to discover what the court could provide—within its powers—to permit respondent parenting time in the future.

¶ 25 Second, we highlight the fact that respondent agreed to have the trial court conduct the *in camera* interview. Waiver, for example, “arises from an affirmative act, is consensual, and consists of an intentional relinquishment of a known right.” *Home Insurance Co. v. Cincinnati Insurance Co.*, 213 Ill. 2d 307, 326 (2004). Respondent’s complaints here, however, go beyond waiver and into the territory of invited error. See *People v. Wachter*, 2026 IL App (2d) 250318, ¶ 16 (“A party’s invitation, agreement, or active participation in the direction of the proceedings or procedure that he or she later challenges on appeal goes beyond mere waiver.”). Respondent consented to the *in camera* interview. See *People v. Childress*, 2024 IL App (4th) 240669-U, ¶ 23 (“To invite an error, a party must ask the court to commit the error or at least explicitly agree to the commission of the error.”). Invited error prohibits a party from complaining of an error “which that party induced the court to make or to which that party consented.” *In re Detention of Swope*, 213 Ill. 2d 210, 217 (2004). The basis for this well-established doctrine is that it would be “manifestly unfair” to permit a party to obtain a new trial

or hearing “upon the basis of error which that party injected into the proceedings.” *Id.* The “doctrine [of invited error] is a procedural default that is, generally, addressed before or, in some instances, in lieu of the merits of a case.” *Wachter*, 2026 Ill App (2d) 250318, ¶ 16.

¶ 26 We find the doctrine of invited error applies in this case. Any right respondent had to have his attorney present and cross-examine A.C. was waived by respondent’s consent to the *in camera* interview. Additionally, if we assumed, *arguendo*, the trial court’s *in camera* interview was error, such error was invited. Granting any subsequent relief based on due process grounds would be manifestly unfair because respondent induced it by his consent.

¶ 27 Respondent’s contention within his brief on appeal that the trial court exceeded the scope of his agreement is unfounded in the record. Respondent provides no citation to the record regarding the scope of his agreement and consent to the *in camera* interview. See *O’Brien v. Walker*, 49 Ill. App. 3d 940, 952 (1977) (“Unless the evidence in question is made part of the record, a reviewing court will not consider whether the trial court committed error with respect to it.”). Again, any doubts arising from the incompleteness of the record will be resolved against him as the appellant, and we will presume the trial court acted in conformity with the law. *Foutch*, 99 Ill. 2d at 392.

¶ 28 Lastly, respondent argues this matter should be remanded for a new evidentiary hearing. He cites the Domestic Violence Act and argues, for example, his disagreement with A.C. over the reasonableness of clothing she wore was not abusive but reasonable direction of a minor child by a parent. He contends remand is appropriate to permit him the opportunity to provide evidence and testimony to determine whether a complete denial of parenting time remains appropriate.

¶ 29 We begin by noting respondent already had the opportunity to provide testimony

and present evidence at the April 7, 2026, hearing. He chose not to do so. We have already determined the trial court did not abuse its discretion when it denied his motion to vacate the default order. Respondent's remaining contentions are redundant and provide no new basis for finding the court erred. See *Insurance Benefit Group, Inc. v. Guarantee Trust Life Insurance Co.*, 2017 IL App (1st) 162808, ¶ 44 (noting the appellant bears the burden of persuasion as to his or her claims of error).

¶ 30

III. CONCLUSION

¶ 31 For the reasons stated, we affirm the trial court's judgment.

¶ 32 Affirmed.