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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-856

Filed: 17 November 2020

Wake County, No. 16 CVD 9327

ANDREW P. CHICA, Plaintiff

v.

ANN M. CHICA, Defendant

Appeal by Plaintiff from Orders entered 6 December 2018 and 25 April 2019 by Judge Lori G. Christian, in Wake County District Court. Heard in the Court of Appeals 26 August 2020.

Parker Bryan Family Law, by Meredith J. Parker and Kimberly W. Bryan, for plaintiff-appellant.

Hatch, Little & Bunn, L.L.P., by David M. Yopp, for defendant-appellee.

HAMPSON, Judge.

Factual and Procedural Background

Andrew P. Chica (Plaintiff) appeals from the trial court's 6 December 2018 Orders finding him in civil contempt and establishing purge conditions and its 25 April 2019 Order denying, in part, his Motion for a New Trial related to the 6 December Orders. The Record before us reflects the following:

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Plaintiff and Ann M. Chica (Defendant) married on 11 July 1998. They separated in December 2014. The parties had two children during the marriage—Greta and Brian.¹ After the parties reached an agreement on child custody and support, the trial court entered a Consent Order for Child Custody and Support (Consent Order). The Consent Order states, in relevant part:

5. Joint Legal Custody and Decision Making. Defendant and Plaintiff shall consult each other routinely regarding major choices concerning the children’s education, health care and general welfare. The parents shall mutually agree on all major decisions affecting a child’s health, education or welfare.

....

17. Travel. Should either parent plan to take the child out of North Carolina, that parent shall inform the other forty-eight (48) hours in advance of the planned travel and shall inform the other of the destination, address and telephone number; in the event such travel is not planned in the 48-hour time frame, the travelling parent shall inform the other immediately at the time the plans are made.

....

19. School Assignment. As of the entry of this Order, the Plaintiff is a resident of Wake County and the Defendant is intending to relocate to Franklin County. The parties stipulate and agree that the children shall be enrolled in Wake County schools so long as Plaintiff resides in Wake County and Defendant in Franklin County.

....

¹ We utilize pseudonyms for the minor children.

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21. Medical and Dental Expenses. . . . The parties shall mutually agree upon any non-emergency, non-routine medical, dental, vision and/or orthodontic treatment before incurring any expenses therefor. Absent such advance consultation and mutual agreement, if such treatment is authorized and costs are incurred, the parent authorizing treatment without advance discussion and mutual agreement shall pay 100% of the cost.

. . . .

22. Private School. The children currently attend St. Catherine's of Siena and it is the desire of the parents for the children to continue to attend St. Catherine's until each child has completed 5th grade. However, this desire is based upon the ability of St. Catherine's to meet the needs of a child, and upon the parent's ability to pay for the cost of tuition, books, fees, uniforms, and all other related fees and expenses associated with attendance at St. Catherine's.

At the time the Consent Order was filed, Plaintiff resided in the Wakefield Plantation subdivision in Raleigh, Wake County, North Carolina and Defendant resided in Franklin County, North Carolina.

On 4 September 2018, Defendant filed a Motion for Order to Show Cause and Motion for Contempt in Wake County District Court. In her Motions, Defendant alleged Plaintiff "willfully failed to comply" with the Consent Order by removing the children from St. Catherine's and enrolling them in Wake County public schools in Holly Springs, North Carolina without her consent. Defendant also alleged Plaintiff violated the Consent Order by blocking her cell phone number and not responding to Defendant's emails. Additionally, Defendant claimed Plaintiff took Brian to a new doctor for a lingering cough without first notifying Defendant. The trial court denied

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Defendant's Motion to Show Cause, but set a hearing on Defendant's Motion for Contempt and Motion to Appoint a Parenting Coordinator for 5 December 2018.²

The trial court heard Defendant's Motions on 5 December 2018. During an evidentiary hearing, Defendant testified Plaintiff emailed her on 22 January 2018 stating Plaintiff no longer wanted Greta to go to St. Catherine's. Defendant testified she tried to email Plaintiff numerous times to discuss where the children should go to school, but Plaintiff's only response was:

I agree to pay the tuition for St. Catherine's for [Greta] through fifth grade, which has been done. You're more than welcome to pay for sixth grade in its entirety—tuition, registration, uniforms, et cetera. It's completely up to you. And whatever you decide, I'm not open to discussions about it. Please only contact me with your final decision, as I will not respond to anything else. Thank you for your time. Have a great day.

Defendant responded by asking which public school Greta would attend and how Greta would get to before or after school care, but Plaintiff did not reply. Defendant testified, as of 2017, email was the only way to communicate with Plaintiff because Plaintiff had blocked Defendant's cell phone. At some point after the 22 January

² N.C. Gen. Stat. § 5A-23 provides for two separate methods of instituting civil contempt proceedings: by motion pursuant to N.C. Gen. Stat. § 5A-23(a1) or by an order or notice from a judicial official directing the alleged contemnor to appear and show cause why they should not be held in contempt. N.C. Gen. Stat. § 5A-23(a). In the latter, a trial court may issue an order to show cause upon motion of a party supported by a sworn statement and upon a finding of probable cause the alleged contemnor is in civil contempt. *Id.* Under the former, the burden of proof is with the allegedly aggrieved party seeking to enforce the underlying court order. N.C. Gen. Stat. § 5A-23(a1). Functionally, here, Defendant sought an order to show cause or in the alternative to be allowed to proceed on her motion for contempt. The trial court determined there was not probable cause based on just the sworn statements supporting the motion to issue an order to show cause, and thus, the matter simply proceeded as a motion under Section 5A-23(a1).

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email, Defendant dropped off school registration forms in Plaintiff's mailbox—one for Greta to attend Wakefield Middle School and the other for Brian to attend St. Catherine's in Wake Forest, North Carolina. Defendant sent follow-up emails to Plaintiff to see if he received the registration papers, but Plaintiff did not respond. Defendant stated she later received confirmation from St. Catherine's of Brian's registration and that St. Catherine's received Defendant's non-refundable registration check.

Despite numerous communications with St. Catherine's regarding Brian's enrollment for the next school year, Defendant testified she had not heard anything from Plaintiff regarding the payment of Brian's tuition. Defendant stated she did not learn Plaintiff moved from Wakefield to Holly Springs until the children informed her. Defendant also testified she emailed Plaintiff saying she found out Plaintiff moved to Holly Springs, enrolled the children in Holly Springs schools, and she needed information to figure out the "logistics" of the children's school situation.

Defendant additionally testified Plaintiff took Brian to a new doctor, without first notifying Defendant, because of a chronic cough Brian experienced in 2018. Defendant received an email from Plaintiff after the appointment giving Defendant the doctor's contact information. Defendant further asserted Plaintiff took the children on vacation to California to visit grandparents without providing an address or phone number for the trip. Defendant explained although she had an old address

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for the grandparents, she asked Plaintiff to provide the address and phone number for this trip and Plaintiff refused to provide them.

For his part, Plaintiff testified he moved to Holly Springs in May 2018. He admitted he did not tell Defendant about the move. Defendant also confirmed he enrolled both children in Holly Springs public schools in “July or August” of 2018 and he did not communicate with Defendant about the children’s schools beyond the 22 January email. Plaintiff also admitted he did not respond to Defendant’s communications seeking additional information about the schools. Plaintiff further confirmed he blocked Defendant’s cell phone because he found the “frequency” and “content” of her text messages “harassing.”

Plaintiff additionally admitted he had only notified Defendant after a number of the children’s medical and dental appointments because he “figured following up and giving her all the information that she would need would be compliant with the [Consent Order].” Plaintiff confirmed he only notified Defendant of the asthma appointment after the appointment and that he had “plenty of time to notify [Defendant] before” the appointment. Plaintiff also stated he received Defendant’s request for the California address for his parents, but he “did not believe her” when she said she did not have the information.

After hearing all the testimony, the trial court decided not to rule on the Motion to Appoint a Parent Coordinator because there was a separately pending motion for

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modification of custody. Addressing the Motion for Contempt, the trial court orally found Plaintiff was in violation of the Consent Order by: failing to routinely consult with Defendant regarding major decisions in the children's lives—including removing the children from St. Catherine's and enrolling them in Wake County public schools; taking Brian to the doctor for Brian's cough and not communicating with Defendant until after the fact; and blocking Defendant's cell phone and not responding to her emails. The trial court specifically rejected Plaintiff's contention paragraph 7 of the Consent Order acted as a "fallback clause" requiring the children to attend Wake County public schools if the parents could not mutually agree on where the children should attend school.

The trial court found Plaintiff in civil contempt and ordered Plaintiff be put in jail until he could show proof he enrolled Brian at St. Catherine's and paid the necessary funds to ensure Brian was enrolled for the remainder of the school year. After Plaintiff was taken into custody and removed from the courtroom, the trial court and counsel discussed the need for transportation for the children with Greta going to school in Holly Springs and Brian in Wake Forest. The trial court announced it would order Plaintiff to pay for any before/after school care the children may need. Additionally, the trial court required Plaintiff to unblock Defendant's cell phone. The trial court allowed Plaintiff's counsel until 5:00 p.m. to try to resolve the school registration purge requirement, but also set a hearing for the next day at 9:00 a.m.

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to confirm Plaintiff had purged his contempt. The trial court also noted Plaintiff's salary gave him the ability to afford Brian's tuition and between Plaintiff and "other people" with him, Plaintiff had ample ability to get Brian enrolled at St. Catherine's.

On 6 December 2018, the trial court filed its written Order holding Plaintiff in civil contempt (Contempt Order).³ In its entered Contempt Order, the trial court found Plaintiff willfully violated the Consent Order by blocking Defendant's calls, unilaterally removing Brian from St. Catherine's, unilaterally enrolling Greta in Wake County public school, informing Defendant of medical appointments after the fact, and by refusing to provide an address and phone number for the California trip.

Also on 6 December 2018, the trial court held a hearing to determine if Plaintiff had complied with the purge conditions. The trial court received two letters showing Brian had been enrolled at St. Catherine's for the upcoming school year and Plaintiff had paid \$500 towards Brian's tuition. The trial court also found Plaintiff had removed the block on Defendant's cell phone and was paying for before and after school care for Greta. As such, the trial court found Plaintiff had purged himself of contempt and ordered him released. In the Purge Order, filed 6 December 2018, the trial court noted Plaintiff showed proof of Brian's enrollment and tuition payment

³ This was actually the trial court's second written order. The trial court filed the original Contempt Order on 5 December 2018 upon ordering Plaintiff jailed. The trial court filed a second contempt order the following day because of a clerical error where the trial court stated "Defendant" had violated the Consent Order. The trial court corrected the error to state "Plaintiff" violated the order. For purposes of this appeal, we review this second order which superseded the first and is captioned "Order for Civil Contempt Clerical Error".

and that Plaintiff was responsible for the children's before and after school care costs and transportation.

On 17 December 2018, Plaintiff filed a "Rule 59 and Rule 60 Motion, and a Motion for Temporary Restraining Order, Motion for Stay, and Motion for Preliminary Injunction" requesting relief from the Contempt Order and the Purge Order. The trial court heard Plaintiff's Rule 59 Motion at a 5 March 2019 hearing. At the hearing, Plaintiff's counsel asserted the trial court erred in finding Plaintiff in contempt because the Consent Order terms were "vague or non-existent, and that there was . . . an improper modification of custody." Plaintiff's counsel also argued the trial court erred by ordering Plaintiff, alone, to pay for before/after school care when the Consent Order requires "a 60/40 share." The trial court agreed to amend the Contempt and Purge Orders by removing provisions requiring Plaintiff to pay for before/after school care and transportation; but, the trial court affirmed its Contempt Order stating there was more than sufficient evidence Plaintiff was in willful violation of the Consent Order.

On 25 April 2019, the trial court issued an Order Allowing Plaintiff's Rule 59 Motion, in part, and Denying the Rule 59 Motion, in part (Rule 59 Order). In the Rule 59 Order, the trial court set aside language requiring Plaintiff to pay for "after/before school care if necessary for [Greta]" from the Contempt Order. The trial court also set aside language stating: "Both children [shall go to] Kidz R Kidz in the

morning. Plaintiff will transport the minor child, [Greta], to and from Kidz R Kidz,” and “Plaintiff will be responsible for before/after [school] care costs” from the Purge Order. The trial court denied the remainder of Plaintiff’s Rule 59 Motion requesting relief from the Contempt and Purge Orders in their entirety because the trial court found Plaintiff violated the Consent Order by blocking Defendant’s phone, not communicating with Defendant about the children’s school, and “unilaterally” removing Brian from St. Catherine’s.

On 7 May 2019, Plaintiff filed a written Notice of Appeal to this Court from the trial court’s 6 December 2018 Contempt and Purge Orders and 25 April 2019 Rule 59 Order.

Appellate Jurisdiction

As a general proposition, an order holding a party in civil contempt is an immediately appealable order. *Guerrier v. Guerrier*, 155 N.C. App. 154, 158, 574 S.E.2d 69, 71 (2002). Defendant, however, has filed a Motion to Dismiss Plaintiff’s appeal from the Contempt and Purge Orders (Motion to Dismiss). Defendant contends Plaintiff’s Rule 59 Motion was invalid on the basis the Contempt Order was not a final judgment following a trial, but an interlocutory order to which, Defendant asserts, Rule 59 does not apply and, thus, did not serve to toll the time for Plaintiff to file Notice of Appeal from the underlying Contempt and Purge Orders under N.C.R. App. P. 3(c)(3). Defendant, therefore, contends Plaintiff’s appeal from the underlying

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Contempt and Purge Orders is untimely because Plaintiff filed his appeal more than thirty days after the Contempt and Purge Order were entered, and, thus, the appeal should be dismissed. N.C.R. App. P. 3(c)(1), (2); *see also Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co.*, 362 N.C. 191, 197, 657 S.E.2d 361, 365 (2008) (“failure to follow [Rule 3]’s prerequisites mandates dismissal of an appeal.”).

Irrespective, however, of whether N.C.R. Civ. P. 59 applies to civil contempt proceedings or whether a Rule 59 motion filed in a civil contempt proceeding operates to toll the time for the contemnor to take an appeal from the underlying civil contempt order, the trial court, at least in part, utilized its Rule 59 Orders to amend and modify the earlier Contempt and Purge Orders. Thus, for purposes of appeal, the operative orders are the Contempt and Purge Orders as subsequently amended by the trial court’s Rule 59 Order, which was not entered until 25 April 2019. Thus, Plaintiff’s 5 May 2019 Notice of Appeal from all three orders was timely. Indeed, Defendant has not cross-appealed the trial court’s Rule 59 Order and makes no argument the trial court lacked authority to amend its prior Contempt and Purge Orders in this manner. Accordingly, we deny Defendant’s Motion to Dismiss.

Issues

Based on Plaintiff’s numerous assertions of error, the dispositive issues on appeal are whether: (I) the trial court’s findings Plaintiff willfully violated the Consent Order and had the present ability to comply were supported by competent

evidence; (II) the trial court's purge conditions were overly vague and impermissibly modified the Consent Order; (III) the trial court properly held Plaintiff in civil—rather than criminal—contempt when he violated the Consent Order by failing to provide an address and phone number for the California trip and for failing to notify Defendant of non-routine medical appointments; and (IV) whether the trial court erred in denying Plaintiff's Rule 59 Motion and declining to set aside its prior Contempt and Purge Orders.

Analysis

I. Willful Violation and Present Ability to Comply

Plaintiff argues: (A) he did not willfully violate the Consent Order; and (B) the trial court made no findings of Plaintiff's present ability to comply with the purge conditions. “The standard of review for contempt proceedings is limited to determining whether there is competent evidence to support the findings of fact and whether the findings support the conclusions of law.” *Watson v. Watson*, 187 N.C. App. 55, 64, 652 S.E.2d 310, 317 (2007).

A. Willful Violation

Plaintiff argues he did not willfully violate the Consent Order's express terms. We disagree.

N.C. Gen. Stat. § 5A-21(a) governs civil contempt proceedings and states:

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

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- (1) The order remains in force;
- (2) The purpose of the order may still be served by compliance with the order;
- (2a) The noncompliance by the person to whom the order is directed is willful; and
- (3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable the person to comply with the order.

Id. “Civil contempt is designed to coerce compliance with a court order, and a party’s ability to satisfy that order is essential.” *Watson*, 187 N.C. App. at 66, 652 S.E.2d at 318. “Because civil contempt is based on a willful violation of a lawful court order, a person does not act willfully if compliance is out of his or her power.” *Id.* Willfulness consists of: (1) an ability to comply with the court order; and (2) a deliberate and intentional failure to do so. *Id.*

Here, it is undisputed the Consent Order was in effect. The Consent Order contains two mandatory provisions with respect to child custody: (1) the parties “shall routinely consult” each other on all major decisions affecting the children’s welfare; and (2) the parties “shall mutually agree” on such decisions.

The trial court specifically identified these provisions in its Contempt Order. The trial court found Plaintiff violated the Consent Order by blocking Defendant’s phone, “unilaterally” removing the children from St. Catherine’s, informing Defendant of the children’s medical appointments only after the fact, and refusing to provide an address before taking the children to California.

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The Record contains ample evidence to support the trial court's findings Plaintiff blocked Defendant's cell phone and unilaterally made school enrollment decisions for the children. First, Defendant testified, and Plaintiff admitted, Plaintiff blocked Defendant's cell phone. Moreover, Defendant testified email was the only way to communicate with Plaintiff, and Plaintiff would not respond to her emails. It is true the Consent Order does not require cell phone communication or, for that matter, regular email correspondence between the parties. Thus, merely blocking Defendant's cell phone or using forms of communication other than cell phone or email would not necessarily result in Plaintiff being in willful violation of the order.

Here, however, Plaintiff did not just limit or regulate his communication with Defendant in order to limit what he characterizes as the "harassing" frequency and content of Defendant's text messages. To the contrary, he admitted to wholly ignoring all of Defendant's attempts at communication regarding the children's school registration. This included refusing to communicate by email, including through his own 22 January 2018 email in which he stated he was removing Greta from St. Catherine's to Holly Springs schools unless Defendant paid Greta's private school expenses and he would no longer negotiate on the subject with Defendant other than to receive Defendant's yes or no answer. He also ignored Defendant's written communications regarding the children's school registration. Plaintiff also admitted he did not tell Defendant he moved to Holly Springs and unilaterally enrolled the

children in Holly Springs schools. Plaintiff further admitted he did not respond to Defendant's request for information after she learned the children were enrolled in Holly Springs schools.

Testimony at the Contempt Hearing also supported the trial court's findings Plaintiff violated the Consent Order by informing Defendant of medical appointments only after the fact and by not providing an address for the California trip. Plaintiff admitted he only informed Defendant of Brian's non-routine asthma appointment after the fact although he had "plenty of time" to tell her before. Although Plaintiff testified he did not believe Defendant did not already know the address for the California trip, he also admitted he did not provide the address when Defendant asked for it.

All of the trial court's findings related to Defendant's allegations of civil contempt were supported by evidence at the hearing. Indeed, Plaintiff openly admitted most of the allegations during the hearing. Plaintiff, however, argues his actions could not constitute a willful violation of the Consent Order because the Consent Order's terms providing the parties "desired" for the children to attend St. Catherine's through 5th grade and requiring the parents to "routinely communicate regarding major choices concerning the children's education, health care and general welfare" and to "mutually agree" on such major decisions are vague and ambiguous. We disagree. The evidence in this case shows Plaintiff willfully refused to

communicate with Defendant regarding major decisions, including ignoring communications about these decisions. In addition, rather than even attempt to reach mutual agreement on these major decisions, Plaintiff made decisions unilaterally, including removing the children from St. Catherine's prior to the younger son completing 5th grade and by enrolling both children in school in Holly Springs, and by failing to communicate and attempt to reach agreement on health care decisions. The trial court's findings Plaintiff willfully violated the Consent Order's mandate to "routinely consult" and "mutually agree" on matters affecting the children's welfare are, thus, supported by the evidence.

B. Present Ability to Comply

Plaintiff next contends the trial court made *no* findings Plaintiff had the ability to comply. In fact, the Contempt Order expressly states the trial court found Plaintiff had the "current ability to meet the purge conditions" and that finding was supported by competent evidence.

Section 5A-21(b) provides a court may imprison a party in order to compel compliance with an order "as long as the civil contempt continues" and subject only to two limitations which do not apply here. N.C. Gen. Stat. §§ 5A-21(b1)-(b2). "A general finding of present ability to comply is sufficient when there is evidence in the record regarding defendant's assets." *Watson*, 187 N.C. App. at 66, 652 S.E.2d at 318

(citation omitted) (upholding a trial court's finding the defendant had the present means to comply after considering the defendant's net assets).

Here, the trial court found Plaintiff had the "current ability to meet the purge conditions set forth herein." At the contempt hearing, Plaintiff testified he earned \$190,000 per year and the trial court noted this testimony in rendering its order. Moreover, the trial court explained Plaintiff had "folks" with him who could help him enroll Brian in St. Catherine's. In fact, Plaintiff's counsel stated Plaintiff could "make [Brian's registration and payment] happen right now." The trial court then went further. When Plaintiff's counsel questioned what would happen if the school would not allow Brian's registration, the trial court expressly stated it would consider that circumstance during the purge hearing the following morning.

Therefore, the finding Plaintiff had the present ability to comply with registering Brian in St. Catherine's is supported by testimony of Plaintiff's income. Accordingly, the trial court properly found Plaintiff had the present ability to comply with the purge conditions.

II. Purge Conditions

Plaintiff further argues the purge conditions were impermissibly vague and improperly modified the Consent Order. We disagree.

Generally, the "conditions under which defendant can purge herself of contempt cannot be vague such that it is *impossible* for defendant to purge herself of

contempt[.]” *Watson*, 187 N.C. App. at 65, 652 S.E.2d at 317 (citations and quotation marks omitted) (emphasis added). Here, the trial court’s purge conditions were not vague, let alone vague such that it would have been impossible for Plaintiff to comply. Indeed—as noted above—Plaintiff complied with the conditions by the purge hearing the very next morning. The trial court required Plaintiff to enroll Brian at St. Catherine’s and pay whatever money was required to keep him enrolled for the remainder of the year. The trial court required Plaintiff show proof he had completed those two tasks before he was released from jail. Moreover, the trial court allowed for the contingency circumstances that could make it impossible for Plaintiff to comply by allowing for consideration of such evidence the following day after Plaintiff had actually attempted to comply.

Plaintiff also argues the trial court’s purge conditions impermissibly modified the Consent Order without a motion and showing of changed circumstances. Plaintiff correctly points out only a court can modify a child custody or support agreement upon a motion to modify based upon a substantial change of circumstances. *See Kennedy v. Kennedy*, 107 N.C. App. 695, 703, 421 S.E.2d 795, 799 (1992). However, in requiring Plaintiff to enroll Brian in St. Catherine’s, the trial court was simply enforcing the Consent Order’s plain terms. Plaintiff’s arguments ignore that he is the one who attempted to unilaterally modify the Consent Order by enrolling both

children in Holly Springs schools without communicating this fact, or even his decision to move to Holly Springs, to Defendant.

Moreover, the trial court granted Plaintiff's Rule 59 Motion, in part, and amended the only portion of the Contempt and Purge Orders arguably modifying the Consent Order. As established above, the Contempt and Purge Order provisions ordering Plaintiff to enroll Brian at St. Catherine's and unblock Defendant's phone merely enforced the Consent Order's terms. Therefore, the purge conditions—as amended—did not impermissibly modify the Consent Order.

III. Civil v. Criminal Contempt

In two distinct sections of his brief, Plaintiff argues the trial court erred by holding him in civil contempt for past violations that could not be remedied by the Contempt Order and purge conditions. Specifically, Plaintiff asserts the trial court erred by concluding Plaintiff was in contempt based on its finding of past violations in failing to provide an address for his California trip and failing to notify Defendant of non-routine medical appointments during Plaintiff's custodial time. Plaintiff, however, mischaracterizes the basis for the trial court's Contempt Order. The trial court did not conclude Defendant was in civil contempt based solely on these past violations, rather, the trial court found Defendant in continuing willful violation of the Consent Order, including specifically the provisions requiring the parties "routinely communicate" about and reach "mutual agreement" on major decisions.

Plaintiff's willful failure to communicate about medical appointments or travel plans were merely actions that were part and parcel of his ongoing and continuing contempt of the Consent Order. Therefore, the trial court did not err in holding Plaintiff in civil contempt.

IV. Rule 59 Motion

Finally, Plaintiff argues the trial court erred by denying, in part, his Rule 59 Motion for a New Trial. Plaintiff acknowledges the trial court granted relief from the portions of its Orders requiring Plaintiff to pay for before and after school care, but argues the provision requiring him to enroll Brian in St. Catherine's was improper and the trial court did not properly find Plaintiff was able to comply with the purge conditions. We again disagree.

Generally, we review a trial court's ruling on a motion for a new trial under Rule 59 for an abuse of discretion. *Davis v. Davis*, 360 N.C. 518, 523, 631 S.E.2d 114, 118 (2006). However, when Rule 59 motions are based on a "question of law or legal inference, our standard of review is de novo." *Battle v. Sabates*, 198 N.C. App. 407, 423, 681 S.E.2d 788, 799 (2009) (citation and quotation marks omitted). Plaintiff's original grounds for his Rule 59 Motion argued the trial court-imposed damages under the influence of passion or prejudice; the evidence was insufficient to justify its verdict; or that the court's verdict was contrary to law. *See* N.C. Gen. Stat. § 1A-1, Rule 59(a)(6)-(7). Plaintiff appeals the Rule 59 Order to this Court on the grounds

the trial court made an error in law to which Plaintiff objected. *Id.*, Rule 59(a)(8). Accordingly, Plaintiff has asserted a question of law as the basis for his Rule 59 Motion, and this appeal, establishing a de novo standard of review. However, as stated above, the trial court granted Plaintiff relief on the only issue where it may have erred. Because the trial court made appropriate findings of fact, supported by evidence, which in turn support its legal conclusion holding Plaintiff in civil contempt, the trial court did not err in denying Plaintiff's Rule 59 Motion.

Conclusion

Accordingly, for the foregoing reasons, we affirm the trial court's Contempt and Purge Orders as amended, and Order Allowing Plaintiff's Rule 59 Motion, in part, and Denying the Rule 59 Motion, in part.

AFFIRMED.

Judges TYSON and BROOK concur.

Report per Rule 30(e).