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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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In re the Marriage of REEMA and VIKAS  
SAREEN.

REEMA SAREEN,

Respondent,

v.

VIKAS SAREEN,

Appellant.

C067526

(Super. Ct. No.  
06FL00798)

Vikas Sareen (father) appeals from orders denying his motions to stay child support, to modify child support and to set aside a default judgment. Father raises numerous claims on appeal, but without a reporter's transcript we must assume there was sufficient evidence presented in the trial court to support the trial court's rulings.

We find no error on the face of this record. We will affirm the trial court's orders.

#### BACKGROUND

Father elected to proceed on a clerk's transcript. (Cal. Rules of Court, rule 8.121.) Thus, the appellate record does not include a reporter's transcript of the proceedings in the trial court. This is referred to as a "judgment roll" appeal. (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082-1083; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.)

The limited appellate record establishes that the Sacramento County Department of Child Support Services (DCSS) requested, and the trial court entered, a default judgment regarding father's parental obligations as they relate to S.S., a child born in February 2004. The default judgment required father to pay \$1,354 per month in child support.

Father made a motion to stay the child support order and its enforcement. His motion was denied.

Father also filed a motion to modify child support based on changed circumstances. He asserted, among other things, that he no longer had income because he was required to relocate to India. The motion was heard by Commissioner Harmon. Father appeared by telephone, while DCSS and mother, represented by counsel, appeared in the courtroom. Following evidence and argument, Commissioner Harmon concluded that father failed to establish changed circumstances. Commissioner Harmon found that father was employed by the New York Port Authority, that he could return to that job at any time, and that there was

insufficient evidence to establish that he was required to remain in India. Accordingly, Commissioner Harmon denied father's motion to modify child support. Judge Wood subsequently presided over a trial de novo on father's motion to modify child support. Father again appeared by telephone. The trial court adopted the findings and recommendations issued by Commissioner Harmon, making Commissioner Harmon's statement of decision the order of the court.

In addition, father filed a motion to set aside the default judgment, arguing among other things that he had reason to believe he was not the biological father of S.S. But when Reema Sareen (mother) agreed to participate in paternity testing, the test results established a 99.999 percent chance that father was the biological father of S.S. Father's motion to set aside the default judgment was heard in a long cause evidentiary hearing. Father appeared by telephone. At the conclusion of the hearing, Commissioner Longaker ruled that no evidence was produced or offered to establish that father is not the biological father, and no evidence was produced by way of DNA testing that father is excluded as the biological father; accordingly, the default judgment based on the conclusive presumption applying to a child born during the marriage of mother and father was not set aside.

Judge Balonon granted father's request for a trial de novo on father's motion to stay the child support order and his motion to set aside the default judgment. The trial court gave father permission to appear telephonically for the trial on his motion to stay the child support order, but denied father's

request to appear telephonically for the trial on his motion to set aside the default judgment. Judge Balonon ruled that absent a stipulation by the parties, the trial court would not permit hearsay evidence regarding the DNA testing, and witnesses would be required to appear and testify at trial concerning that issue.

Father filed an objection to admission of the existing DNA test results. The trial court ordered DCSS to provide father and mother with a copy of the genetic testing records. The trial court also stated that although father included in his objection a request that the court make a definitive decision on the applicability of the Uniform Interstate Family Support Act (UIFSA) (Fam. Code, § 4900 et seq.), the only issue presented to the court regarding the applicability of UIFSA pertained to whether father could appear at trial by telephone, and there was no other applicable UIFSA provision at issue.

At the trial de novo regarding, among other things, father's motions to stay child support and to set aside default judgment, father did not appear. The trial court noted that father had requested a continuance based on father's assertion that he was prohibited from leaving India, and the trial court summarized email communications between the court and the parties. The trial court found that father purposely failed to appear for the trial de novo. The trial court denied father's motions.

## STANDARD OF REVIEW

On appeal, we must presume the trial court's judgment is correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, we must adopt all inferences in favor of the judgment, unless the record expressly contradicts them. (See *Brewer v. Simpson* (1960) 53 Cal.2d 567, 583.)

It is the burden of the party challenging a judgment to provide an adequate record to assess claims of error. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141.) When an appeal is "on the judgment roll" (*Allen v. Toten, supra*, 172 Cal.App.3d at pp. 1082-1083), we must conclusively presume evidence was presented that is sufficient to support the court's findings. (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154.) Our review is limited to determining whether any error "appears on the face of the record." (*National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521; Cal. Rules of Court, rule 8.163.)

These rules of appellate procedure apply to father even though he is representing himself on appeal. (*Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121; see also *Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639, disapproved on other grounds in *Douglas v. Ostermeier* (1991) 1 Cal.App.4th 729, 744; *Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 795.)

## DISCUSSION

### I

Father contends the trial court erred in denying his request to modify child support. The record does not support father's contention.

After trial de novo, the trial court adopted Commissioner Harmon's finding that father failed to establish a material change of circumstances warranting a modification of child support. Without a reporter's transcript of the trial, we must conclusively presume the evidence admitted at the trial was sufficient to sustain the trial court's findings. (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.)

Father also claims the trial court failed to adjudicate the objections he raised to Commissioner Harmon's statement of decision. But Judge Wood adopted the commissioner's findings and recommendation, and without a reporter's transcript, we must assume the trial court denied father's objections. (See *Brewer v. Simpson, supra*, 53 Cal.2d at p. 583.)

In addition, father contends the trial court violated his fundamental constitutional rights. Relying on federal law, he asserts that the trial court's refusal to modify child support is tantamount to involuntary servitude. Father's argument has no merit.

### II

Father further claims that the trial court erred in denying his request to continue the trial de novo. Father argues the trial de novo should have been continued because he was

prohibited from leaving India due to pending legal proceedings there. However, father failed in his burden to establish that he was required to remain in India. Moreover, the trial court found that father purposefully failed to appear for the trial de novo. Without a reporter's transcript, we must conclusively presume the evidence was sufficient to sustain the trial court's findings. (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.)

Father argues he was entitled to a continuance because his objections to the DNA testing are pending. He assumes his objections are pending because the trial court did not expressly rule on them in its written decision. On a judgment roll appeal, however, we must adopt all inferences in favor of the judgment, unless the record expressly contradicts them. (See *Brewer v. Simpson, supra*, 53 Cal.2d at p. 583.) Accordingly, we assume the trial court denied father's objections when it denied his motions.

### III

Moreover, father asserts the trial court abused its discretion in denying his request to set aside the default judgment. But again, without a reporter's transcript of the trial, we must conclusively presume the evidence admitted at the

trial was sufficient to sustain the trial court's findings.

(*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.)

DISPOSITION

The trial court orders are affirmed.

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MAURO, J.

We concur:

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HULL, Acting P. J.

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BUTZ, J.