**Affirmed; Writ Denied and Memorandum Opinion filed October 18, 2016.**

**In The**

# Fourteenth Court of Appeals

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**NO. 14-15-00204-CV**

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**IN THE INTEREST OF K.M.M AND M.W.M., Children**

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**On Appeal from the 247th District Court**
**Harris County, Texas**
**Trial Court Cause No. 2006-45711**

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**NO. 14-15-00540-CV**

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**IN RE MATTHEW WALTER MAHONEY, Relator**

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**ORIGINAL PROCEEDING**
**WRIT OF MANDAMUS**

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## M E M O R A N D U M  O P I N I O N

This appeal and petition for writ of mandamus complain of the trial court's order holding Matthew Walter Mahoney in contempt for failure to pay child support, granting

judgment for arrearages, and suspending commitment.[1] For the reasons stated below, we affirm the trial court's judgment and deny the petition for writ of mandamus.

## I. BACKGROUND

Appellant and Kelli Green were divorced by decree signed November 6, 2006 (2006 order). They entered into an agreed order to modify the parent-child relationship on January 22, 2010 (2010 order). Kelli filed a motion to confirm child support arrearage on December 15, 2011. Appellant then moved to modify the 2010 order on January 25, 2011.

In March 2012, appellant offered Kelli a lien against real property in Galveston, Texas, in exchange for a release of the $21,091.26 arrearage. She agreed and appellant signed a promissory note for the property for the principal amount of $21,091.26, with 6% interest. Appellant was to make payments of $400 on the first day of each month, beginning April 1, 2012. On March 4, 2012, Kelli signed a release of child-support arrearages prepared by appellant. The trial court then signed an order on March 5, 2012, in the modification suit releasing the arrearages (2012 order). Appellant failed to make the payments pursuant to the promissory note and failed to file a deed of trust for the property. He further failed to make child support payments or pay the costs of health insurance premiums.

On July 20, 2012, Kelli filed a motion for enforcement. Appellant answered and filed special exceptions, a motion for sanctions, and motion to dismiss. Relying upon the release signed by Kelli and the 2012 order, appellant claimed there were no amounts due prior to March 30, 2012.

On April 18, 2013, Kelli filed an original petition for bill of review to set aside the 2012 order. Based upon appellant's fraudulent conduct, the trial court granted the bill of review on February 12, 2014, (2014 order) and vacated the 2012 order. Appellant filed a

[1] These proceedings were consolidated by order of this court on September 3, 2015.

notice of appeal from the 2014 order on March 14, 2014. That appeal was dismissed by this court on January 15, 2015, for want of jurisdiction. *See In the Interest of K.M.M.*, No. 14-14-00239-CV, 2015 WL 224803, at *1 (Tex. App.—Houston [14th Dist.] Jan. 15, 2015, no pet.) (mem. op.). The trial court proceeded to hear the enforcement proceeding and on February 6, 2015, signed the order at issue in this appeal and original proceeding.

The record reflects the trial court found appellant guilty of contempt for violating the 2006 order and the 2010 order. The 2006 order directed appellant to pay the costs of health insurance premiums each month in the amount of $204.09. The 2010 order directed appellant to pay child support each month in the amount of $1,687.50. The trial court found appellant was guilty of four separate acts of contempt:

(1) failure to pay child support on April 1, 2014;

(2) failure to pay costs of health insurance premiums on April 1, 2014;

(3) failure to pay child support on May 1, 2014; and

(4) failure to pay costs of health insurance premiums on May 1, 2014.

The trial court made findings that appellant was able to pay these amounts on the dates ordered and that on the day of the hearing had the ability to comply with the court's order by paying these amounts. Further, the trial court found appellant was in arrears for child support and costs for health insurance premiums in the amount of $47,389.83 for the period from June 1, 2010, until January 15, 2015, and that interest had accrued in the amount of $5,495.26, for a cumulative judgment of $52,885.09.

The trial court also determined attorney's fees and costs should be assessed against appellant as set forth below:

(1) $17,048,35 for the enforcement proceeding;

(2) $6,000 for the bill of review proceeding; and

(3) $8,000 for the appeal of the bill of review proceeding.

Appellant was adjudged to be in contempt and punishment was assessed at confinement in the county jail of Harris County for a period of 180 days for each violation, ordered to run concurrently. Pursuant to certain terms and conditions, the commitment was suspended and appellant was placed under community supervision for thirty-six months. From that order, appellant brings this appeal and petition for writ of mandamus. We consider each in turn.

## II. THE APPEAL

A contempt judgment is reviewable only by a petition for writ of habeas corpus (if the contemnor is confined) or a petition for writ of mandamus (if no confinement is involved). *Cadle Co. v. Lobingier*, 50 S.W.3d 662, 671 (Tex. App.—Fort Worth 2001, pet. denied) (op. on reh'g) (citing *In re Long*, 984 S.W.2d 623, 625 (Tex. 1999) (op. on reh'g)). Decisions in contempt proceedings are not appealable, even if the contempt order is being appealed along with a judgment that is appealable. *Metzger v. Sebek*, 892 S.W.2d 20, 54–55 (Tex. App.—Houston [1st Dist.] 1994, writ denied). Where the appeal concerns matters other than the merits of the trial court's decision regarding contempt, however, we have jurisdiction. *See Marcus v. Smith*, 313 S.W.3d 408, 415 (Tex. App.—Houston [1st Dist.] 2009, no pet.).

Appellant raises three issues that complain only of the judgments for attorney's fees. Because these matters do not concern the trial court's decision to hold appellant in contempt, we have jurisdiction over the appeal. *See id.*

In his first issue, appellant complains of the award of attorney's fees arising from the bill of review proceeding and the subsequent appeal. Citing *Tucker v. Thomas*, 419 S.W.3d 292, 295 (Tex. 2013),[2] he argues it was error for the trial court to order those fees

[2] We note that in *Tucker* the Texas Supreme Court expressly recognized "[t]his case involves *only* actions to modify custody and support orders *and does not involve any action for enforcement of child support payments*. *Id.* (emphasis added).

enforceable by contempt because they arose from a non-enforcement action and therefore are not authorized by statute. *See* Tex. Family Code Ann. § 157.167(a), (b) (West 2014). Appellant contends the judgment is void because of the trial court's error.

Errors other than lack of jurisdiction, such as when a court acts contrary to a statute, merely render the judgment *voidable* so that it may be "corrected through the ordinary appellate process or other proper proceedings." *Office of Att'y Gen. of State v. Phillips*, No. 14-03-01040-CV, 2004 WL 2559934, at *2 (Tex. App.—Houston [14th Dist.] Nov. 12, 2004, no pet.) (mem. op.). As recognized by the court in *City of Port Isabel v. Shiba*, 976 S.W.2d 856, 860–61 (Tex. App.—Corpus Christi 1998, pet. denied), any error by the trial court in awarding attorney's fees absent statutory authority to do so does not go to the court's jurisdiction, or directly and adversely affect a public interest, and therefore is not fundamental error. Thus a failure to object waives any error. *Id. See also Reagan Nat'l Adver. of Austin, Inc. v. Capital Outdoors, Inc.*, 96 S.W.3d 490, 496–97 (Tex. App.—Austin 2002, pet. granted, judgm't vacated w.r.m.) (noting trial error regarding the award of attorney's fees is not fundamental error and thus must be preserved by timely request, objection, or motion).

To preserve certain complaints regarding an award of attorney's fees, a party must make a timely and sufficiently specific objection in the trial court. *See Henry v. Henry*, 48 S.W.3d 468, 481 (Tex. App.—Houston [14th Dist.] 2001, no pet.); Tex. R. App. P. 33.1(a). A similar argument to the one presented in this case was made to the court in *Goodson v. Castellanos*, 214 S.W.3d 741, 760-61 (Tex. App.—Austin 2007, pet. denied). In that case, Goodson asserted there was no statutory authority allowing a court to award attorney's fees "in the nature of child support." *Id.* The court held that "to make these claims on appeal, Goodson was required to present these complaints to the trial court." *Id.* Finding no motion or objection in the record, the court concluded Goodson failed to preserve the complaint for appeal and overruled the issue. *Id.*

Appellant does not to refer this court to any objection or motion in the record

apprising the trial court of the complaint made on appeal and our review of the record reveals that none was made. Because appellant did not raise this issue before the trial court, it has not been preserved for our review. *See* Tex. R. App. P. 33.1(a). We overrule appellant's first issue.

Appellant's second issue is repetitive of his first with the additional argument that such relief was not requested in Kelli's motion for enforcement.[3] Appellant asserts that absent such a pleading, he was not put on notice that attorney's fees from the bill of review proceeding would be considered. Appellant cites no legal authority in support of this argument. Rather, he again cites *Tucker*, *supra*, and *In re Sanner*, No. 01-09-00001-CV, 2010 WL 2163140 (Tex. App.—Houston [1st Dist.] May 20, 2010, no pet.) (mem. op.), for the same argument presented in his first issue.

Appellant has the burden to present and discuss his assertions of error in accordance with the appellate briefing rules. *See Katy Springs & Mfg., Inc. v. Favalora*, 476 S.W.3d 579, 607 (Tex. App.—Houston [14th Dist.] 2015, pet. denied). It is not our duty to review the record, research the law, and then fashion a legal argument for appellants when they have failed to do so. *Canton–Carter v. Baylor Coll. of Med.*, 271 S.W.3d 928, 931–32 (Tex. App.—Houston [14th Dist.] 2008, no pet.). Briefing waiver occurs when a party fails to make proper citations to authority or to the record, or to provide any substantive legal analysis. *See* Tex. R. App. P. 38.1(i); *Marsh v. Livingston*, No. 14–09–00011–CV, 2010 WL 1609215, at *3 (Tex. App.—Houston [14th Dist.] Apr. 22, 2010, pet. denied) (mem. op.); *Canton–Carter*, 271 S.W.3d at 931; *Sterling v. Alexander*, 99 S.W.3d 793, 798–99 (Tex. App.—Houston [14th Dist.] 2003, pet. denied). Even though the courts are to interpret briefing requirements reasonably and liberally, parties asserting error on appeal still must put forth some specific argument and analysis

[3] The record reflects appellant objected to the admission of evidence of attorney's fees regarding the bill of review on the grounds they had not been pled and the objection was overruled. Accordingly, this issue was preserved for appellate review. *See* Tex. R. App. P. 33.1(a).

citing the record and authorities in support of their argument. *San Saba Energy, L.P. v. Crawford*, 171 S.W.3d 323, 338 (Tex. App.—Houston [14th Dist.] 2005, no pet.).

Because appellant provides no legal authority or analysis applying appropriate authority to his complaint, we conclude he has waived it. *See* Tex. R. App. 38.1(i); *Katy Springs*, 476 S.W.3d at 607; *Nguyen v. Kosnoski*, 93 S.W.3d 186, 188 (Tex. App.—Houston [14th Dist.] 2002, no pet.) ("An issue not supported by authority is waived") (citations omitted)). Accordingly, issue two is overruled.

Finally, appellant claims the judgments for attorney fees are void because the trial court's order "fails to track the findings made by the Trial Court or the findings required by the Texas Family Code." *See* Tex. Fam. Code Ann. § 157.166 (West 2014). Other than subsection (b) of the statute, appellant cites no authority to support his argument. Because it would be improper for this court to fashion a legal argument for appellant, we will only address whether the trial court's judgment fulfills the statute's requirements. *See Canton–Carter*, 271 S.W.3d at 931–32.

Subsection (b) provides that "[i]f the order imposes incarceration or a fine for criminal contempt, an enforcement order must contain findings identifying, setting out, or incorporating by reference" two particulars: (1) "the provisions of the order for which enforcement was requested" and (2) "the date of each occasion when the respondent's failure to comply with the order was found to constitute criminal contempt." The trial court's order found, in pertinent part:

- On November 15, 2006, appellant was ordered to make periodic payments for reimbursement of health insurance premiums for the children, in an order in Cause No. 2006-45711, styled "In the Matter of the Marriage of M.W.M. and K.M. and in the Interest of K.M.M. and M.W.M., Children" in the 312th Judicial District Court of Harris County, Texas; and
- On January 22, 2010, appellant was ordered to make periodic payments of

child support, in an order in Cause No. 2006-45711, styled "In the Interest of [K.M.] and [M.M.], Children," in the 312th Judicial District Court of Harris County, Texas;

- Appellant failed to pay child support through the Texas Child Support Disbursement Unit and the costs of health insurance premiums as ordered to K.M. in the amounts and on the dates shown below:

| Violation | Date Due | Date Paid | Amount Due | Amount Paid |
|---|---|---|---|---|
| 39. | 04/01/2014 | none paid | $1,687.50 | $0.00 |
| 40. | 04/01/2014 | none paid | $1,687.50 | $0.00 |
| 88. | 05/01/2014 | none paid | $204.09 | $0.00 |
| 89. | 05/01/2014 | none paid | $204.09 | $0.00 |

- Appellant was able to pay child support and health insurance premiums in the amounts and on the dates ordered as set out above and that appellant is guilty of a separate act of contempt for violations 39, 40, 88 and 89, in the amounts ordered; and

- On the day of the hearing appellant had the ability to comply with the order of the Court by paying the child support and health insurance premiums as set forth in violations 39, 40, 88 and 89, enumerated above.

The order identifies the provisions of the orders for which enforcement was requested. Further, it identifies the date of each occasion when appellant's failure to comply with those orders constituted criminal contempt. Thus the requirements of subsection (b) were satisfied. Tex. Fam. Code Ann § 157.166(b) (West 2014). Appellant's third issue is overruled and the judgment of the trial court awarding arrearages and attorney's fees is affirmed.

## III. THE PETITION

In his petition for writ of mandamus, appellant[4] raises six issues. Issues four, five, and six are identical to the three issues set forth above. Having determined that we have appellate jurisdiction, mandamus will not lie as to those issues. *See In re Team Rocket, L.P.*, 256 S.W.3d 257, 259 (Tex. 2008) (orig. proceeding). Accordingly, we consider appellant's remaining issues.

To be entitled to issuance of a writ of mandamus, the relator generally must show that the trial court clearly abused its discretion and he has no adequate remedy by appeal. *Id*. Because a contempt order is not reviewable by appeal, there is no adequate remedy by appeal, and the second prong of mandamus review is satisfied. *See In re Aslam*, 348 S.W.3d 299, 302 (Tex. App.—Fort Worth 2011, orig. proceeding). Contempt orders providing for suspension of commitment are reviewable by petition for writ of mandamus. *In re Look*, No. 01–02–00959–CV, 2003 WL 876650, at *2 (Tex. App.—Houston [1st Dist.] Mar. 5, 2003, orig. proceeding) (mem. op.).

In an original proceeding regarding a contempt order, this court will grant relief if a relator shows that the order underlying the contempt is void, or if the relator shows that the contempt order itself is void. *Snodgrass v. Snodgrass*, 332 S.W.3d 653, 663 (Tex. App.—Houston [14th Dist.] 2010, no pet.). *See also In re Coppock*, 277 S.W.3d 417, 418 (Tex. 2009) (orig. proceeding). The relator bears the burden of showing entitlement to relief and we presume the contempt order and the order underlying it are valid, unless the relator shows otherwise. *Snodgrass*, 332 S.W.3d at 663.

In his first issue, appellant contends he was denied due process of law because the motion for enforcement ("the motion") failed to provide adequate notice and does not meet the requirements of section 157.002 of the Texas Family Code. Section 157.002 sets forth the required contents of a motion for enforcement, in pertinent part, as follows:

[4] To avoid confusion we will continue to refer to Mahoney as "appellant."

(a) A motion for enforcement must, in ordinary and concise language:

(1) identify the provision of the order allegedly violated and sought to be enforced;

(2) state the manner of the respondent's alleged noncompliance;

(3) state the relief requested by the movant; and

(4) contain the signature of the movant or the movant's attorney.

(b) A motion for enforcement of child support:

(1) must include the amount owed as provided in the order, the amount paid, and the amount of arrearages;

(2) if contempt is requested, must include the portion of the order allegedly violated and, for each date of alleged contempt, the amount due and the amount paid, if any;

(3) may include as an attachment a copy of a record of child support payments maintained by the Title IV-D registry or a local registry; . . ..

Tex. Family Code. Ann. § 157.002 (West 2014).

Contempt which occurs outside of the court's presence, as in this case, is referred to as constructive contempt. *In re Reece*, 341 S.W.3d 360, 365 (Tex. 2011).[5] More procedural safeguards, including notice, are afforded to constructive contemnors. *Id.* Accordingly, appellant was entitled to reasonable notice of each act alleged to constitute contempt. *In re Davis*, 305 S.W.3d 326, 330 (Tex. App.—Houston [14th Dist.] 2010, no pet.) (citing *Ex parte Johnson*, 654 S.W.2d 415, 420 (Tex. 1983)). The requirement of reasonable notice is satisfied by "full and complete notification" of the conduct with which the contemnor is charged. *Ex parte Adell*, 769 S.W.2d 521, 522 (Tex. 1989).[6] Notice of the contempt allegations must state when, how, and by what means the person has been guilty of contempt. *See Ex parte Chambers*, 898 S.W.2d 257, 262 (Tex. 1995);

[5] Contempt is further classified into either civil or criminal contempt. *Id.* The case at bar involves criminal contempt, as reflected in the trial court's order which did not condition appellant's sentence upon some promise of future performance. *Id.*

[6] Not at issue in this case is the requirement that the contemnor be given a reasonable opportunity to meet the charges by defense or explanation. *Id.*

*Ex parte Vetterick*, 744 S.W.2d 598, 599 (Tex. 1988). A contempt order rendered without adequate notice is void. *Adell*, 769 S.W.2d at 522.

The motion sets out those portions of the 2006 order to pay health insurance premiums and those portions of the 2010 order to pay child support. The motion then alleges appellant violated those orders by failing to pay and sets forth two tables, one for health insurance premiums and one for child support, that reflect the date due, date paid, amount due, and amount paid.[7] There are entries for each month from June 2010 until February 2014. For each month where payment was not made the entry for date paid is "none paid" and the entry for amount paid is "$0.00."

Thus the motion set forth which court orders appellant was charged with violating, the amounts appellant had been ordered to pay, when he was ordered to pay that amount, and when he failed to pay that amount. Because the motion gave appellant reasonable notice of the conduct with which he was charged, we hold that his due process rights were not violated. Further, the motion met the requisites of section 157.002 of the Texas Family Code.

Appellant also argues the trial court's order fails to satisfy the requisites of section 157.166. *See* Tex. Fam. Code. Ann. § 157.166 (West 2014). Section 157.166 outlines the required contents of an enforcement order, as pertinent to this case, as follows:

> (a) An enforcement order must include:
>
> > (1) in ordinary and concise language the provisions of the order for which enforcement was requested;
> >
> > (2) the acts or omissions that are the subject of the order;
> >
> > (3) the manner of the respondent's noncompliance; and
> >
> > (4) the relief granted by the court.

[7] The reconstructed table set forth above in our discussion of appellant's third issue on appeal reflects the appearance of these tables.

> (b) If the order imposes incarceration or a fine for criminal contempt, an enforcement order must contain findings identifying, setting out, or incorporating by reference the provisions of the order for which enforcement was requested and the date of each occasion when the respondent's failure to comply with the order was found to constitute criminal contempt.

We have already determined in considering the appeal that the trial court's order met the requisites of subsection (b). As to subsection (a), the order sets out those portions of the 2006 order to pay health insurance premiums and those portions of the 2010 order to pay child support. The order finds appellant failed to comply with those orders and sets forth two tables, one for health insurance premiums and one for child support, that reflect the date due, date paid, amount due, and amount paid. There are entries for each month from June 2010 until January 2015. For each month where payment was not made the entry for date paid is "none paid" and the entry for amount paid is "$0.00." The order states appellant is guilty of a separate act of contempt for four enumerated violations, 39, 40, 88, ad 89.[8] The order grants the following relief:

> IT IS ADJUDGED that Respondent, MATTHEW MAHONEY, is in contempt for violations 39, 40, 88 and 89, enumerated above.
>
> *Criminal Contempt*
>
> IT IS ORDERED that punishment for violations 39, 40, 88 and 89 is assessed at confinement in the county jail of Harris County. Texas, for a period of 180 days for each violation.
>
> IT IS THEREFORE ORDERED that Respondent is committed to the county jail of Harris County. Texas, for a period of 180 days each for violations 39, 40, 88 and 89 enumerated above.
>
> IT IS ORDERED that each period of confinement assessed in this order shall run and be satisfied concurrently.

8 Appellant's complaint regarding the numbering of the violations is rejected. As appellant's brief notes, he complained of the overlapping numbers, 1 through 36 on each table. Thus it appears the second table was renumbered at his behest. The motion specifies the dates of the alleged violations and the order specifies findings violations occurred on those dates. The trial court's shorthand reference to its own findings by a different number than that used in the motion does not alter the fact that the trial court found a violation occurred on the same date as alleged in the motion.

> IT IS FURTHER ORDERED that Respondent not be given good conduct time credit for time spent in the county jail.

The order sets forth which court orders appellant was charged with violating, the amounts appellant had been ordered to pay, when he was ordered to pay that amount, when he failed to pay that amount, and the relief granted. We hold the trial court's order satisfied the requirements of section 157.166 of the Texas Family Code.

Citing *Ex parte Stanford*, 557 S.W.2d 346 (Tex. Civ. App.—Houston [1st Dist.] 1977, no writ), appellant also claims the order to show cause failed to provide adequate notice. However, appellant has not included any such order in his petition, nor is there a reference to the clerk's record in the appeal where such an order may be found. *See* Tex. R. App. P. 52.3(k)(1) (requiring relator to file appendix containing certified or sworn copy of order complained of with petition for writ of mandamus); *In re Le*, 335 S.W.3d 808, 813-14 (Tex. App.—Houston [14th Dist.] 2011, no pet.) (stating "[t]hose seeking the extraordinary remedy of mandamus must follow the applicable procedural rules" and holding this court would not find an abuse of discretion on an incomplete record); Tex. R. App. P. 38.1(i); *Marsh v. Livingston*, No. 14–09–00011–CV, 2010 WL 1609215, at *3 (Tex. App.—Houston [14th Dist.] Apr. 22, 2010, pet. denied) (mem. op.). Appellant's final complaint presents nothing for our review. Issue one is overruled.

Appellant's second issue argues he was illegally compelled to comply because the underlying order is vague, ambiguous, and incapable of enforcement by contempt. Appellant does not identify the "underlying" order and makes no complaint that either the order to pay health insurance premiums or the order to pay child support is impermissibly vague. Rather, appellant's contention is that he was "under the impression that there was no child support order under which he was obligated at the time of the alleged non-compliance as found by the Trial Court." In support, appellant cites only *Ex parte Chambers*, 898 S.W.2d at 259–60, for its holding that "[a] criminal contempt conviction for disobedience to a court order requires proof beyond a reasonable doubt of: (1) a

reasonably specific order; (2) a violation of the order; and (3) the willful intent to violate the order." Thus it would appear appellant is contending the trial court lacked evidence from which it could find that he willfully intended to violate the order for child support.

"Noncompliance with an unambiguous order of which one has notice will ordinarily raise an inference that the noncompliance was willful." *Chambers*, 898 S.W.2d at 261. "The involuntary inability to comply with an order is a valid defense to criminal contempt, for one's noncompliance cannot have been willful if the failure to comply was involuntary." *Id.* It was appellant's burden to prove conclusively his inability to comply. *Id.* In a mandamus proceeding, we cannot weigh the evidence supporting the trial court's contempt finding, we determine only if contempt judgment is void because there is no evidence of contempt. *See In re Braden*, 483 S.W.3d 659, 664 (Tex. App.—Houston [14th Dist.] 2015, no pet.). The order granting the bill of review provides, in part:

> THE COURT SPECIFICALLY FINDS THAT 1) Petitioner has meritorious claim; 2) Petitioner was prevented from presenting her meritorious claim due to the extrinsic fraud committed by the Respondent; and 3) petitioner's inability to present her claim was unmixed with any fault or negligence on her part. Therefore, Petitioner's Bill of Review should be granted.
>
> THEREFORE IT IS ORDERED, ADJUDGED and DECREED that the Order in Suit to Modify Parent-Child Relationship entered in Cause No. 2006-45711 on March 5, 2012 in the 312th Judicial District Court, Harris County, Texas is hereby VACATED and set aside for all purposes.

Appellant claims this order "simply reopened the modification lawsuit that had been finalized by the Agreed order Signed March 5, 2012." Given appellant's acknowledgement that his petition to modify the 2010 order was still pending before the trial court, along with appellant's history of nonpayment, of which the trial court was well aware, and the trial court's finding that appellant fraudulently obtained the 2012 order, we cannot say there is no evidence to support the trial court's implicit finding that appellant's failure to pay child support was willful.

Within this argument, appellant also complains again that the trial court's order "fails to identify any specific violations of a date and time when a specific thing was done or not done . . ." As discussed above, the trial court's order sets forth the amounts appellant had been ordered to pay, when he was ordered to pay that amount and when he failed to pay that amount. We again reject appellant's complaint regarding the trial court's order. Issue two is overruled.

In his third issue, appellant contends the trial court's order is void for denial of due process because he was held in contempt for violating an order that was not in effect at the time of the alleged violations. Appellant asserts that he "believed there was no child support order in effect after the granting of the bill of review." Assuming appellant's belief is of any consequence, we are aware of no authority, and appellant cites none, supporting his contention that granting a bill of review in a court of continuing jurisdiction vacates not only the challenged order but all previous orders entered in the case.

The bill of review vacated the 2012 order. The trial court subsequently held appellant in contempt for violating the 2006 and 2010 orders to pay the costs of health insurance and child support. As we noted in our opinion dismissing the appeal from the order granting the bill of review, the trial court did not address the merits of appellant's petition to modify the 2010 order. *See In the Interest of K.M.M.*, 2015 WL 224803, at *1. Thus appellant's petition to modify the 2010 order was still pending in the trial court. This is in accord with appellant's position, noted above, that his modification lawsuit was "reopened."

We find in *Rapid Settlements, Ltd. v. Allstate Life Ins. Co.*, No. 01-08-00381-CV, 2009 WL 1331580, at *3 (Tex. App.—Houston [1st Dist.] May 8, 2009, no pet.) (mem. op.), analogous to the case at bar. In *Rapid Settelements*, the court noted that when it granted the bill of review, the trial court vacated the underlying judgment in Rapid's confirmation proceeding, but did not rule on the petition for confirmation itself. "[T]hus

the order resurrected the underlying confirmation proceeding, but did not finally adjudicate it." *Id.* Likewise, the trial court's order granting the bill of review in this case vacated the underlying 2012 order in appellant's modification proceeding but did not rule on the petition to modify. The effect of the 2014 order vacating the 2012 order was to return the case to where it would have been if no order had been entered, thus subjecting appellant to the requirements of the 2010 order appellant seeks to modify.

Accordingly, we overrule appellant's third issue and deny his petition for writ of mandamus.

/s/ John Donovan
Justice

Panel consists of Justices Jamison, Donovan, and Brown.