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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

DAVID B., Respondent, v. MEGAN C., Appellant.	B282529 (Los Angeles County Super. Ct. No. SF000707)

APPEAL from an order of the Superior Court of Los Angeles County, B. Scott Silverman, Judge. Affirmed.

Law Office of Thomas M. Hall and Thomas M. Hall for Appellant.

Mark H. Rademacher for Respondent.

Respondent David B. (David) petitioned the family court to reduce child support payments he made to appellant Megan C. (Megan) for the benefit of their daughter. After a convoluted series of hearings over the course of a year, the family court—orally during a hearing—granted David's request to reduce his child support payments. A minute order and Order After Hearing subsequently issued by the family court, however, indicated the family court *denied* David's child support modification request. David later asked the family court to correct the written orders it issued as the product of clerical error, and the family court agreed. Megan now appeals, and we consider whether the orders were properly corrected on clerical error grounds, whether Megan was entitled to a statement of decision upon correction of the errors, and if so, whether the family court's refusal to prepare a statement of decision warrants reversal.

I. BACKGROUND

A. The Family Court Makes a Temporary Award for Reduced Child Support but Later Denies David's Request for a Child Support Modification

David and Megan had a daughter together in 2001; they were never married. In 2002, Megan filed a parentage petition in family court, and David was thereafter adjudged to be the daughter's father and ordered to pay child support. In August 2012, the family court ordered, pursuant to David and Megan's stipulation, that the amount of David's child support payment would be $2,800 per month.

In September 2015, David, appearing in propria persona, petitioned the family court to reduce his monthly child support,

alleging the $2,800 per month amount was excessive due to his reduced income. David's declaration accompanying the petition explained he had been a professional athlete playing overseas before retiring in 2014 due to injuries. According to David's declaration, he began working in the financial services industry after retiring and he was then employed by Merrill Lynch at a base gross salary of $4,166 per month, with the possibility of earning commissions above his base salary.

Megan objected to a reduction in David's child support payments. She argued the existing support obligation should remain unchanged because David was earning other income that was undisclosed to the family court and because their daughter should not be adversely affected by David's choice to end his sporting career.

In November 2015, the family court held the first of what would be several hearings on David's child support modification request. The family court believed "the concrete evidence [before it] is [that David] is employed at $4166 per month, plus a bonus," but the court acknowledged David did not have proper proof he served Megan with certain documentation pertinent to his income and expenses. The family court therefore ruled it would give Megan "another bite at the apple" in the form of a continued hearing, but it would also make a temporary order modifying David's child support obligation in his favor pending a final determination. The temporary award the family court made, pursuant to a "DissoMaster" calculation,[1] required David to pay

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[1] "The DissoMaster is one of two privately developed computer programs used to calculate guideline child support as required by [Family Code] section 4055, which involves, literally,

$742 per month, with a further "*Ostler-Smith*" condition[2] that he pay an additional percentage of any commissions or bonuses he might receive in excess of his base salary.

When the parties later returned to court on June 6, 2016, for the continued hearing (after another interim court appearance and yet another continuance), David had not filed an updated income and expense declaration as the family court previously ordered. He informed the court he had quit his Merrill Lynch job and "reactivated" his real estate license because he thought he would be more successful pursuing a career in real estate. Megan continued to argue David had undisclosed income, and she specifically pointed to certain documentation she filed just before the hearing that suggested David and his wife had made approximately $866,000 the past year from a "house flipping" transaction. When asked for a response, David told the court he "ha[d] no investment in that house," that the house was part of his wife's business, and he and his wife had decided a year prior

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an algebraic formula." (*In re Marriage of Schulze* (1997) 60 Cal.App.4th 519, 523, fn. 2.)

[2] "As explained in *In re Marriage of Kerr* (1999) 77 Cal.App.4th 87, 95[ ], the family court may award as spousal or child support 'a percentage of uncertain earnings' in order to avoid 'an indefinite number of future hearings at which the details of income, expenses, investment success or failure, tax consequences and fairness must be reevaluated.' These awards are referred to as *Ostler-Smith* payments after *In re Marriage of Ostler & Smith* (1990) 223 Cal.App.3d 33, 42[ ], the first appellate decision to recognize the family court's discretion to make such awards." (*In re Marriage of Usher* (2016) 6 Cal.App.5th 347, 352, fn. 3.)

to separate their finances because they were "not in the best place right now."

After hearing from the parties, the family court vacated the November 2015 temporary support order reducing David's child support obligation to $742 per month and denied his request for a child support modification. The court explained its decision as follows: "[E]vidence was presented suggesting that your spouse and you were involved in a transaction that generated income, $866,000. [¶] To that declaration, you provided no response whatsoever, until you came here today and I asked you to respond. And your response was, my wife and I have sort of separated our finances. I don't find that satisfactory, nor explanatory, nor a basis for concluding that whatever profits your wife made in a business that would necessarily [have] been community property were not partially yours. [¶] . . . [¶] Your obligation in this court in seeking a modification of support is to prove a basis for it. The best you've done is prove now that you've quit a job at which you were making at least an income. [¶] . . . [¶] If you want to seek a modification, I urge you to seek counsel and do it right, because you've got to come in here with a case made, you've got to come in here with the supporting documents, and where substantial evidence is presented to suggest you have cash flow in hundreds of thousands of dollars, you've got to recognize that you need to respond to that. You haven't done that." The family court asked Megan to prepare the Order After Hearing reflecting its ruling.

B. The Family Court Reconsiders Its Denial

David subsequently procured an attorney to represent him in court and filed a request for reconsideration of the family

court's order denying his request to modify child support. David (through counsel) argued Megan raised the issue of the home-flipping profit with just one day's notice before the prior hearing, leaving him insufficient time to respond. Now before the court for reconsideration, David submitted a declaration from his wife in an effort to demonstrate the funding for "house flipping purchases" was coming from David's wife's parents and that the homes belonged to the parents. As to the ultimate issue of the amount of child support, David conceded he should have his Merrill Lynch income imputed to him because he quit, but he asked the family court to again relieve him of the $2,800 per month obligation.[3]

The family court ruled it would reconsider and vacate its earlier order denying David's child support modification request. The court noted it was still troubled by the manner in which David was responding to the issues raised, but the court was ultimately persuaded that, given the very short notice David was given of the allegations about the house flipping business before

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[3] Megan, in her argument to the family court, continued to maintain any "house flipping business" profits should be considered in setting David's child support obligation. The court acknowledged Megan was doing "an excellent job of raising lots of smoke," but the court believed David was correct that if the business was solely David's wife's activity, "[Family Code section] 4057 says I don't consider it for child support purposes" even if David has a community interest in the business for community property purposes. The court asked what it was to do "at this point" in light of evidence David's wife maintained David wasn't involved in the business and it was all her activity. Megan persisted in the view that the court could include any business profits when calculating David's child support obligation.

the earlier court hearing, "it erred by not giving [David] at least an additional opportunity to respond to the material presented by [Megan] at the hearing on June 6th . . . ." The family court stated it would reset the matter for a hearing and clarified that "what I'm doing is putting back on the calendar . . . the hearing that occurred on June 6th." The family court ordered David to prepare the Order After Hearing reflecting its ruling.

The upshot of the court's order vacating its June 6, 2016, order was that the earlier-entered temporary order for reduction in David's child support to $742 (plus the *Ostler-Smith* condition) was again in effect.

C. The November 2016 Hearing of Greatest Relevance to This Appeal

On November 15, 2016, the parties appeared for the child support modification hearing redux. Both sides had, by then, filed additional materials concerning David's purported income.

David maintained he had no other undisclosed income and asserted the family court should continue to calculate child support using the salary imputed to him from the Merrill Lynch job he quit. Megan complained of delay in receiving some discovery materials from David and she specifically highlighted $309,000 David received as his share of the proceeds of the sale of the home in which he and his wife had been living (they were now getting a divorce). As to that $309,000 amount, David asserted it was a one-time payment, he used part of it to pay his legal fees, and to the extent he earned income on the amount rather than reinvesting it (e.g., interest income), it would be subject to the *Ostler-Smith* percentage condition included as part of the family court's existing temporary support order.

The family court then made an extensive oral ruling, which, in light of its significance for the issues raised on appeal, we quote at length (and emphasize the key portion):

> The Court: . . . My reaction is [Family Code section] 4575 makes most of the fussing around about the wife's income irrelevant to this proceeding. And now that I've reflected on it, that's mostly what we've been fighting about since June.
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> There is no evidence of [David] getting wage income, other than what I'm prepared to impute to him. The reason why I was concerned about the profit on the house is, if it's profit, it may be it's gain over the equity he had in the house, but that's still gain. If he's living off of it, under [*In re Marriage of de Guigne* (2002) 97 Cal.App.4th 1353 (*de Guigne*)], I think the children are entitled to live off of it. He doesn't get to live better than the contribution to his children. And that's what I'm trying to find out, is what's really going on here.
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> But, [counsel for Megan], most of your intention has been devoted to matters that fundamentally it now turns out are irrelevant—the wife's business, the wife's family's contribution. The only question for me is: Do I have any actual evidence in front of me to support that notion? I'll remind the parties there is a[n *Ostler-Smith* condition] as well that was made that requires him to pay an additional 14.5 percent of anything he earns over $4,166 per month.

Whether this gain on the house represents something that should be subject to the [*Ostler-Smith*], I'm simply incapable of resolving today. I haven't been shown whether it is or not. That's why I'm trying to sort out what this is about.

*The request for further modification at this point is denied. The current orders will continue without prejudice to an RFO by [Megan], if they wish to try and establish that the [$309,000] is either being used for his lifestyle under [*de Guigne*] or is due and payable under the [*Ostler-Smith*].* But I don't have sufficient information to resolve that. I'm not prepared simply on the argument that, well, they didn't produce information.

[¶] . . . [¶]

[Megan's Attorney]: May I ask for a clarification?

The Court: Yes.

[Megan's Attorney]: Are you saying now—you referenced the wife's business—that the court's position in February and in June that these businesses were, in fact, community businesses were wrong, and now you're characterizing them as the wife's separate property businesses?

The Court: Well, I don't appreciate the way you just did that. I'm going to answer your question. The answer is: I didn't make the rulings that I did at the time based on simply a finding that they're community property. The finding that they're community business doesn't answer the question.

> Under [Family Code section] 4057.5, any earnings by a spouse are community property, and you would be reading the statute. So I made it based on the findings that he was engaged in that business as well and that he, in fact, generated those earnings as well. I've concluded that's not true.
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> The evidence is that he has, in fact, not been involved in what you characterized at the time as the house flipping business, and that's why I'm not including it. You now have your answer. Thank you.
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> [Megan's Attorney]: Thank you.
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> The Court: [David], you'll prepare a notice of ruling. That will conclude these proceedings.

The family court entered a minute order on the same day of the hearing. In confusing fashion, the minute order stated: "[David's] Request for Order re Modification of Child Support is denied without prejudice. [¶] The current orders remain in full force and effect."

Approximately two weeks after the hearing, Megan's attorney sent a letter to the family court. It stated David had not yet served him with a proposed Order After Hearing for the November 2016 hearing and enclosed Megan's own proposed order, which Megan represented was "modeled on the Court's Minute Order of November 15, 2016." The enclosed proposed order, however, parroted only part of the family court's minute order and stated, without further elaboration, "[David's] Request for Order Modifying [c]hild support is denied without prejudice."

Three days later, David's attorney sent his own letter to the family court. That letter noted the earlier correspondence to the court from Megan's attorney and stated: "[David] disagrees with

the proposed content of the Order After Hearing submitted by [Megan's] counsel. Based upon the statements by the Court at the time of the November 15[, 2016,] hearing, [David] believes that the Minute Order for said date is incorrect in the sense that it . . . should state that [David's request for a child support modification] was granted. As the Minute Order stands, there is a clear conflict between the second sentence and the third sentence." David enclosed his own proposed order, and asked the family court to sign that order rather than the order prepared by Megan.

Approximately three weeks after the submission of these letters from both sides, the family court signed the proposed order submitted by Megan.

D. David's Request for Correction of the Family Court's Order, Which the Court Grants

Shortly after the family court signed Megan's proposed order, David filed a Request for Order seeking relief described as "Clarification/Correction of Order." The request and accompanying declaration argued the minute order for the November 15, 2016, hearing was "internally inconsistent" and maintained the Order After Hearing the court signed was "inconsistent with the announced ruling by the Court at the time of the November 15 hearing."

Megan objected to the request for clarification/correction and further sought child support arrears and sanctions based on the view that the family court found in her favor and maintained the $2,800 per month support award retroactive to David's initial request for a modification. Megan contended the court had intentionally signed her proposed order following the November

15, 2016, hearing because it had been the court's intention to rule in her favor. Megan thus contended David's request for clarification/correction was procedurally improper because if it were construed as a motion for reconsideration there were no new facts or law cited and if it were construed as a motion for correction of a clerical error it was meritless as any error was judicial and not merely clerical. In the event the court were to change its order, Megan also requested the family court to prepare a statement of decision pursuant to Family Code sections 3654 and 4056, subdivision (a).

The family court granted David's request and corrected the written orders it previously entered as attributable to clerical error. The court recounted the history of the case in detail on the record, noting its regret about what it perceived as a "lack of clarity and consistency on my part in the manner in which [the case has] been conducted." As to the key November 15, 2016, hearing (the transcript of which the court had reviewed), the court stated its intent was that the previously entered temporary child support order for $742 plus the *Ostler-Smith* percentage would continue as the final order because there was no evidence David had any income beyond the imputed $50,000 (or $4,166 per month) in salary—which is why the "minute order reflects that the existing orders will . . . continue." The court explained further: "So my decision in November was that in fact the order made November 3rd would be the final order of the court with respect to—that effectively was a modification of [David's] child support obligation; and therefore, his request for order[ ] was granted because it had been granted in November. The minute order is inconsistent in its language. Presumably because the clerk misunderstood given the complicated history."

As to the signed Order After Hearing, the family court stated it was attributable to a clerical mistake. The court explained: "I have no recollection of whether I saw it or not, and I have no recollection of the various correspondence that went back and forth. What I can say about it is, it's wrong. The statement in the minute order that the court denies the request for orders is simply not what in fact I ruled on November 15th or the year before on November 3rd, which was incorporated. I had ruled that [David's] child support obligation was modified by treating [him] as having $50,000 in income, and the $742 in support was the order plus the [*Ostler-Smith*]. And the Order After Hearing should have reflected that. And how—why it did not, I don't know, but it was wrong. [¶] In my view, all of that is clerical error."

Finally, as to Megan's request that the family court issue a statement of decision, the court denied the request as untimely. The court reasoned it was not issuing a new decision but only correcting a clerical error, and the court believed that the time limits for requesting a statement of decision under Code of Civil Procedure section 632 applied to requesting a statement of decision under the pertinent provisions of the Family Code, i.e., that the request should have been made on November 15, 2016, because the hearing lasted less than one day. Additionally, the court observed that Megan's attorney in any event had "ample information as to my reasoning and rationale in this transcript" and Megan's attorney agreed, saying, "I do, your Honor."

II. DISCUSSION

Our resolution of the issues raised by Megan on appeal is easily summarized: the family court correctly exercised its

authority to correct what was obviously a clerical error, the family court should have acquiesced in Megan's request for a statement of decision in light of its correction (which reversed the bottom line result—i.e., who the prevailing party was), but the absence of a statement of decision does not warrant reversal on this record (Megan's attorney expressly conceded below that the court's discussion of its reasons on the record provided "ample" explanation of the court's reasoning and rationale).

A. The Trial Court Properly Exercised Its Authority to Correct Clerical Error

"When a signed judgment does not reflect the express judicial intention of the court, the signing of the judgment involves clerical rather than judicial error. [Citation.] Counsel who fail to correctly record the terms of a court-ordered judgment commit clerical error, and their error is correctable as such." (*In re Marriage of Kaufman* (1980) 101 Cal.App.3d 147, 151.) "Regardless of the lapse of time or finality of judgment a court may, upon motion of a party or upon its own motion, correct a clerical mistake in its judgment, whether the mistake was made by the clerk, counsel or the court itself." (*In re Marriage of Sheridan* (1983) 140 Cal.App.3d 742, 746; accord, Code Civ. Proc., § 473, subd. (d); *In re Marriage of Mercado* (1977) 75 Cal.App.3d 701, 704 ["A trial court has power to correct mistakes and to annul orders and judgments inadvertently or improvidentially made, i.e., judgments and orders which were not actually the result of the exercise of judgment"].)

The family court correctly relied on these legal principles to correct, as the product of clerical error, the November 15, 2016, minute order and associated Order After Hearing. In correcting

the error, the family court acknowledged it could have been more precise in its prior ruling but explained its intention, in the context of the procedural history of the case, was to grant David's request for a modification and make permanent the temporary order for reduced child support made earlier in the proceedings. The transcript of the November 15, 2016, hearing establishes this was indeed the court's intention, and more than that, the court's oral ruling.

During the November 15 hearing, the trial court stated there was no evidence of David getting wage income, other than what the court was prepared to impute to him. And the court's comments established the amount of that imputed income was the $4,166 per month that served as the basis for the reduced child support order. True, the family court did say "[t]he request for further modification at this point is denied," but that ruling came in the context of the discussion of the $309,000 David apparently made from the sale of the family home. In that context, the court's reference to "further" is key—the ruling was that the court would not further modify the previously entered temporary support award to account for that $309,000. That is apparent from the very next sentence the court uttered, i.e., that "[t]he current orders [i.e., the temporary support order] will continue without prejudice to an RFO by [Megan], if they wish to try and establish that the [$309,000] is either being used for his lifestyle under [*de Guigne*] or is due and payable under the [*Ostler-Smith*]." Indeed, if Megan were correct that the family court had denied David's request for a child support modification, the court's reference to the *Ostler-Smith* condition is unexplainable—the condition applied only because it had been

imposed as part of the temporary support order (the prior child support award was a straight $2,800 per month).[4]

Because the trial court's correction of the admittedly contradictory minute order and the incorrect Order After Hearing submitted by Megan conformed to the ruling the court made at the time of the November 15 hearing, the correction was a proper means of remedying a clerical error.

B. The Family Court Should Have Acquiesced in the Request for a Statement of Decision, But the Error Is Not Prejudicial

In connection with the hearing when the family court corrected the clerical error in its prior written orders, Megan

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[4] Two additional features of the record further cement our conclusion that the family court ruled in David's favor at the November 15, 2016, hearing. First, at that hearing, the court stated "[t]he evidence is that [David] has, in fact, not been involved in what [Megan] characterized at the time as the house flipping business, and that's why I'm not including it." Other than the $309,000 recouped from the sale of the family home, Megan's presentation in support of maintaining a higher child support amount had almost exclusively focused on including assets ostensibly belonging to David's wife as part of David's income for child support purposes. The court's finding that these assets should not be included undercut the foundation of Megan's case for a higher support award. Second, the court asked David to prepare the Order After Hearing, and the court's consistent practice was to ask the party prevailing at the hearing to prepare the order memorializing the court's ruling. The problem here was that Megan took it upon herself to prepare the Order After Hearing, and to prepare it more to her liking.

requested the court to prepare a statement of decision explaining the child support award it made. Megan made her request under both Family Code section 3654 and Family Code section 4056, subdivision (a). The former statute provides: "At the request of either party, an order modifying, terminating, or setting aside a support order shall include a statement of decision." (Fam. Code, § 3654.) And the latter provides: "To comply with federal law, the court shall state, in writing or on the record, [certain information] whenever the court is ordering an amount for support that differs from the statewide uniform guideline formula amount . . . ." (Fam. Code, § 4056, subd. (a).)

The family court rejected Megan's request for a statement of decision, ruling the request was untimely. "The Family Code does not provide any specific procedure or time frame for acting under such circumstances. However, [Family Code] section 210 states that except where any other statute or judicial council rule is applicable, '[T]he rules of practice and procedure applicable to civil actions generally apply to, and constitute the rules of practice and procedure in, proceedings under [the Family Code].'" (*Rojas v. Mitchell* (1996) 50 Cal.App.4th 1445, 1451-1452; accord, Fam. Code, § 210.) The family court accordingly reasoned that the time limits specified in Code of Civil Procedure section 632 governed a request under the Family Code statutes, and further, that the request was untimely because the terms of Code of Civil Procedure section 632 would require the request for a statement of decision to have been made on the day of the relevant hearing, that is, November 15, 2016. (Code Civ. Proc., § 632 ["The request [for a statement of decision] must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours

over more than one day in which event the request must be made prior to the submission of the matter for decision"].)

Even accepting for the sake of argument that the time limits of Code of Civil Procedure section 632 apply to a request for a statement of decision under the Family Code, the problem with the family court's reasoning is that it corrected the written orders issued after the November 15, 2016, hearing and thereby changed (or at least significantly clarified) who the prevailing party was at that hearing. Megan cannot be faulted for failing to request a statement of decision after a hearing at which she had a plausible basis to believe *she* was the prevailing party; after all, it is often the losing party that requests a statement of decision because the winner is content with the victory.

We do not believe the family court's modified support award differed from the statutory guideline formula (particularly in light of the imposed *Ostler-Smith* condition)—such that preparation of a Family Code section 4056 statement of decision would have been necessary sua sponte.[5] But a statement of

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[5] Megan never argues the family court's (corrected) child support order was an abuse of the court's discretion or an improper deviation from the statutory guideline amount. (See generally *In re Marriage of Leonard* (2004) 119 Cal.App.4th 546, 555 ["[A] determination regarding a request for modification of a child support order will be affirmed unless the trial court abused its discretion, and it will be reversed only if prejudicial error is found from examining the record below"].) The closest she comes in her opening brief is a one-and-a-half-page argument that maintains the family court was "substantively correct" to sign her Order After Hearing and therefore erred in "reversing" that order as clerical error. Insofar as that perfunctory argument (citing neither authority nor the appellate record) might be intended as

decision was nevertheless required under Family Code section 3654, pursuant to Megan's request, because the family court's order did modify a child support award and the modification was only clearly accomplished once the family court corrected its clerical error.

The conclusion that the family court should have acquiesced in the request for a statement of decision, however, does not end our analysis. Article VI, section 13 of the California Constitution provides: "No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice." We therefore must decide whether the absence of a statement of decision in this case gives rise to a miscarriage of justice. (*F.P. v. Monier* (2017) 3 Cal.5th 1099, 1107-1108 (*Monier*).)

In *Monier*, our Supreme Court considered whether the failure to issue a statement of decision as required by Code of Civil Procedure section 632 is reversible per se. (*Monier*, *supra*, 3 Cal.5th at p. 1102.) The Court held such a failure is amenable to harmless error analysis and does not invariably necessitate reversal. (*Id.* at p. 1108.)

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a challenge on the merits to the child support award the family court ultimately made, it is insufficiently presented and therefore waived. (*In re Marriage of Ackerman* (2006) 146 Cal.App.4th 191, 214.)

The facts in *Monier* were these. The plaintiff sued the defendant for sexual battery and prevailed at a court trial. (*Monier*, *supra*, 3 Cal.5th at p. 1103.) The trial court awarded $250,000 in general noneconomic damages, plus additional damages for lost income and past and future medical expenses, but did not issue a statement of decision. (*Id.* at pp. 1103-1104.) The defendant appealed, arguing that the absence of a statement of decision required reversal because, without one, it was impossible to tell whether the trial court had apportioned general damages as the law requires. (*Id.* at p. 1104.) The Court of Appeal agreed the trial court erred by not issuing a statement of decision but held the error did not require reversal because no prejudice flowed from the absence of a statement of decision; the defendant had forfeited any right to apportionment of damages by failing to raise the issue at trial. (*Ibid.*)

Our Supreme Court agreed with the Court of Appeal. (*Monier*, *supra*, 3 Cal.5th at p. 1102.) Although the Supreme Court declined to reach the question of whether the Court of Appeal's harmlessness analysis was correct (*id.* at p. 1104, fn. 2) and limited its holding to the question of whether the absence of a statement of decision is amenable to harmlessness review at all, the Court did offer general guidance on the parameters of a harmlessness inquiry, noting "the more issues specified in a request for a statement of decision and left unaddressed by a court's failure to issue a statement, the 'more difficult, as a practical matter, [it may be] to establish harmlessness.' [Citation.]" (*Id.* at p. 1116.)

We believe the constitutional miscarriage of justice provision invoked in *Monier* applies equally to the statement of decision error here. And here, there is no practical difficulty in

concluding the absence of a statement of decision is harmless error. The transcripts of the various family court hearings, especially combined with the materials in the clerk's transcript, provide a ready basis for review of the family court's support order. Indeed, Megan's attorney conceded exactly this below, responding "I do" when the family court judge stated he (the attorney) had "ample information as to my reasoning and rationale in this transcript." Furthermore, and as already noted, despite this ample information, Megan has raised no proper challenge to the family court's support award as an abuse of its discretion. Under the circumstances, there is no question that the absence of a statement of decision is harmless.

C. Megan's Burden Shifting Argument Is Meritless

In the course of making her argument that the family court erred by failing to issue a statement of decision, Megan asserts the court improperly shifted the burden of proof to her during the November 15, 2016, hearing, rather than forcing David to shoulder that burden since he was the party making a request for a modification of child support. To the extent this assertion can be understood as a freestanding argument we have not already disposed of in discussing her statement of decision claim, we reject it too.

Megan suggests the family court required her to establish David's income because the court purportedly "chang[ed] its mind" about whether David's wife's business was a community asset and refused to explain its decision as to why it would not include the $309,000 David received from the sale of the home he previously occupied with his wife. Both assertions are directly refuted by portions of the reporter's transcript we have already

quoted and we therefore need not belabor the point here. We are content to observe we presume, under well-established authority (Evid. Code, § 664; *Ross v. Superior Court* (1977) 19 Cal.3d 899, 913-914; *In re Marriage of Winternitz* (2015) 235 Cal.App.4th 644, 653), that the family court was aware of applicable law that David bore the burden to establish he was entitled to a child support modification. That presumption is also amply reinforced by the family court's comments on the record during both the November 15, 2016, hearing and prior hearings in this case. Megan has demonstrated no error in this regard.

DISPOSITION

The order modifying David's child support obligation is affirmed. David shall recover his costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, Acting P. J.

We concur:

MOOR, J.

JASKOL, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.