

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

<i>In re</i> the ESTATE OF TYLER FORD, a	)	Appeal from the
Minor,	)	Circuit Court of
	)	Cook County.
(John and Delisa Smith,	)	
	)	
Petitioners-Appellants,	)	No. 24 P 01366
	)	
v.	)	
	)	Honorable
Joslyn Ford,	)	Stephanie Miller,
	)	Judge, Presiding.
Respondent-Appellee).	)	

JUSTICE COBBS delivered the judgment of the court.
Justices Fitzgerald Smith and Howse concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not abuse its discretion in denying petitioners' motion to vacate the October 10, 2024, order where substantial justice was done between the parties, and the circuit court did not err in finding petitioners in indirect civil contempt where their noncompliance with the order was willful. We find no judicial bias in this case.
- ¶ 2 This action stems from a petition for guardianship of the minor, Tyler Ford, filed in the circuit court of Cook County, in which petitioners-appellants John and Delisa Smith, the minor's

maternal grandparents, requested guardianship of the minor based on the allegation that respondent-appellee Joslyn Ford, the minor's biological mother, failed to adequately care for the social and educational needs of the minor. A private guardian *ad litem* (GAL), Julie Fox, was appointed and, after the petition was dismissed with prejudice, Fox filed a petition for attorney's fees, which the circuit court granted. Petitioners sought to vacate the order granting Fox's fee petition, and the circuit court declined to do so. On appeal, petitioners argued that: (1) the court abused its discretion in denying the motion to vacate the October 10, 2024, order; (2) the court erred in not allowing petitioners to respond to Fox's petition; (3) the court erred in denying the motion to vacate where petitioners did not request the appointment of Fox and Fox did not properly represent the minor's interests; (4) the court erred in finding petitioners in indirect civil contempt while this matter was pending on appeal; and (5) the record demonstrates judicial bias against them.¹ For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 At the time these proceedings began, the minor, who was born August 15, 2012, was 11 years old and lived with respondent, respondent's boyfriend, Yakariel Jackson, and the minor's 3-year-old brother. From 2013 to 2022, petitioners were the guardians of the minor, pursuant to respondent's consent to guardianship. In 2022, in a separate probate proceeding (13 P 6081), respondent successfully petitioned to discharge petitioners as the minor's guardians. Petitioners appealed the decision; however, this court dismissed the appeal for failure to file the record on August 24, 2023 (appeal no. 1-23-0344).

¹The caption of this order reflects the notice of appeal as filed in this court. Despite the fact that the matters at issue on appeal relate exclusively to the GAL and not respondent, petitioners identified respondent as the appellee in this matter. The GAL, Fox, filed a response brief in this appeal.

¶ 5 On February 23, 2024, petitioners filed a petition for guardianship of the minor in the probate division of the circuit court of Cook County. Therein, they alleged that respondent failed “to adequately care for the social and educational needs of the minor.” On March 5, 2024, petitioners also filed an emergency motion “to change opening of case management date for guardianship, for grandparent visitation and to allow grandparents to transport minor to school.” According to a court order entered in this case, petitioners originally filed the motion for grandparent visitation in the prior probate proceeding, but that motion was dismissed on February 23, 2024, for lack of jurisdiction.

¶ 6 On March 12, 2024, petitioners filed a motion for substitution of judge as of right, which was granted on March 20, 2024.

¶ 7 On April 17, 2024, the circuit court denied the emergency motion for grandparent visitation and appointed the Loyola University Community Law Center as GAL for the minor. On May 13, 2024, the assigned GAL from the Loyola University Community Law Center, who was the GAL assigned to the prior proceeding involving guardianship of the minor, filed a motion to be discharged as GAL in this case. In the GAL’s motion, she specifically alleged that, in the prior proceeding, after submitting her report recommending that petitioners be discharged as the minor’s guardians, Delisa called her and threatened her, using “offensive and argumentative language clearly meant to harass and intimidate the GAL” and Delisa also filed a complaint with the Attorney Registration and Disciplinary Committee, which determined that no action was warranted. On May 20, 2024, the court granted the GAL’s request to be discharged and appointed a private GAL, Julie Fox, to represent the minor.

¶ 8 On June 24, 2024, Fox filed her report with the court. Therein, Fox indicated that she attempted to contact personnel at the minor’s school but was never able to speak with anyone. She

also indicated that respondent provided her with a copy of the minor's report card showing passing grades and the minor's attendance transcript. Respondent reported to Fox that the minor had been absent due to illness and tardy due to traffic on a few occasions, but he was not excessively tardy or absent. Fox also stated that the court lacked jurisdiction to proceed on petitioners' petition for guardianship pursuant to section 11-5(b) of the Probate Act. Fox recommended that the court enter an order dismissing the petition, discharging her as GAL, and closing the case.

¶ 9 On July 24, 2024, petitioners filed their objections to the GAL's report. In particular, they argued that the tardiness and absences from school rebutted the Probate Act's jurisdictional presumption that respondent was a willing parent able to make and carry out day-to-day child care decisions. See 755 ILCS 5/11-5(b) (West 2022). The following day petitioners also filed a "Verified Petition for Permanent and Temporary Grandparent Visitation."

¶ 10 On September 6, 2024, petitioners filed a motion to withdraw their petition for guardianship filed in the probate division and transfer their petition for grandparent visitation to the domestic relations division.

¶ 11 On September 19, 2024, the parties appeared before the court. At that time, Fox specifically requested that the court not allow petitioners to simply withdraw their petition because she believed they were "forum shopping" and the petition needed to be disposed of based on the specific factual basis so that it could not be refiled on the same facts. After hearing petitioners' counsel's argument, the court agreed with Fox. The court orally ruled that the petition was dismissed with prejudice and it could not be refiled with the same factual basis. The court also declined to transfer the petition, closed the case, discharged Fox as GAL, and retained jurisdiction for the purpose of disposing of Fox's fee petition.

¶ 12 On September 23, 2024, the circuit court entered a written order denying petitioners' motion to withdraw the petition and request to transfer to the domestic relations division. In so ordering, the court stated that petitioners' filings suggested a judge shopping effort and there was "a need for this Court to resolve the Petition for Guardianship on its face as opposed to allowing it to be voluntarily withdrawn." The order also dismissed with prejudice the petition for guardianship. The court concluded that, even taking petitioners' allegations against respondent as true, it did not rise "to the level that the minor's mother is unable or unwilling to make and carry out day-to-day child care decisions[,] and therefore, petitioners lacked standing to proceed on their petition.

¶ 13 On September 26, 2024, Fox filed a verified petition for GAL fees. Therein, she asserted that she rendered 9.7 hours of professional service as the minor's GAL and thus sought fees in the amount of \$3,152.50, which accounted for her reduced hourly rate of \$325. An invoice was attached to the petition showing her time records. The notice of motion stated that Fox would present the motion on October 10, 2024, before the court, and the notice indicated that it was served on petitioners' counsel.

¶ 14 On October 10, 2024, Fox appeared before the court. She stated that she had called and sent a text message to petitioners' counsel but had not heard back from him. The court noted that, according to Fox's petition, notice was given to counsel, and yet he was not present more than an hour after the matter was set to be heard. Fox informed the court that she had not received any correspondence or objection from counsel after filing her fee petition. The court then stated the following with regards to the fee petition:

"Though this matter did not go to an evidentiary hearing with live witnesses testifying, it did involve a lot of research. It involved a lot of reports being filed, drafted,

legal arguments in front of the Court, and review of and arguments regarding not everyday occurrences here.

This was really a jurisdictional issue about the proper venue for this to be heard and whether the probate court had jurisdiction to hear this issue regarding what the grandparents were filing.

I say all this in intentionally making a record for this that as the GAL, you put in an inordinately large amount of time in regards to this that was outside of what we normally had been an evidentiary hearing with live witnesses had this gone the way of an emergency.

As such, the Court does find that all of the time spent and work done was reasonable and appropriate on behalf of the minor, [and] total fees *** in the amount of \$3,152.50 will be approved.

Now, I want to be clear. *** [T]his entire proceeding was – well it was filed by the Petitioners.

It was every step of the way, every requirement that the GAL had to research, every legal argument, everything that was put forth based on filings, and the payers are the Petitioners, not the minor's mother.”

The same day the court issued a written order, granting the petition for fees and ordering petitioners to pay Fox \$3,152.50 for services rendered as GAL within 30 days.

¶ 15 On November 12, 2024, petitioners filed a motion to vacate the October 10, 2024, order granting Fox's fee petition pursuant to section 2-1301 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2-1301 (West 2022)).² In the motion, petitioners admitted that they and their

²Because the 30th day fell on a weekend and due to a court holiday on November 11, the motion to vacate was timely filed on November 12.

attorney failed to appear on October 10, 2024. They asserted that counsel “did not properly diary the initial presentation date” and the failure to appear was “not an intentional waiver of any right to object and/or respond to the G.A.L.’s Petition for Attorneys’ Fees.”

¶ 16 On December 6, 2024, the court held a hearing on petitioners’ motion to vacate. After hearing arguments, the court stated that there would be harm to Fox in vacating the order because it would allow for a delay in payment, and the court emphasized that her hourly rate was reduced as a GAL. The court continued, finding that it was not reasonable under the circumstances to vacate the order, especially where the order did not relate to a more significant issue such as child custody.

¶ 17 In the written order denying the motion to vacate, the court found that Fox had “provided notice to the Petitioners’ still attorney of record via email” of the scheduled date for the court to hear the motion and “petitioners and their attorney failed to appear even though the Court held the matter until well past the 10am time and the GAL even reached out to Petitioners’ attorney at the Court’s request to as the Court waited for counsel to appear[.]” The court denied the motion to vacate because petitioners “failed to present even a modicum” of reasonableness for the failure to appear on October 10, 2024. The order further directed that “the GAL’s fee petition is to be paid consistent with this Court’s prior order.”

¶ 18 On December 27, 2024, Fox filed a petition for issuance of a rule to show cause against petitioners, alleging that they “continue to willfully defy” the October 10, 2024, order to pay her fees, despite multiple reminders. Fox also asserted that petitioners’ attorney failed to respond to any of the billing system reminders to pay or Fox’s personal e-mails to the attorney. Fox noticed the motion for January 14, 2025, at 10 a.m.

¶ 19 On the same day, petitioners filed their notice of appeal. According to the circuit clerk’s timestamp, the notice of appeal was filed 30 minutes after Fox filed her rule to show cause petition.

¶ 20 On January 8, 2025, petitioners filed a motion to stay the proceedings in the circuit court with a notice of motion indicating that the matter was set for January 16, 2025, at 10 a.m., but, according to the court’s subsequent order, “the matter was never docketed with the Clerk of the Circuit Court to assign a date for [a] hearing[.]”

¶ 21 On January 14, 2025, the court entered an order, issuing a rule to show cause against petitioners and denying with prejudice petitioners’ motion to stay the proceedings. Petitioners and their attorney were not present before the court on this date despite Fox sending a text message to petitioners’ counsel at 10:06 a.m. and not receiving a response as of 10:21 a.m. Of note, the court stated on the record that “there [was] a pattern of counsel not appearing, filing things without giving the court courtesy copies or ever providing notice to the court,” and when deciding to rule on the motion to stay, the court stated:

“I’ll dismiss it with prejudice as it was not timely presented, knowing full well that the rule to show cause was set for today. With that, what has been clear is the petitioners and even their attorney of record have not complied with court orders in this case routinely. As such, rule to show cause will issue.”

¶ 22 On February 19, 2025, the court entered an order finding petitioners in indirect civil contempt for their failure to comply with the October 10, 2024, order. The court set forth a payment plan for petitioners and advised that failure to comply would result in the issuance of a body attachment and petitioners would be taken into custody by the sheriff.

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 On appeal, petitioners argue that: (1) the court abused its discretion in denying the motion to vacate; (2) the court erred in not allowing petitioners to respond to Fox’s petition; (3) the court

erred in denying the motion to vacate where petitioners did not request the appointment of Fox and Fox did not properly represent the minor's interests; (4) the court erred in finding petitioners in indirect civil contempt while this matter was pending on appeal; and (5) the record demonstrates judicial bias against them.

¶ 26

A. Motion to Vacate

¶ 27 The first three of petitioners' arguments, although set out in individual sections of their brief, are largely repetitive of each other, and, in fact, repeat, almost verbatim, the same principles of law and some of the same contentions multiple times for no discernible reason. Regardless, each of these three argument sections essentially asserts that the trial court erred in denying their motion to vacate the court's October 10, 2024, order granting Fox's petition for GAL fees. Petitioners request that this court reverse the trial court's denial of the motion to vacate and remand the cause for a hearing on Fox's fee petition.

¶ 28 Section 2-1301(e) of the Code provides that the circuit court may exercise its discretion to set aside any default prior to the final order or judgment, and on a motion filed within 30 days after entry thereof, the circuit court may set aside any final order or judgment "upon any terms and conditions that shall be reasonable." 735 ILCS 5/2-1301(e) (West 2024). "Generally, a liberal policy exists with respect to vacating defaults under section 2-1301(e)." *Wells Fargo Bank, N.A. v. McCluskey*, 2013 IL 115469, ¶ 16. The main consideration in determining whether to grant a motion to vacate "is simply whether or not substantial justice is being done between the litigants and whether it is reasonable, under the circumstances, to compel the other party to go to trial on the merits." *In re Haley D.*, 2011 IL 110886, ¶ 57. However, a court may also consider "the movant's diligence or lack thereof, whether the movant has a meritorious defense, the severity of the penalty, and the relative hardships on the parties." *In re Marriage of Howard*, 2026 IL App

(1st) 252439, ¶ 70. Further, “a court should consider all the events leading up to the judgment” in making its determination as to substantial justice. *Id.* ¶ 75.

¶ 29 Petitioners initially argue that the appropriate standard of review is *de novo* because the trial court based its decision “entirely on documentary evidence” and we need only determine “whether the trial court complied with the relevant statutes at issue.” For reasons unbeknownst to this court, they then abandon that standard of review and devote the remainder of their brief to arguing that the court abused its discretion, only to then reassert *de novo* review as the appropriate standard in their reply brief. In any case, we find that the appropriate standard of review of a court’s decision on a 2-1301 motion to vacate is abuse of discretion. *Howard*, 2026 IL App (1st) 252439, ¶ 67. An abuse of discretion occurs when the court “acted arbitrarily without the employment of conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of law so that substantial prejudice resulted.” *Zurich Ins. Co. v. Raymark Industries, Inc.*, 213 Ill. App. 3d 591, 595 (1991).

¶ 30 Prior to addressing petitioners’ various arguments in support of reversal, we first consider those factors determinative of a substantial justice inquiry. Considering the entire circumstances of this case, we find that the circuit court’s denial of the motion to vacate effectuated substantial justice among the parties. First, neither counsel nor petitioners set forth any extraordinary reason or justification for their absence on October 10. Counsel either misdated the hearing or was out of town on that date (or both). Counsel’s previous issues with following the established court procedures for motion practice is also well documented in the record. Thus, counsel’s failure to appear was not the first time counsel’s actions had fomented criticism from the court, which provides additional support for the court’s decision to deny the motion to vacate.

¶ 31 Additionally, contrary to petitioners' urging, the motion to vacate was filed at the eleventh hour. Thirty days from October 10, 2024, was November 9, 2024, which was a Saturday. Monday, November 11, was a court holiday. Thus, the motion would only be considered timely if filed on Tuesday, November 12. The circuit court's timestamp on the motion reflects that it was filed at 10:08 p.m. on November 12. By virtue of Fox's communications to petitioners' counsel on October 10, counsel was well aware that he missed the scheduled court date and presumably, as there has been no argument otherwise, counsel promptly received notice of the court's October 10 order. Nonetheless, and despite having actually received more than 30 days to do so, counsel filed the section 1301 motion to vacate two hours shy of the time period's elapse. It is fair to say, then, that a lack of diligence is apparent from the record.

¶ 32 Second, denial of the motion to vacate did not operate to impose a severe penalty upon petitioners. There was no dismissal of the entire cause of action as a result of the October 10 order; it was simply a determination on Fox's fee petition. We would also note that petitioners should not have been surprised by the requirement to pay Fox's fees where they instituted the action in the probate court. They also knew a private GAL was appointed as of May 2024, and at no point did they express to the court, prior to filing the motion to vacate, that paying for her services would be an undue burden.

¶ 33 On a similar note, we take issue with petitioners' frequent characterization of the court's October 10, 2024, order as a "drastic sanction." The court simply reviewed the fee petition, found the amount reasonable, and assessed the fees to petitioners, who were, in fact, the party who instituted the litigation and also the party who caused the initial GAL to withdraw from the case. We decline to find this result drastic, and, for the same reasons, we do not find that the order imposed a substantial injustice upon petitioners.

¶ 34 Third, no meritorious defense has been presented to warrant the court allowing petitioners another opportunity to respond to Fox’s petition. As petitioners point out, although the party seeking vacatur “does not *have* to show a meritorious defense[,]” it is nonetheless a factor in the substantial justice analysis. *Howard*, 2026 IL App (1st) 252439, ¶ 74; see *McCluskey*, 2013 IL 115469, ¶ 16 (meritorious defense not required but is relevant). Here, petitioners did not submit evidence of their financial inability to pay the GAL’s fees. Neither did they raise reasonable objections to Fox’s fees. Thus, there was no reason to reopen the issue.

¶ 35 Finally, consideration of the relative hardships of the parties also favored denying petitioners’ motion to vacate. As the court stated, allowing petitioners another chance to litigate Fox’s fee petition would work a hardship upon Fox, who had already completed her duties in this case as a GAL. There was simply no just reason to delay payment to Fox. And for the same reasons we concluded that this would not be a severe penalty, we also find that the hardship to petitioners in leaving the October 10 order intact is not great.

¶ 36 All of the factors therefore weigh against vacating the “default judgment.” The entry of the October 10, 2024, order and the court’s refusal to vacate it achieved substantial justice under the specific circumstances of this case.

¶ 37 We now address petitioners’ various arguments supporting their contention that the court erred in denying the motion to vacate. Petitioners first assert that “the record clearly shows that the trial court failed to consider the substantial injustice that denial of the motion to vacate would cause the parties[.]” However, there is nothing in the statute stating that the court must make express findings as to substantial injustice when ruling on a section 2-1301 motion to vacate. As such, we reject this argument.

¶ 38 Petitioners also argue that the court erred in granting Fox's petition where it "failed to properly provide [petitioners] with the opportunity to object to the attorneys' fees via a hearing." According to petitioners, "[t]he trial court had a duty, according to the Illinois Code of Civil Procedure, to conduct a hearing on the granting of the GAL's Petition for Attorney's fees[.]" Petitioners apparently refuse to acknowledge that the court did conduct a hearing, they simply were not present for it, despite being provided notice of the date.

¶ 39 Next, petitioners contend that they had meritorious objections to Fox's fee petition, in that Fox failed to contact them or the minor's school regarding the excessive tardies and absences and Fox "never saw the child, or even spoke to the child, the Appellants, or the school administrators." On that basis, petitioners argue that Fox did not conduct the requisite investigation, "shown by the lack of activity in this regard from the GAL's billing statement and report," and Fox failed to meet her statutory duties. According to petitioners, Fox "solely focused on the Appellant's lack of jurisdiction to proceed on their Petition for Guardianship." In effect, petitioners contend that Fox's fees were not reasonable because she did not investigate the allegations in their petition for guardianship as they insist she was duty-bound to do.

¶ 40 We reject these arguments for one simple reason. Fox did not need to address or investigate further petitioners' allegations because the probate court did not have jurisdiction over their petition for guardianship. As the court stated, even if all of the allegations were true, it did not rise "to the level that the minor's mother is unable or unwilling to make and carry out day-to-day child care decisions." Thus, petitioners' objections are not meritorious.

¶ 41 Finally, petitioners argue that they should not have to pay Fox's fees because they did not request appointment of a GAL and the court did not consider their financial ability before doing so. They also contend that the court should have assigned a different attorney from the Loyola

Community Law Center; however, much like the public defender's office, and as the circuit court stated, neither the court nor the parties may choose which attorney from the Community Law Center is assigned to a case. Due to the assigned GAL's statements regarding Delisa's prior actions, the court instead appointed a private GAL. Notably, petitioners did not file a written objection to Fox's appointment, which was done following the cessation of the in-person hearing on May 20, 2024.

¶ 42 Regardless, petitioners challenge the propriety of the GAL's appointment and fees, neither of which are issues before this court. Contrary to petitioners' contention that "the primary issue addressed here is whether the Attorney's fees were proper," the primary issue on appeal is whether the court abused its discretion in denying petitioners' motion to vacate the order granting the GAL fees. Because we have found above that the court did not abuse its discretion, this court need not concern itself with whether Fox's fees were properly assessed against petitioners.

¶ 43 For these reasons, we conclude that the circuit court did not err in denying petitioners' motion to vacate the October 10, 2024, order.

¶ 44 B. Indirect Civil Contempt

¶ 45 Petitioners argue that the court erred in finding them in contempt because petitioners had already filed a notice of appeal in this matter and their failure to comply with the October 10, 2024, order was not willful. They also argue that the court should have previously inquired as to petitioners' ability to pay Fox's fees before finding them in contempt. In response, Fox asserts that petitioners did not appeal the February 19, 2025, contempt order and these arguments should be forfeited. However, we allowed petitioners to file a late notice of appeal in this case, in which petitioners identified the order granting Fox's petition for rule to show cause and the order finding petitioners' in indirect civil contempt. See Ill. S. Ct. R. 303(b)(2) (eff. July 1, 2017) (notice of

appeal must “specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court”). Thus, the petitioners’ challenge to the court’s contempt finding is properly before us.

¶ 46 We first address petitioners’ contention set out merely in the heading of their argument that “the trial court erred in finding [petitioners] in indirect civil contempt of court while the matter was on appeal.” They do not continue this argument any further in either their opening brief or in their reply brief. The argument therefore would appear to be forfeited. However, a jurisdictional question “must be determined prior to deciding the merits of an appeal.” *Steel City Bank v. Village of Orland Hills*, 224 Ill. App. 3d 412, 416 (1991).

¶ 47 When a notice of appeal is filed, “the appellate court’s jurisdiction immediately attaches, and the trial court is divested of jurisdiction to enter any orders of substance which would modify the judgment or its scope.” *In re Marriage of Harnack and Farnady*, 2022 IL App (1st) 210143, ¶ 42. However, the circuit court retains jurisdiction to enforce a judgment while an appeal is pending unless a stay is obtained. See *Williamsburg Village Owners’ Ass’n, Inc. v. Lauder Associates*, 200 Ill. App. 3d 474, 481 (1990) (“notice of appeal does not in itself operate as a stay of enforcement of the court’s orders”). In particular, the court retains authority “to compel compliance with their orders through contempt proceedings.” *Illinois State Toll Highway Authority v. Heritage Standard Bank and Trust Co.*, 157 Ill. 2d 282, 290 (1993). As such, the circuit court retained jurisdiction to hear and adjudicate Fox’s petition for rule to show cause and to find petitioners in indirect contempt.

¶ 48 Illinois Supreme Court Rule 305 (eff. July 1, 2017) provides the procedures for staying proceedings. Under Rule 305(a), as to money judgments, an appeal bond must be presented to, approved by, and filed with the court within the time for filing a notice of appeal. Ill. S. Ct. R.

305(a) (eff. July 1, 2017). Under Rule 305(b), as to nonmoney judgments and other appealable orders, the circuit court may grant a motion to stay proceedings and may condition the stay on certain just terms. Ill. S. Ct. R. 305(b) (eff. July 1, 2017). Here, the record is clear that an appeal bond was not posted, and petitioners' motion to stay was denied. Therefore, there was no jurisdictional impediment to the contempt proceedings in the court below.

¶ 49 We now turn to petitioners' assertions that that the contempt finding was improper because their failure to comply was not willful and because the court did not ascertain petitioners' ability to pay before finding them in contempt.

¶ 50 "Vital to the administration of justice is the inherent power of courts to compel compliance with their orders." *Sanders v. Shepherd*, 163 Ill. 2d 534, 540 (1994). "Generally, civil contempt occurs when a party fails to do something ordered by the trial court, resulting in the loss of a benefit or advantage to the opposing party." *In re Marriage of Knoll and Coyne*, 2016 IL App (1st) 152494, ¶ 50. "A person held in civil contempt must have the ability to purge the contempt by complying with the court order." *In re Marriage of O'Malley*, 2016 IL App (1st) 151118, ¶ 26. The only due process required for indirect civil contempt is notice and the opportunity to be heard. *In re Marriage of Betts*, 200 Ill. App. 3d 26, 52-53 (1990). "Proof of willful disobedience of a court order is essential to any finding of indirect civil contempt." *Knoll*, 2016 IL App (1st) 152494, ¶ 50. (citing *In re Marriage of McCormick*, 2013 IL App (2d) 120100, ¶ 17). The unique facts and circumstances of a case must be considered in determining whether to vacate a contempt finding. *In re Marriage of Pavlovich*, 2019 IL App (1st) 172859, ¶ 28. A reviewing court will not disturb a finding of contempt unless it is against the manifest weight of the evidence or the record reflects an abuse of discretion. *In re Marriage of Logston*, 103 Ill. 2d 266, 287 (1984).

¶ 51 As to their first argument, noncompliance with a court order is *prima facie* evidence of contempt. *Logston*, 103 Ill. 2d at 285. The order entered on October 10, 2024, directed petitioners to pay Fox \$3,152.50, in accordance with her fee petition. In her petition for rule to show cause filed more than 60 days after entry of the October 10 order, Fox alleged that petitioners had not complied with the order despite multiple automated billing reminders and personal e-mails sent to petitioner’s counsel. The record shows no evidence of any attempt to pay Fox’s fees following the entry of the October 10, 2024, order. Clearly, petitioners did not comply with the court’s order to pay within 30 days.

¶ 52 This brings us to petitioners’ contention that the circuit court should have inquired about their ability to comply with the order. Once the *prima facie* showing is made, it becomes the opposing party’s burden to show that they are unable to pay. *Id.* “The financial inability to comply with a court order ‘must be shown by definite and explicit evidence.’ ” *In re Marriage of Paris*, 2020 IL App (1st) 181116, ¶ 61 (quoting *In re Marriage of Petersen*, 319 Ill. App. 3d 325, 333 (2001)). Petitioners had multiple opportunities to submit to the circuit court any financial information that may have altered the court’s position. Petitioners’ counsel repeated the refrain regarding his clients’ inability to pay the fees at every opportunity before the court, but at no point was any evidence of their financial status ever presented to the court. Even when filing their motion to stay petitioners failed to include a financial affidavit or documents to support their argument that the GAL fees judgment should not be enforced until after disposition of the appeal. It remains a mystery why petitioners believed they must wait until the court requests financial information to submit any, particularly where their failure to do so is detrimental only to themselves.

¶ 53 Accordingly, we conclude that the contempt finding was not against the manifest weight of the evidence or an abuse of discretion.

¶ 54

C. Judicial Bias

¶ 55 Petitioners' final contention is that the trial court was biased against them and their counsel, "depriving them of a fair hearing in any of the proceedings in this matter[.]" Specifically, they asserted that they have been "the victim of partiality ever since [the initial GAL] filed her Motion to Withdraw her Appointment."

¶ 56 "A trial judge is presumed to be impartial, and the burden of overcoming this presumption rests on the party making the charge of prejudice." *Eychaner v. Gross*, 202 Ill. 2d 228, 280 (2002). A valid claim of bias or partiality is almost never based on a judge's rulings alone. *Id.* Critical or disapproving judicial remarks only rise to the level of bias where they stem from an extrajudicial source or reveal such a high degree of favoritism or antagonism as to absolutely prevent fair judgment. *Thomas v. Weatherguard Construction Co., Inc.*, 2018 IL App (1st) 171238, ¶ 49 (quoting *Eychaner*, 202 Ill. 2d at 281).

¶ 57 Because we have concluded that the circuit court did not abuse its discretion in denying the motion to vacate, we decline to find that these adverse rulings demonstrate bias or partiality against petitioners or petitioners' counsel. We have also reviewed the transcripts from the various hearings before the court, and it is apparent to us that the court's occasional critical remarks stemmed from counsel's pattern of failing to appear before the court on set dates and failing to properly file and notice motions. See *Antonacci v. Seyfarth Shaw, LLP*, 2015 IL App (1st) 142372, ¶ 39 ("A display of displeasure or irritation with an attorney's behavior is not necessarily evidence of judicial bias against a party or his counsel."). Additionally, we do not agree that the initial GAL's allegations against Delisa resulted in any bias or partiality. The court simply found that the allegations supported the need for a different GAL to be appointed and did not discuss those

allegations any further. Thus, we conclude that the record does not show any deep-seated antagonism towards petitioners.

¶ 58

D. Sanctions

¶ 59 Finally, we must address Fox’s request that we deem this a frivolous appeal and impose sanctions on petitioners.

¶ 60 Supreme Court Rule 375(b) provides that sanctions may be imposed for frivolous appeals, or those appeals not taken in good faith or for an improper purpose. Ill. S. Ct. R. 365(b) (eff. Feb. 1, 1994).

“An appeal or other action will be deemed frivolous where it is not reasonably well grounded in fact and not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law. An appeal or other action will be deemed to have been taken or prosecuted for an improper purpose where the primary purpose of the appeal or other action is to delay, harass, or cause needless expense.” *Id.*

“The purpose of Rule 375(b) is to condemn and punish a litigant’s abusive conduct.” *Stanila v. Joe*, 2020 IL App (1st) 191890, ¶ 26. The imposition of such sanctions is left entirely to the reviewing court’s discretion. *Parkway Bank and Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87.

¶ 61 In this case, we decline to find that Rule 375(b) is applicable. Although petitioners’ arguments are without merit, somewhat repetitive, and poorly drafted, the arguments appear to be taken in good faith and are not so contrary to existing law as to be considered completely illogical. We recognize that Fox, in this court and in the court below, has repeatedly expressed her frustrations as to counsel’s conduct. It is worth mentioning that counsel requested four extensions of time to file petitioners’ opening brief and three of the four requests were filed weeks after the

prior due date had already passed. Nonetheless, we do not consider the arguably dilatory tactics and the brief's insufficiencies to be so egregious as to warrant sanctions.

¶ 62

III. CONCLUSION

¶ 63 For the reasons stated, we affirm the judgment of the circuit court.

¶ 64 Affirmed.