In the Missouri Court of Appeals
Eastern District

DIVISION ONE

PATRICIA K. FISH, Appellant, v. BRIAN D. FISH, Respondent.	)	ED113890 Filed: November 10, 2026

Appeal from the Circuit Court of St. Louis County
The Honorable Natalie P. Warner

Introduction

Patricia K. Fish (Mother) appeals the judgment of the trial court terminating the court's prior contempt order against Brian D. Fish (Father) for failure to pay child support and other expenses, violating the parties' parenting plan in numerous respects, and failure to indemnify Mother and hold her harmless for several civil lawsuits resulting from Father's alleged forgery of Mother's signature on financial documents. Mother argues the trial court erred in determining Father had purged his contempt because it failed to consider evidence she submitted and miscalculated what Father still owed to Mother. Because the trial court abused its discretion in failing to consider Mother's

evidence, and because the trial court improperly credited payments Father had made, we reverse the trial court's conclusion that Father purged his contempt.

Factual and Procedural Background

The trial court entered an order dissolving Mother and Father's marriage in April of 2014. The parties have three children, two of whom were minors at the time of the dissolution: I.F. was 16 years old, and S.F. was 13 years old. The trial court awarded sole legal and sole physical custody of the minor children to Mother and ordered Father to pay $150 per month in child support for two children, and $100 per month for one child.[1] The court also ordered Father to contribute to the medical, dental, and educational expenses of the minor children.

At the time of the dissolution judgment, there were four separate pending lawsuits against Father and Mother concerning financial transactions in which Father had allegedly forged Mother's signature on financial documents, carrying at least $1.95 million in potential liabilities (civil lawsuits). The trial court assigned all four lawsuits as Father's separate debt, and the court ordered Father to hold Mother harmless and indemnify Mother for any debts and obligations arising from the civil lawsuits.

In March of 2016, Mother filed a motion for contempt, later amended in August of 2016 and June of 2017, alleging that only S.F. was still a minor child. The motion for contempt alleged numerous violations of the dissolution judgment by Father, including

[1] The parties later participated in settlement proceedings and agreed to modify their child support and custody agreement. As relevant here, child support was increased to $250 per month for two children, and $200 per month for one child.

failure to follow the parenting plan's directives about communicating with the minor child, visitation procedures, notifying Mother of a change of address or the child's schedule changes, failure to pay his portion of the child's medical and dental expenses, and failure to pay child support. Additionally, Mother alleged Father failed to defend the civil lawsuits, one of which resulted in a $1.95 million judgment. Mother alleged she expended over $200,000 defending and settling the civil lawsuits on her own behalf. Mother further alleged that Father had failed to indemnify her for $6,563.53 she paid in fees to the court-appointed Guardian ad litem (GAL), as previously ordered by the trial court.

In November of 2017, the trial court entered a judgment finding Father in contempt for failing to cooperate in the civil lawsuits to shield Mother from liability, failing to pay his portion of the children's medical costs, and various behaviors toward the children that violated the court's prior orders, including inappropriately enmeshing the children in court matters, alienating the children from Mother, and causing emotional harm to S.F. The trial court further found that contempt was not appropriate for Father's failure to pay his portion of the GAL fees, but that Mother was entitled to a judgment against Father for such fees. The trial court additionally awarded Mother $15,000 for attorney's fees. The court concluded Father owed Mother a total of $243,780.

The contempt judgment provided Father could purge his contempt by making monthly payments of $1,000 to Mother, "commencing December 1, 2017 and due on the first day of each month thereafter, until the total sum of $243,780.00 … is paid." Additionally, Father was to "remain current on all child support obligations." The court

found Father had the present ability to pay, and ordered that "[i]f [Father] fails to make any payment, a warrant and commitment for [Father]'s arrest shall issue forthwith after this Court is satisfied by proper proof," at which time the court could imprison Father until he paid the entire sum due.

Following this order, Mother filed several motions seeking either to amend the judgment or seeking a warrant and commitment order, due to Father's failure to make payments pursuant to the contempt order as well as his failure to follow several directives from both the dissolution judgment and the contempt order regarding his parenting of the children and lack of communication with Mother. The trial court entered various orders, including requiring Father to make the payments his missed to Mother to avoid the issuance of a warrant and order of commitment, ordering Father to pay Mother's attorney, and ordering Father to take action in one of the civil lawsuits to correct statements he made about Mother in a consent judgment.

The trial court eventually conducted a hearing and entered an amended judgment of contempt in January of 2019. The judgment contained identical findings regarding the amounts Father owed, as well as the same $1,000 monthly payment by which Father could stay execution of the contempt judgment, but it added additional provisions to the purge order. The purge order in full was as follows:

> a. [Father] to [Mother] pays the sum of $1,000.00 per month, commencing December 1, 2017 and due on the first day of each month thereafter, until the total sum of $243,780.00 … is paid; and

b. Remains current on all child support obligations including paying his share of uncovered medical and all other expenses relating to [S.F.] that the Court has obligated him to pay;

c. Notifies [Mother] in writing of all changes in employment, within 14 days of such change, by providing the name, address and phone of all new employers;

d. Communicates with [Mother] through Our Family Wizard about [S.F.] as previously ordered; and

e. Participates in good faith counseling for [S.F.] as [S.F.]'s therapist directs.

The court again provided that if Father "fails to make any payment, a warrant and commitment for [Father]'s arrest shall issue forthwith after this Court is satisfied by proper proof that payment has not been made."

In April of 2019, Mother filed a motion for warrant and commitment, alleging Father had again failed to follow court orders, specifically in failing to hold Mother harmless in the civil lawsuits, resulting in Mother having to file for bankruptcy. Mother further alleged Father had failed to pay any of the attorney's fees he was ordered to pay, and he had failed to follow the orders related to coordinating care and therapy for S.F. Mother filed several additional motions for warrant and commitment over the next several years. In the meantime, Father also filed for bankruptcy.

In October of 2023, Father filed a motion for satisfaction of judgment, termination of child support, and termination of judgment of contempt. He alleged that in federal bankruptcy court, "[Father] 'purchased' his debt from the trustee for a sum certain" (bankruptcy compromise). Essentially, Father argued that, as part of Mother's bankruptcy proceedings, Father had settled the entire $243,780 that he owed Mother in the contempt

order by paying Mother's bankruptcy trustee $20,000. Father also alleged that during the pendency of the purge order he had paid at least $58,000 to Mother. He noted that all of the minor children were then emancipated, and he alleged that, due to the bankruptcy compromise, he no longer owed Mother any money.

In January of 2025,[2] Mother filed an amended motion for warrant and commitment of Father, alleging that the bankruptcy compromise did not settle all the claims between Mother and Father, and some of the debt Father owed was exempt from her bankruptcy proceeding and could not be discharged by his bankruptcy. Mother also alleged Father had failed to pay his $1,000 monthly payments since March 1, 2023, was not current on child support or expenses for S.F., failed to participate in counseling as ordered in the contempt judgment, failed to indemnify Mother for any losses she sustained following the bankruptcy compromise, and failed to provide notice of his change of employment. Mother also requested in her motion that the trial court determine amounts due.

Prior to its evidentiary hearing, the trial court entered an order finding that the only item of the January 2019 purge order enforceable by commitment was the $243,780 due in $1,000 monthly installments, and the court limited the evidentiary hearing regarding Mother's motion for warrant and commitment to that issue. The court further stated it would consider Mother's additional request to determine amounts due, and

[2] Beyond continuances in 2020-21 due to the Covid-19 pandemic, it is unclear why the years-long delay in this case took place. Mother filed a motion in June of 2024 to revive the judgment, and the trial court granted the motion in September of 2024.

Father's motion for satisfaction of judgment, termination of child support, and termination of judgment of contempt.

At the evidentiary hearing, Mother submitted Exhibit 1, showing the bankruptcy compromise order dated November 1, 2022, that released all pre-bankruptcy, non-exempt claims that Mother had against Father, for his payment of $20,000 to Mother's bankruptcy trustee. The claims included Mother's damages related to the civil lawsuits concerning Father's alleged forgery, potential causes of action against Father for identity theft, and non-exempt child support or other debts related to the divorce. The bankruptcy court did not make a finding as to the amount of debt compromised. The order specifically noted that no claim arising after March 19, 2019 is included in the compromise.

Mother elicited testimony from Father that at the time of the bankruptcy compromise, Father had substantial sums of money both from a new job of which he had not notified Mother, and from an inheritance he received. Mother argued Father had the ability to pay the entire $243,780 judgment in October of 2022 when they were negotiating the bankruptcy compromise, but he falsely represented to the bankruptcy court that he was indigent, and thereby was able to secure the bankruptcy compromise, paying only $20,000.

Mother also submitted Exhibit 2, a bankruptcy court document dated October 17, 2022, showing that Mother was entitled to an exemption of $43,500 in her pre-bankruptcy claims against Father for unpaid child support and expenses. Mother argued this amount was excluded from the bankruptcy compromise of Father's contempt-order

debt, and was therefore still due to Mother, though Father had not made any further payment after the bankruptcy compromise. However, the copy of Exhibit 2 submitted at the evidentiary hearing before the trial court here was not signed by the bankruptcy judge. The trial court received the exhibit over Father's objection that it was unsigned.

The trial court further received evidence of Father's payments to Mother, including both the $1,000 monthly payments pursuant to the January 2019 purge order, and ongoing monthly child support payments that were due until September of 2021, when S.F. was emancipated. Father argued that his previous payments had fully satisfied any debt that was not compromised, and in fact, he had overpaid.

Following the hearing, the trial court granted Father's request to terminate child support due to all children being emancipated, and found Father had purged his contempt in light of both the bankruptcy compromise and $57,000 in monthly $1,000 installments Father had paid. The trial court noted it gave no weight to Exhibit 2 because it was not signed by the bankruptcy judge. The trial court found the bankruptcy court did not intend Mother would have to re-pay any of the $1,000 payments Father had made, and thus she did not owe Father any money. Separate from the contempt order, the court found Father had paid $11,750 of the total $12,200 monthly child support obligation that continued alongside the contempt order between April of 2017 and September of 2021 when S.F.

was emancipated, and thus the court ordered Father to pay Mother the remaining amount of $450.[3] This appeal follows.

Analysis

Mother raises three points on appeal. First, she argues the trial court abused its discretion in denying her request to reopen the evidence to allow her to submit a signed copy of Exhibit 2. In Point Two, Mother argues the trial court erred in its determination that Father had purged his contempt by failing to consider Exhibit 2 and by improperly applying Father's monthly $1,000 payments as credits only toward outstanding child support amounts. Finally, in Point Three, Mother argues the trial court erred in limiting the proceedings to only a determination of whether Father had fulfilled his monetary obligation under the contempt order, and in granting Father's motion to terminate the contempt order without hearing evidence regarding the other ways Father violated the contempt order. We discuss each in turn.

Point One – The Trial Court Abused its Discretion in Denying Mother's Request to Reopen the Evidence

Mother argues the trial court erred in denying her request to reopen the evidence to allow her to submit a signed copy of Exhibit 2, a bankruptcy court document reflecting $43,500 for child support and children's expenses that was exempt from the bankruptcy compromise. We agree.

[3] This finding of $450 in past-due child support resulting from the monthly child support amounts ordered in the dissolution judgment is not disputed on appeal, thus we affirm the trial court's judgment in this respect.

"The decision to permit a party to reopen is generally within the sound discretion of the trial court." *Page v. Lewis*, 902 S.W.2d 359, 360 (Mo. App. E.D. 1995) (citing *In re Estate of Mapes*, 738 S.W.2d 853, 855 (Mo. banc 1987)). However, "[w]hen there is no inconvenience to the court or unfair advantage to one of the parties, it is an abuse of discretion for a trial court to refuse to permit the introduction of material evidence which might substantially affect the merits of the case." *In re Marriage of Hall,* 645 S.W.3d 701, 703 (Mo. App. S.D. 2022).

Here, Mother had submitted the document as Exhibit 2 during the evidentiary hearing, and the trial court received it over Father's objection that it was unsigned. The trial court gave no indication it would not consider the exhibit until its judgment, where the court stated it gave no weight to Exhibit 2 because it was unsigned. Allowing the exhibit to be admitted after the fact would not give Mother an unfair advantage, as the parties and court were aware of its contents.[4]

Moreover, the exhibit is material in that it might substantially affect the outcome of this case. As noted above, the trial court's judgment here addressed both Mother's request for a warrant and commitment due to violations of the contempt order, but also Mother's request to determine amounts due, separate from the contempt order. The relevance of Exhibit 2 relates to the latter determination. As we will discuss, Exhibit 2 concerns Mother's claim to child support and the children's expenses separately from the amount ordered in the contempt judgment.

[4] We note that the signed copy of Exhibit 2 is dated November 1, 2022, and is substantially similar to the earlier, unsigned copy Mother submitted at trial.

First, it is important to consider this exhibit in tandem with the other bankruptcy court documents in evidence. Mother's bankruptcy schedule dated September 9, 2022 (Exhibit F), in which she listed her property at the time of her bankruptcy, included two items relevant here. First, in paragraph 29, she stated "[Father] owes child support including 3 months of unpaid child support at $250 per month plus 50% of medical and dental and 50% of education costs and extracurricular activities," in the amount of $122,095. Second, also in paragraph 29, she stated "[Father] owes non-child support indemnification obligations under the parties' divorce decree," in the amount of $240,780. This second item appears to be the balance due from the court's January 2019 contempt judgment.

Exhibit 2 reflects an agreement between Mother and the bankruptcy trustee that $43,500 would be an "exemption against her pre-petition claims against [Father] for 'child support including 3 months of unpaid child support at $250 per month plus 50% of medical and dental and 50% of education costs and extracurricular activities.'" Thus, this exemption appears to solidify the amount Mother can collect from the first item in paragraph 29: $122,095 she listed as money he owed her for child support and the children's expenses as of the filing of her bankruptcy. Following Exhibit 2, $43,500 remains of that amount as her own claim for money owed for child support and expenses prior to March 19, 2019. The bankruptcy court did not receive evidence of the actual expenses, and Exhibit 2 does not determine that Mother is actually entitled to $43,500,

but simply that her claim for that amount remains hers, she is free to seek to collect on the claim, and the bankruptcy trustee may not access any funds she receives therefrom.[5]

Exhibit 1, which shows the terms of the bankruptcy compromise, is clear that it applies only to "all non-exempt, prepetition claims that [Mother] had against her ex-spouse, [Father], as [of] March 19, 2019[.]" Specifically, the bankruptcy compromise states it applies to both of the items listed in paragraph 29, but expressly declines to make a finding "as to the exact amount [Father] owed prepetition verses post-petition to [Mother]." It also notes that "[a]ny exemptions applicable to said prepetition claims are provided in [Mother]'s schedules as allowed through separate Order of this Court." Finally, the bankruptcy compromise notes that no claims arising after March 19, 2019 are included in the compromise.

As such, while Mother is correct that the $43,500 listed as exempt in Exhibit 2 was not compromised by Father's $20,000 payment toward other, non-exempt debts he owed Mother, it is also true that the $43,500 is not a determination of child support owed, but rather a determination of the amount she is permitted to seek and to retain if collected.[6] Because the bankruptcy compromise applied only to non-exempt debts, it did

[5] We note Mother's argument that Exhibit 2 was part of the bankruptcy compromise and therefore Father was a party to the agreement that $43,500 would be exempt as child support. However, we are constrained to the evidence presented before the trial court, and while Mother's attorney made the same argument before the trial court, there was no testimony presented that Father was part of the agreement resulting in Exhibit 2. Father's attorney disputed that assertion before the trial court, and the court made no findings on the issue. The exhibit itself contains only Mother's attorney's signature and the bankruptcy trustee's signature.

[6] Exhibit 2 also notes that the bankruptcy trustee had received funds in the amount of $1,072.54 from Father's bankruptcy estate and orders that the trustee is authorized to pay

not settle her $43,500 claim to child support and expenses due prior to March 19, 2019. Moreover, this claim is separate from the amounts she claimed were due pursuant to the trial court's January 2019 contempt judgment. The trial court should have considered any amount due to Mother in light of Exhibit 2 in its separate determination of amounts due apart from the contempt judgment.

Therefore, because Exhibit 2 is material in that it might substantially affect the outcome of the determination as to what Father still owes Mother, the trial court abused its discretion in refusing to permit Mother to submit a signed copy of Exhibit 2 following its judgment. Point granted.

Point Two – The Trial Court Erred in Finding Father Had Purged His Contempt

Mother argues the trial court erred in finding Father had purged his contempt because the court improperly credited Father's $1,000 monthly payments under the purge order to child support debt remaining after the bankruptcy compromise, when that monthly payment was intended to repay several categories of expenses, of which child support was a small fraction. We agree.

"A trial court's judgment in a civil contempt proceeding will not be disturbed on appeal absent a clear abuse of discretion." *Stuart v. Ford*, 292 S.W.3d 508, 513 (Mo. App. S.D. 2009); *Lyons v. Sloop*, 40 S.W.3d 1, 10 (Mo. App. W.D. 2001). Additionally, the judgment in a civil contempt proceeding must be affirmed unless there is no

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Mother that amount. Thus, the order concludes that Mother's claim for $43,500 is "less any amount received by the Trustee."

substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law. *Id.*

In this point we focus on the trial court's determination that Father had purged his contempt, and therefore we discuss child support only to the extent it was included in the January 2019 contempt judgment. The contempt judgment included $4,460.37 for unpaid medical and dental expenses. As noted above, the bankruptcy compromise settled only non-exempt debts, and because child support, including children's expenses, is exempt, the bankruptcy compromise did not apply to this amount.

Regarding the effect of the bankruptcy compromise on the remaining debts, Father argues that of the $243,780 owed pursuant to the January 2019 contempt judgment, approximately $217,000 was for Father's indemnification of Mother regarding the civil lawsuits was forgiven in the bankruptcy compromise. To the approximately $26,000 remaining, Father then adds the trial court's finding that $12,200 in child support accrued between April of 2017 and September of 2021, resulting in just over $38,000 due. Father argues the trial court found he had paid $57,000 following the January 2019 contempt order, resulting in an overpayment, for which Father's attorney chose not to seek reimbursement. The trial court appears to have accepted Father's argument, because in reaching its conclusion that Father had purged his contempt, the court found that child support was exempt from the bankruptcy compromise, noted Father's payments of $57,000 following the contempt order, and determined Mother need not repay any of Father's $1,000 payments,

We find these calculations are contradicted by the record. The trial court entered its original contempt order in November of 2017 and later amended it in January of 2019 with identical terms related to payment: Father was to pay $1,000 per month, commencing in December of 2017, until a total of $243,780 was paid. This amount represented multiple debts owed to Mother, including $217,756.26 in indemnification for expenses related to her defense in the civil lawsuits, $6,563.53 for Father's portion of the GAL fees Mother had paid, $4,460.37 for the children's medical and dental expenses, and $15,000 for attorney's fees.

The trial court found that Father had paid $57,000 between May 1, 2018 and January 1, 2023, or $1,000 each month for the 57 months in that period, including January of 2023, as payments were due on the first day of each month.[7] Thus, as of the bankruptcy compromise on November 1, 2022, Father had paid $55,000 toward the $243,780 judgment.

The January 2019 contempt judgment does not specify what portion of the $1,000 monthly payments go to each separate category of debts Father owed to Mother. Applying them in pro-rata fashion, the child support order of $4,460.37 was 1.83 percent of the $243,780 judgment. Therefore, of the $55,000 Father paid prior to Mother's bankruptcy, $1,006.32 went toward the $4,460.37 of child support, leaving $3,354.05. This was the amount due for child support at the time of the bankruptcy compromise, and this amount was exempt from the compromise.

[7] This finding is supported by substantial evidence in the record.

Additionally, while the trial court found that the amounts Father owed for indemnification of the civil lawsuits and the GAL fees were settled by the bankruptcy compromise, the trial court made no findings regarding the $15,000 in attorney's fees that was part of the contempt order. Father's calculations conceded by implication that this amount was not settled by the bankruptcy compromise.[8] Again, applying Father's payments pro-rata, attorney's fees constituted 6.15 percent of the total contempt judgment. Therefore, $3,384.20 of the $55,000 Father paid went toward attorney's fees, leaving a remaining balance of $11,615.80 for attorney's fees that were not settled by the bankruptcy compromise. Adding these remaining attorney's fees to the remaining $3,354.05 in exempt child support renders $14,969.85 from the contempt order that remained due from Father after the bankruptcy compromise.

In light of the foregoing, we soundly reject Father's argument that the $57,000 he paid toward several debts *prior to* settling those same debts, may now, post-compromise, be fully applied to only two outstanding debts of child support and attorney's fees. Only $2,000 of Father's payments came after the bankruptcy court compromise. The other $55,000, paid before any compromise took place, served only to reduce the amount of debt that was settled in bankruptcy court. Father had received credit for those payments pre-compromise, and he is not entitled to again credit that $55,000 toward any amounts remaining due after the compromise.

[8] Because he does not dispute this, we do not address it, but we do note that generally federal courts treat attorney's fees assigned as part of an action to collect child support or as part of a dissolution decree as part of the child support itself and therefore not dischargeable by bankruptcy. *See In re Sullivan*, 423 B.R. 881, 883 (E.D. Mo. 2010).

Thus, the trial court's judgment that Father had purged his contempt is unsupported by substantial evidence and is against the weight of the evidence, as $14,969.85 was not settled by the bankruptcy compromise and remained due under the purge order. Crediting Father $2,000 for payments made in December of 2022 and January of 2023, Father still owes $12,969.85 pursuant to the contempt order. Thus, we must reverse the judgment of the trial court finding Father had purged his contempt. Point granted.

Additionally, Mother has argued that she presented evidence at the hearing in this matter that Father misled the bankruptcy court as to the state of his assets at the time of the bankruptcy compromise in November of 2022, which resulted in the compromise of his debt for a fraction of what he owed, despite his ability to pay the full amount at that time. The trial court made no findings on this issue, but we note that the commission of fraud upon the bankruptcy court is a matter for the bankruptcy court, rather than state courts.[9] *E.g.*, *Stursberg v. Morrison Sund PLLC*, 112 F.4th 556, 565 (8th Cir. 2024)

[9] We say this acutely aware of the years and finances Mother has spent in court trying to collect from Father, and we acknowledge the court file contains multiple court orders finding that time and time again Father has avoided binding court orders in numerous respects, with Mother having woefully limited success in enforcing those orders. When asked at oral argument whether Father had the money to pay Mother at the time of the bankruptcy compromise, Father's attorney said he did not know, and when pressed with the suggestion that Mother was harmed by the bankruptcy trustee settling over $200,000 of Father's debt to her, Father's attorney responded, "That's what we do as lawyers – we use the law to help our clients solve problems." We are aware of the sobering fact that in this case, while the law seems to have allowed Father to solve problems, it has created them for Mother. But even with this acknowledgment, we are limited both in our position as a state court, and in our role as a court of appeals, and therefore we cannot litigate Father's alleged fraud here. We are limited to the evidence that was presented in the trial court, and we may not base our opinion on unsworn statements made during oral

(discussing exclusive remedy in bankruptcy court). However, the trial court has discretion in a contempt action to compensate the aggrieved party for losses or damages sustained by reason of the contemnor's noncompliance, such as through an award of attorney's fees. *See In re Marriage of Crow and Gilmore*, 103 S.W.3d 778, 782-83 (Mo. banc 2003) (quoting *City of Pagedale v. Taylor*, 790 S.W.2d 516, 518 (Mo. App. E.D. 1990)). The trial court here may consider such an award upon remand.

Point Three – The Trial Court Did Not Err in Limiting the Issues for Mother's Motion for Warrant and Commitment

Mother argues in her final point that the trial court erred in limiting the issues at the evidentiary hearing to only whether Father had fulfilled the financial obligation of the January 2019 contempt judgment, excluding consideration of Father's failure to perform other actions listed as part of the purge order. We disagree.

In addition to the purge order's $1,000 monthly payment, it contained the following directives toward Father:

> b. Remains current on all child support obligations including paying his share of uncovered medical and all other expenses relating to [S.F.] that the Court has obligated him to pay;
>
> c. Notifies [Mother] in writing of all changes in employment, within 14 days of such change, by providing the name, address and phone of all new employers;
>
> d. Communicates with [Mother] through Our Family Wizard about [S.F.] as previously ordered; and

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argument, however much we may believe or disbelieve them. *See Smith v. City of St. Louis*, 573 S.W.3d 705, 715 (Mo. App. E.D. 2019) ("assertions during oral argument have no evidentiary value").

e. Participates in good faith counseling for [S.F.] as [S.F.]'s therapist directs.

Following these requirements, the purge order provided that if Father "*fails to make any payment*, a warrant and commitment for [Father]'s arrest shall issue forthwith after this Court is satisfied by proper proof that payment has not been made" (emphasis added).

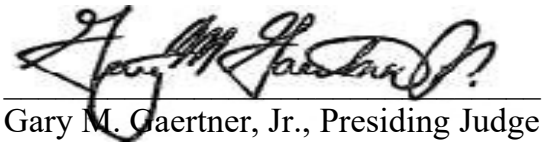
The January 2019 contempt judgment was one of civil contempt. "On imprisonment for civil contempt, the contemnor in a sense has the key to his cell in his pocket, … [and] he can secure his release by purging himself of contempt in whatever manner is specified in the order." *State ex rel. Foster v. McKenzie*, 683 S.W.2d 270, 270 (Mo. App. E.D. 1984). If a contemnor does not have the ability to purge himself of his contempt, imprisonment for civil contempt is not justified. *Lyons v. Sloop*, 10 (Mo. App. W.D. 2001).

Here, while there is no question Father violated the provisions above of the January 2019 contempt judgment, a commitment order was not the appropriate remedy, in that Father would have no ability at this point to comply with the orders and essentially unlock his prison cell, given that the children are all emancipated, and the time has long passed for Father to timely notify Mother of his employment information. *See McKenzie*, 683 S.W.2d at 270 (commitment for civil contempt is only appropriate when defendant has ability to purge contempt). Moreover, the contempt judgment itself expressly states only that a commitment order will issue upon failure to make a payment, which is consistent with the legal basis for when commitment is appropriate.

Mother is not prevented from seeking other remedies, such as a new contempt order with a request for damages, due to Father's failure to comply with the non-monetary provisions of the January 2019 contempt judgment; however, commitment at this point is not the appropriate remedy for those violations. While we are sympathetic to the additional time in court and expense that would add to Mother, especially in light of the overwhelming time and money she has already spent, we cannot say the trial court erred in limiting the present action for commitment to Father's monetary obligations under the January 2019 contempt judgment. Point denied.

Conclusion

We reverse the trial court's finding that Father had purged his contempt, and we instruct the trial court to enter an order finding Father still owes $12,969.85 from the January 2019 contempt judgment. Accordingly, the trial court can reconsider whether to enter a commitment order on Mother's January 2025 amended motion for warrant and commitment. We also instruct the trial court to consider an award for Mother's reasonable attorney's fees. We affirm the trial court's judgment for $450 in unpaid child support. We further direct the trial court to reopen the evidence to receive Mother's signed copy of Exhibit 2, and we instruct the trial court to enter an additional order for any child support or expenses due prior to March 19, 2019, in light of Exhibit 2.



Gary M. Gaertner, Jr., Presiding Judge

Robert M. Clayton III, Judge and
Michael S. Wright, Judge, concur.