

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sutter)

In re the Marriage of KIMBERLY and JAMES NOTARO.

C074200

KIBERLY ANN AMARAL,

(Super. Ct. No.  
CVFL 12-0422)

Appellant,

v.

JAMES NOTARO,

Respondent.

Appellant Kimberly Amaral appeals from a judgment wherein the trial court ordered respondent James Notaro to pay \$3,000 of Kimberly's attorney fees and costs at the rate of \$100 a month. Kimberly's only claim on appeal is that the trial court abused its discretion in ordering James to pay only \$3,000 of the total bill and ordering him to pay at a rate of only \$100 a month. On this record, we find no abuse of discretion. Accordingly, we affirm the judgment.

Kimberly has 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

hearing in this matter. 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 record we have establishes that Kimberly and James participated in a two-day trial in order to resolve the disputed issues in their dissolution. One of the disputed issues was Kimberly’s request that the trial court order James to pay her attorney fees, totaling \$15,335. In support of her request, Kimberly submitted declarations from the two attorneys that represented her at different times during the dissolution process. In addition to the two-day trial, there were numerous other court appearances and hours spent representing Kimberly’s interest. As a result of her attorneys’ efforts, Kimberly was granted the right to relocate with the parties’ minor children and was awarded spousal support above the temporary support level. The community estate also was divided and Kimberly was awarded child support.

Kimberly and James each submitted documentary evidence of their income during the trial. In 2012, Kimberly’s income was zero; by the end of 2013, Kimberly obtained a low-paying job. James’s gross income for 2012 was \$215,399.66. By the time of trial, James had already paid his attorney \$33,490.86 in fees, using “personal funds.” James also indicated the amount he still owed his attorney was “to be proven.” Kimberly and James also testified at the trial, but there is no record of their testimony.

In the final judgment, the trial court found Kimberly had “little earning ability or capacity.” Accordingly, the court awarded her permanent spousal support in a higher amount than she was receiving as temporary support and ordered her to make reasonable good faith efforts to become self-supporting. With regard to Kimberly’s request for fees, the trial court also found there was “a disparity in income and [James] ha[d] a higher earning ability . . . .” The trial court thus ordered James to pay \$3,000 toward Kimberly’s attorney fees at the rate of \$100 each month.

Kimberly’s only claim on appeal is that the trial court abused its discretion and “did not order a reasonable amount of attorney fees and costs . . . considering the financial circumstances of the parties, earning capacity, and [her] needs . . . .” Kimberly has not carried her burden to show an abuse of discretion. In a judgment roll appeal such as this one, 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) and the trial court’s conclusions are binding upon us unless error appears on the face of the record. (*Bond v. Pulsar Video Productions* (1996) 50 Cal.App.4th 918, 924.) In addition, we must conclusively defer to the finder of fact on issues of credibility. (See *Lenk v. Total-Western, Inc.* (2001) 89 Cal.App.4th 959, 968.) Applying those principles, we presume the evidence and argument supported the trial court’s order for attorney fees and, without any means of evaluating the matter for ourselves, we must assume the trial court properly exercised its discretion.

In sum, Kimberly has not demonstrated error “on the face of the record” sufficient to warrant reversing the order for fees. (Cal. Rules of Court, rule 8.163.)

#### DISPOSITION

The judgment is affirmed. Respondent James Notaro is awarded costs on appeal, if any. (Cal. Rules of Court, rule 8.278(a)(2).)

BLEASE, Acting P. J.

We concur:

HULL, J.

DUARTE, J.