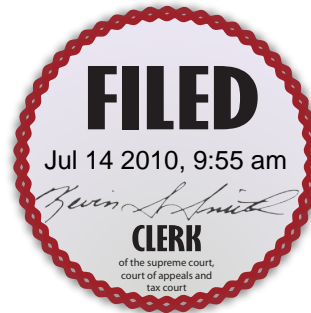


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

**SHALINI KOHLI**  
Carmel, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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SHALINI KOHLI,	)	
	)	
Appellant/Respondent,	)	
	)	
vs.	)	No. 29A02-1002-DR-131
	)	
VISHAL MAHAJAN,	)	
	)	
Appellee/Petitioner.	)	

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APPEAL FROM THE HAMILTON SUPERIOR COURT  
The Honorable Steven R. Nation, Judge  
The Honorable David K. Najjar, Magistrate  
Cause No. 29D01-0806-DR-726

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**July 14, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**CRONE, Judge**

## **Case Summary**

Shalini Kohli (“Wife”) appeals pro se the decree dissolving her marriage to Vishal Mahajan (“Husband”). We affirm.

## **Issues**

Wife raises eight issues for review.<sup>1</sup> However, for reasons discussed below, we find that she has waived all her arguments except those relating to the trial court’s application of Indiana Child Support Guidelines 3(A) and 3(B).

## **Facts and Procedural History**

Husband and Wife were married in India on October 11, 2000, according to Hindu marriage rites. Shortly thereafter, the couple moved to Hamilton County, Indiana, where they have resided since. They had one child of the marriage, R.M., born June 25, 2003. On June 18, 2008, Husband filed a petition for dissolution of marriage, citing irretrievable breakdown of the marriage. On August 11, 2008, Wife filed a verified request for provisional orders and rehabilitative maintenance and requested that the trial court apply the Hindu Marriage Act of 1955, which does not recognize irretrievable breakdown as a basis for marital dissolution.<sup>2</sup> On February 17, 2009, the trial court applied Indiana law and issued a temporary child

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<sup>1</sup> We note that Wife’s statement of the issues does not match the arguments presented in the body of her brief. For example, she lists spousal maintenance in the issues section of her brief, yet fails to address it in the argument section. Conversely, she does not list as an issue her request for attorney’s fees, yet introduces it without citation to authority on the last page of her brief.

<sup>2</sup> We note that Wife is essentially appealing in an effort to prevent Husband from divorcing her and marrying another woman. The basis for Wife’s argument is that, because Hindu marital law does not recognize irretrievable breakdown as a basis for dissolution, Husband is not entitled to a dissolution at all. However, Wife has failed to develop this argument with citations to proper authority. Thus, for reasons discussed below, we find that she has waived this issue.

support and maintenance order. On May 8, 2009, the trial court issued a more detailed preliminary order.

On November 10, 2009, the trial court held a final hearing. On January 13, 2010, the trial court issued a dissolution decree and awarded legal and physical custody of R.M. to Wife. The decree included the following findings:

4. There is an irretrievable breakdown in the marriage.  
....
8. [Husband] shall owe a duty of child support for the minor child.
9. In calculating child support, the Court finds that [Husband] has income in the amount of \$2291.00 per week and [Wife] has income of \$576.92 per week. [Husband] shall be ordered to cover the child for health insurance purposes, so long as such insurance coverage is available to him, either individually or through his employer at a reasonable cost .... [Husband] shall pay \$196.80 in child support each week. Such obligation shall be retroactive in application to the date of the filing of the petition for dissolution on June 18, 2008.
10. The Court finds that the Preliminary Order issued in this cause found that child support should be set in the amount of \$253.49 per week, and that, as of April 27, 2009, [Husband] had paid \$1,800.00 in child support, leaving an arrearage of \$7,072.15. Due to the recalculation of child support, and the new retroactive application, such arrearage is now invalid. Using the new calculations, as of November 10, 2009, there had been 75 weeks in which child support was due, at a rate of \$196.80 per week, resulting [in] \$14,760.00 total child support due. According to the Preliminary Order, [Husband] had paid \$1,800.00 in child support up to that date. Assuming [Husband] has paid \$253.49 weekly since the Preliminary Order was issued, as was suggested in the final hearing, [Husband] had paid at the higher rate for 28 weeks, resulting in a total payment of \$7,097.72 in child support during such time. These calculations would suggest that [Husband] had paid a total of \$8,897.72 in support during a time when \$14,760.00 was due. This results in an arrearage of \$5,862.28 in child support. If [Husband] has made additional payments during the pendency of this cause, or

payments, after the final hearing, in excess of the amount of child support due and owing as calculated by the Court above, then such amounts shall be credited towards satisfying [Husband's] past due child support obligation. The Court orders that [Husband] shall become current in his child support obligation, satisfying any arrearage due, within 60 days of this Order.

11. In addition to the child support ordered above, [Husband] shall be obligated to pay a portion of any irregular income, including bonuses or commissions not reflected in the calculation of child support above, as additional support the child. [Husband] shall pay 8.6% of such irregular income as child support within ten (10) days of receipt of such income. [Husband] shall also disclose to [Wife], at least annually, any and all irregular income received.

....

14. The Court finds that the parties acquired certain property and incurred certain debts during the marriage that should be divided. The Court finds that there exists a presumption that property should be divided equally unless certain statutory factors exist and the Court determine that an unequal distribution of property is appropriate. [Wife] has also requested spousal maintenance, claiming in part that [Husband's] action have deprived her of certain educational advances with which to secure employment, and an income sufficient to meet her needs. The Court does not find that [Wife] has presented sufficient evidence to support a claim for spousal maintenance, however, the Court does find that, due to a disparity in income earning potential, that there should be an unequal distribution of the marital estate in favor of [Wife]. The Court finds that the property and debts of the marriage should be split 45% for [Husband] and 55% for [Wife].

....

16. The Court finds that 45% of the net estate is \$38,275.11. Therefore, in order to follow the 45/55 distribution of property found above, the sum of \$28,539.59 should be transferred from [Husband] to [Wife]. Such sum shall be paid through a Qualified Domestic Relations Order from the Prudential Retirement account. [Husband] shall be responsible for any and all taxes and fees associated with such transfer and counsel for [Husband] shall prepare the QDRO.

17. The Court has heard testimony regarding undisclosed assets of both parties. Absent credible evidence of the existence of such property, the Court cannot address such claims at this time.

....

20. The Court previously ordered any bonus received by [Husband] to be placed in trust and held pending a final determination in this cause. [Husband] did receive the bonus but did not follow the Court's orders with regard to the distribution of such bonus. The Court finds that the bonus was used by [Husband] in part to pay certain debts of the marriage, and in part to pay attorney fees for both [Husband] and [Wife]. However, a portion of the bonus was used for personal items without approval of [Wife] or order of the Court.
21. The Court finds that [Wife] has unnecessarily caused excessive litigation in this matter, particularly due to her repeated attempts to invoke the Hindu marital laws of India in an effort to stop or delay this action. The Court finds that such actions on the part of [Wife] extended the litigation in this matter and caused [Husband] to incur excessive attorney fees. In such an instance, the Court may invoke a remedy of ordering Petitioner [sic] to pay such fees. However, in this case, because [Husband] has unclean hands due to his defiance of the Court's orders with regard to the bonus, as described above, the Court will decline to impose such sanction. [Husband] is therefore ordered to pay his own attorney fees.

Appellant's App. at 7-11.

On February 11, 2010, Wife filed a motion to correct error. The trial court denied Wife's motion on March 5, 2010, and Wife now files this pro se appeal. Additional facts will be provided as necessary.

### **Discussion and Decision**

Wife raises eight issues in her pro se appellant's brief. It is well settled that pro se litigants are held to the same standard as are licensed attorneys. *Goossens v. Goossens*, 829

N.E.2d 36, 43 (Ind. Ct. App. 2005).<sup>3</sup> Thus, a litigant who chooses to proceed pro se must, like trained legal counsel, be prepared to accept the consequences of her action if she fails to adhere to procedural rules. *Shepherd v. Truex*, 819 N.E.2d 457, 463 (Ind. Ct. App. 2004). One such rule, Indiana Appellate Rule 46(A)(8), provides in part that the argument section of the appellant’s brief “must contain the contentions of the appellant on the issues presented, supported by cogent reasoning,” along with citations to the authorities, statutes, and parts of the record relied upon, and a clear showing of how the issues and contentions in support thereof relate to the particular facts of the case under review. *In re Paternity of M.G.S.*, 756 N.E.2d 990, 1004 (Ind. Ct. App. 2001), *trans. denied* (2002). Noncompliance with this rule results in waiver of the argument on appeal. *Nealy v. American Family Mut. Ins. Co.*, 910 N.E.2d 842, 849 (Ind. Ct. App. 2009), *trans. denied*.

Wife’s pro se brief fails to develop a cogent argument with citations to proper authority. She raises eight issues, yet cites only one case in her brief. The case, *Adams v. Adams*, 873 N.E.2d 1094 (Ind. Ct. App. 2007), is cited merely to define the abuse of discretion standard of review. Moreover, Wife briefly cites a few statutes, but neither lists the provisions found in them nor attempts to develop arguments based on them. We also note her almost total failure to cite to the appendix to support her factual assertions. The only arguments that Wife attempts to develop are those regarding Indiana Child Support

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<sup>3</sup> Wife cites her lack of finances as the reason for proceeding pro se. While we are sensitive to financial barriers often encountered by the parties to a marital dissolution, we note the availability of legal services organizations that could have provided her with free legal assistance, if appropriate, as well as our duty to assess pro se briefs according to the same standards as those prepared by trained legal counsel. *Goossens*, 829 N.E.2d at 43.

Guidelines 3(A) and 3(B). Thus, to the extent Wife has attempted to develop arguments based on Guidelines 3(A) and 3(B), we have attempted to discern these arguments and address them. We find that she has waived all other issues.

Wife contends that the trial court erred in calculating Husband's child support obligation. We review a trial court determination of child support for an abuse of discretion. *In re Paternity of N.C.*, 893 N.E.2d 759, 760 (Ind. Ct. App. 2008). In so doing, we review the evidence most favorable to the judgment without reweighing evidence or reassessing witness credibility. *In re Marriage of Kraft*, 868 N.E.2d 1181, 1185 (Ind. Ct. App. 2007). An abuse of discretion occurs when the decision is clearly against the logic and effect of the facts and circumstances before the court and the reasonable inferences therefrom. *Id.*

We note that Husband has failed to file an appellee's brief. Thus, we need not undertake the burden of developing arguments for him. *Thurman v. Thurman*, 777 N.E.2d 41, 42 (Ind. Ct. App. 2002). Instead, we apply a less stringent standard of review and may reverse if the appellant makes a prima facie showing of reversible error. *McGill v. McGill*, 801 N.E.2d 1249, 1251 (Ind. Ct. App. 2004). Prima facie means error "at first sight, on first appearance, or on the face of it." *Thurman*, 777 N.E.2d at 42.

As best we can discern, Wife's argument regarding Husband's child support obligation is essentially that the trial court understated Husband's weekly gross income by \$157.50. Indiana Child Support Guideline 3(A) defines "weekly gross income" to include actual, potential, and imputed income. Comment 2 to Guideline 3(A) states that "[w]eekly gross income is the starting point in determining the child support obligation, and it must be

calculated for both parents.” Wife claims that the trial court erred in omitting from its calculation certain employer contributions to his insurance premiums. To the extent she labels these “in-kind” payments, we note that Guideline 3(A) states that in-kind payments “should be counted as income if they are significant and reduce personal living expenses. Such payments might include a company car, free housing, or reimbursed meals.” None of these is at issue here. We note that the decree requires Husband to maintain health insurance for K.M., and he is entitled to a credit for his contributions to it. *See* Ind. Child Support Guideline 3(E) (stating that parent who actually pays for child’s health insurance receives a credit toward his overall support obligation to the extent he incurs a cost for it).

Finally, to the extent Wife argues that Husband’s income lacked proper verification, we note that Child Support Guideline 3(B)(2) states that “[s]uitable documentation of current earnings includes paystubs, employer statements, *or* receipts and expenses if self-employed.” (Emphasis added.) A detailed earnings statement/non-negotiable paystub from Husband’s employer is included in the record. Pet. Ex. 2. Although the comments to Guideline 3(B) state that a paystub may be misleading in certain circumstances, such as when a person is paid on commission or receives bonuses as part of a compensation package, the earnings statement indicates that Husband’s pay is salary-based rather than commission-based, and his irregular income due to bonus was covered via a percentage payment in the trial court’s finding number 11. *Id.* at 9. Thus, we find that the trial court acted within its discretion in issuing its child support order. Accordingly, we affirm.

Affirmed.



BAKER, C.J., and DARDEN, J., concur.