

: No. 3166 EDA 2025

This support matter originated in 2018. On February 11, 2021, following extensive litigation between the parties, the trial court ordered Kendrick to pay \$576 per month for support of the parties' four children and \$57 per

month in arrears. As of September 1, 2025, the arrearages Kendrick owed under the support order amounted to \$31,460.66.

On September 15, 2025, both Dunn and the Domestic Relations Section of the trial court filed contempt petitions against Kendrick. The trial court scheduled a hearing on both petitions for October 7, 2025. On that date, Kendrick appeared in the waiting room for the hearing but absconded prior to the commencement of the hearing; the trial court issued a bench warrant for her arrest. The following day, Kendrick appeared before the bench warrant judge. Following a hearing, the bench warrant judge lifted the warrant and continued the resolution of the contempt petitions until November 12, 2025. The bench warrant judge ordered Kendrick to make a \$400 payment prior to the November 12, 2025 hearing. On October 28, 2025, Kendrick made the \$400 payment.

Kendrick was represented by counsel at the November 12, 2025 contempt hearing. At the conclusion of the hearing, the trial court found Kendrick in civil contempt and sentenced her to twenty-one days of incarceration with a purge condition of \$2,000. Kendrick was immediately taken into custody. Five days later, on November 17, 2025, Kendrick was released from custody after she paid the \$2,000 purge condition. She then timely appealed to this Court.

On December 12, 2025, the trial court ordered Kendrick to file a concise statement of errors complained of on appeal within twenty-one days of entry

of the order pursuant to Pennsylvania Rule of Appellate Procedure 1925(b). Kendrick, however, did not file her Rule 1925(b) statement within twenty-one days. Instead, on January 13, 2026, Kendrick filed a “Petition for Leave to File Rule 1925(b) Statement Nunc Pro Tunc” along with her Rule 1925(b) statement. In her petition requesting nunc pro tunc relief, Kendrick alleged she did not receive the trial court’s Rule 1925(b) order until January 12, 2026, and that she acted with due diligence by filing the petition and her Rule 1925(b) statement the following day. **See** Petition for Nunc Pro Tunc Relief, 1/13/2026. On January 14, 2026, the trial court granted Kendrick’s petition and accepted her Rule 1925(b) statement as timely filed.¹

Kendrick presents the following issues for review:

1. Did the trial court impose an illegal sentence in violation of the **Barrett** standard by setting a \$2,000.00 purge condition despite uncontradicted evidence that [Kendrick] lacked the present ability to pay, and the court’s own on-the-record admission of doubt regarding her ability to procure even \$300.00?
2. Did the trial court commit a reversible error of law by finding [Kendrick] in contempt without making a specific finding of “willfulness” on the record, especially when the evidence demonstrated non-payment was strictly due to poverty and basic survival expenses?

¹ On January 23, 2026, Kendrick filed an “Application for Supersedeas (Stay) Pending Appeal and Request to Waive Bond,” requesting a “stay of execution” of the November 12, 2025 order. **See** Application for Supersedeas, 1/23/2026, ¶ 2. She asserted that enforcement of that order would cause her irreparable harm because it would result in the suspension of driving privileges, the seizure of assets, and incarceration. **See id.** On February 9, 2026, the trial court denied the application, as Kendrick had satisfied the terms of the November 12, 2025 contempt order, and consequently, a stay was neither warranted nor possible. **See** Trial Court Order, 2/9/2026.

3. Did the trial court commit an abuse of discretion by suggesting [Kendrick] satisfy a monetary purge by committing potential benefits fraud specifically by concealing her incarceration from the [Veterans Administration ("VA")—and dismissively remarking, "Oh, yeah, who's going to tell?"
4. Did the trial court violate the coordinate jurisdiction rule and abuse its discretion by penalizing [Kendrick] despite her strict compliance with a prior, coordinate judge's specific order to pay \$400.00?
5. Did the trial court abuse its discretion and abandon judicial neutrality by relying on extra-judicial knowledge regarding the VA, and demonstrating bias by stating [Kendrick] had "thumbed her nose at the system" rather than evaluating her financial hardship?
6. Did the trial court commit an objective, reversible error by actively preventing the Commonwealth from reading [Kendrick]'s payment history into the record, and subsequently making a false factual determination that her payments were "zero"?
7. Did the trial court explicitly demonstrate an illegal, punitive intent—rather than a lawful coercive one—by imposing incarceration to punish [Kendrick] for past conduct, evidenced by the court stating, "Let me make a decision, and then she'll know from now on"?

Kendrick's Brief at 3-5 (unnecessary capitalization omitted).

Although presented as seven separate issues, Kendrick primarily claims that the trial court erred in finding that she willfully violated the child support order (issues two and four through seven) and that she had the present ability to pay the \$2,000 purge condition (issues one and three). ***See id.*** We address each issue and her arguments in support in turn.

Our standard of review is as follows:

This court's review of a civil contempt order is limited to a determination of whether the trial court abused its discretion. If

a trial court, in reaching its conclusion, overrides or misapplies the law or exercises judgment which is manifestly unreasonable, or reaches a conclusion that is the result of partiality, prejudice, bias or ill will as shown by the evidence of record, then discretion is abused.

B.A.W. v. T.L.W., 230 A.3d 402, 406 (Pa. Super. 2020) (citation omitted).

Willfulness

Kendrick argues that the trial court erred in finding that she willfully violated the child support order when there was uncontradicted evidence that her failure to pay the support obligation resulted from her lack of financial resources. **See** Kendrick's Brief at 17-26. Kendrick contends she presented evidence that reflected that she only received \$1,800 per month from the VA, and her monthly survival expenses were \$1,700, leaving her with only \$100 to put towards support payments. **See id.** Kendrick asserts that the trial court ignored her compliance with the bench warrant judge's directive to pay \$400 in advance of the November 12, 2025 contempt hearing, and did not provide her with the opportunity to demonstrate that she attempted to comply with the support order by making payments of around \$145 throughout the fourth quarter of 2023. **Id.** at 25, 29-38, 42-46.

"Pennsylvania courts possess an inherent power to enforce their orders by way of the power of contempt." **Fetzer v. Fetzer**, 336 A.3d 1058, 1065 (Pa. Super. 2025) (quotation marks and citation omitted). "The contempt power is essential to the preservation of the court's authority and prevents the administration of justice from falling into disrepute." **Harcar v. Harcar**,

982 A.2d 1230, 1235 (Pa. Super. 2009) (citation omitted). The Child Custody Act permits the trial court to hold in contempt “a party who willfully fails to comply with any custody order” and to impose sanctions including imprisonment up to a period of six months, provided that the court specifies the condition that will result in the immediate release of the contemnor from incarceration. 23 Pa.C.S. § 5323(g).

To establish contempt, the complaining party must prove the violation of a court order by a preponderance of the evidence. **J.M. v. K.W.**, 164 A.3d 1260, 1264 (Pa. Super. 2017) (en banc). The complainant must demonstrate: “(1) that the contemnor had notice of the specific order or decree which he is alleged to have disobeyed; (2) that the act constituting the contemnor’s violation was volitional; and (3) that the contemnor acted with wrongful intent.” **Id.** (citation omitted).

In this case, there is no dispute that Kendrick was aware of the child support order or its terms. **See** Kendrick’s Brief at 17-26, 29-51. Instead, she contends that her violation of that order was not willful, i.e., her violation of the support order was not volitional and she did not act with wrongful intent. **See id.**

In rejecting Kendrick’s claim that her failure to comply with her support obligation was the result of poverty and not willfulness, the trial court explained:

While [Kendrick] now alleges she is unable to pay her monthly obligation, she demonstrated no good faith attempt to comply

whatsoever. As illustrated by her substantial arrearages and testimony at the November 12 hearing, [she] has demonstrated a longstanding unwillingness and failure to comply with her support order to even a minimal extent. ...

[Kendrick] also testified ... that she was working at least until 2023. While ... this [court] did not find [Kendrick]'s testimony credible, previous orders were entered denying petitions to modify support that [showed Kendrick] was working at least through 2023, ... and it is undisputed that [she] now receives [an] \$1,800 educational stipend and that she had been receiving the \$1,800 VA disability payments since 2017. Yet [Kendrick] did not make consistent payments at any time between 2021 and the present—often she made no payments at all, not even sporadically—evidencing a clear lack of good faith efforts regardless of her specific income during a given period.

The severity of [Kendrick]'s lack of compliance stands out most starkly when the amount of arrearages is expressed in terms of missed monthly payments. An arrearage of \$31,460.66 is equivalent to just under fifty (50) months of missed payments. The terms of the order had been in effect fifty-seven (57) months as of the November 12, 2025 contempt hearing.

Trial Court Opinion, 2/9/2026, at 20-22 (cleaned up).

The record reflects that at the outset of the November 12, 2025 contempt hearing, the trial court noted that Kendrick's arrears balance was \$32,212.66, Kendrick had made a \$400.00 payment in accordance with the bench warrant judge's October 8, 2025 order, her last payment before that was \$142.51 in June 2025, and made no other child support payments in 2025. N.T., 11/12/2025, at 4-5. Kendrick testified that she receives approximately \$1,800 per month in veteran's disability payments from the VA and an additional \$570 per month for her children. ***Id.*** at 6-8. She stated that as of September or October 2025, she started receiving an additional

\$1,800 per month from the VA for educational assistance. ***Id*** at 26. There is no indication in the record, however, that she is enrolled in any type of educational program. ***See id.*** at 21-26. Kendrick further testified as to her monthly expenses of \$700 for rent, approximately \$400 for utilities, \$100 for her phone, and \$500 for groceries. ***Id.*** at 12-13. The trial court, however, found Kendrick's testimony regarding her expenses not credible because she did not produce any documentation to support her testimony. Trial Court Opinion, 2/9/2026, at 9; ***see also*** Pa.R.Civ.P. 1910.25(b)(3).²

² Rule 1910.25(b)(3) states the following:

If the court finds that you have willfully failed to comply with its order for support, you may be found to be in contempt of court and committed to jail, fined or both.

You will have the opportunity to disclose income, other financial information and any relevant personal information at the conference/hearing so that the court can determine if you have the ability to pay. You may also tell the court about any unusual expenses that may affect your ability to pay. You may fill out the enclosed Income Statement and Expense Statement forms and submit them to the court.

At the conference/hearing, the contempt petition may be dismissed, new and/or modified purge conditions may be imposed, or the judge may order you to jail. If the obligee fails to appear, the court will proceed with the case and enter an appropriate order.

YOU ARE REQUIRED TO BRING:

Your most recent pay stub for any and all employers

Payroll address, phone number, fax number and contact person

(Footnote Continued Next Page)

Thus, according to the evidence of record, the record reveals that Kendrick receives over \$4,000 per month from the VA and nonetheless failed to make no more than the two payments in 2025 towards her support obligation of \$576 per month plus \$57 per month in arrears. Kendrick was clearly aware of the child support order and had ample income to satisfy for her support obligation, but ultimately chose to make only two payments in 2025 prior to the November 12 support hearing, each of which was less than the monthly payment required. We therefore find no abuse of discretion in the trial court's conclusion that she failed to make a good faith effort to satisfy her support obligation and that Kendrick's violation of her child support order was willful.

Kendrick contends the trial court failed to appropriately consider the \$400 payment she made following the order from the bench warrant judge and did not give her the opportunity to present evidence regarding the payments she made in the third quarter of 2023. We note, however, that the record clearly shows arrearages of \$32,212.66 at the time of the November

Proof of medical coverage

Any other documentation relevant to your case and the issue of contempt as stated in the petition, including the completed Income Statement and Expense Statement forms. For example, other documentation that may be relevant includes documents related to claims for unemployment compensation, workers' compensation and Social Security benefits.

Pa.R.Civ.P. 1910.25(b)(3).

12, 2025 hearing, counting those payments, and that Kendrick presented no evidence that she made any payments in 2021, 2022, or 2024. **See** N.T., 11/12/2025, at 4-5. Thus, her compliance with the February 11, 2021 support order has been nearly non-existent, and she failed to offer any evidence the trial court found credible to explain her lack of compliance. **See** Trial Court Opinion, 2/9/2026, at 9. Furthermore, although Kendrick contends that her \$400 payment pursuant to the bench warrant judge's order somehow settled all issues relating to the contempt petitions, there is nothing in that order to support this belief. **See** N.T., 10/8/2025, 33-36.; **see also** Trial Court Order, 10/8/2025. Accordingly, Kendrick's arguments relating to her \$400 October 2025 payment and payments from the third quarter of 2023 are unavailing.

Additionally, Kendrick argues that the trial court acted inappropriately and with bias in determining that she willfully violated the child support order. **See** Kendrick's Brief at 26-28, 38-42, 46-51. Specifically, Kendrick states that the court's decision was improper because it expressed what she purports was extrajudicial knowledge of the VA system, the court accused her of having "thumbed her nose" at the system by taking advantage of the fact that the court could not garnish her VA benefits, and threatened to hold her counsel in contempt of court. **Id.** at 26-28, 38-42. Consequently, Kendrick contends that the trial court's decision to sentence her to a term of imprisonment was punitive, rather than coercive, and therefore, an illegal sentence of criminal contempt. **See id.** at 46-51.

Our review of the record does not support these claims. The trial court expressed that his wife worked for the VA and therefore was aware that the court could not garnish her benefits to pay for the support obligation. N.T., 11/12/2025, at 6. This was not improper.

As to the comment that she “thumbed her nose” at the system, the trial court made this statement in conjunction with its expression of frustration for her lack of compliance with the child support order. **See id.** at 22. This was made to emphasize its finding that her violation of the support order was willful. **See id.**

Further, our review of the record does not support Kendrick’s claim that the court threatened her attorney with contempt. While Kendrick is correct that the trial court stated: “I feel like today is like the lawyers want to go to jail day,” **id.** at 47, it did so during a tense exchange with Kendrick’s counsel during which the court mistakenly believed that counsel was being dishonest—a misunderstanding the court and counsel were able to quickly resolve. **See id.** at 46-47.

Lastly, her contention that the trial court held her in criminal, as opposed to civil, contempt, is wholly unavailing. This Court has explained that “[a] civil adjudication of contempt coerces with a conditional or indeterminate sentence of which the contemnor may relieve himself by obeying the court’s order, while a criminal adjudication of contempt punishes with a certain term of imprisonment or a fine which the contemnor is powerless to escape by

compliance.” **Fetzer**, 336 A.3d at 1065 (citation omitted). “Thus, the characteristic that distinguishes civil from criminal contempt is the ability of the contemnor to purge himself of contempt by complying with the court’s directive.” **Id.** at 1066 (cleaned up). In this case, the trial court plainly set a purge condition of \$2,000, which Kendrick paid within five days. This argument is therefore meritless.

Present Ability to Pay

Kendrick further argues that the trial court erred in determining that she had the present ability to pay the \$2,000 purge condition and in failing to make a finding on the record that she had the ability to pay the condition. **See** Kendrick’s Brief at 10-17. Specifically, Kendrick argues that the \$570 she testified that she receives from the VA for the care of her children is part of her disability payments, not in addition to, her monthly \$1,800 benefit. **See id.** Thus, she contends that because the trial court wrongly included the \$570 in her income, she did not have the ability to pay her monthly support and arrearage payments, her monthly survival expenses, and the purge condition. **See id.**

“It is ... common in civil contempt for a court to impose a conditional prison sentence, giving the contemnor an opportunity to purge the contempt and avoid the sentence by compensating the opposing party, paying counsel fees, or doing some other affirmative act within a certain time period.” **Rhoades v. Pryce**, 874 A.2d 148, 151 (Pa. Super. 2005) (en banc) (citation

omitted). In setting a financial purge, a trial court must be “convinced beyond a reasonable doubt, from the totality of the evidence before it, the contemnor has the present ability to comply.” **Cunningham v. Cunningham**, 182 A.3d 464, 472 (Pa. Super. 2018) (citation and brackets omitted); **see also Barrett v. Barrett**, 368 A.2d 616, 621 (Pa. 1977) (“the court, in imposing coercive imprisonment for civil contempt, should set conditions for purging the contempt and effecting release from imprisonment with which it is convinced [b]eyond a reasonable doubt, from the totality of the evidence before it, the contemnor has the present ability to comply”). The contemnor may proffer evidence that “he has the present inability to comply with the court [o]rder.” **In re Est. of DiSabato**, 165 A.3d 987, 992 (Pa. Super. 2017) (citation omitted).

On this point, the trial court found as follows:

While this court did not find [Kendrick] particularly credible..., it was uncontroverted that she receives \$1,800 per month in disability payments, an additional \$1,800 per month for educational assistance, and another additional \$570 per month in benefits for the children ..., all from the VA. Even taking [Kendrick]’s testimony as true, her monthly expenses amounted to \$1,700 per month. The court therefore appropriately found, beyond a reasonable doubt and after considering the totality of the evidence, that [Kendrick] had the present ability to pay both the purge condition and the monthly obligation of \$576 plus \$57 per month in arrears.

Trial Court Opinion, 2/9/2026, at 19 (cleaned up).

It is undisputed that Kendrick receives \$1,800 per month in educational assistance from the VA. **See** N.T., 11/12/2025, at 26. Regarding her monthly VA disability benefits, Kendrick testified as follows:

[Q]: Ma'am, how much do you receive in VA benefits per month?

[Kendrick]: About \$1,800.

[Q]: And how long have you been receiving these benefits for, ma'am?

[Kendrick]: I've been receiving them since 2017.

* * *

[Q]: And are you receiving an additional amount for the children, ma'am?

* * *

[Kendrick]: -- I'm -- receiving for the children, I'm receiving an amount for the children because right now --

The Court: No, no, I don't need the "because." Tell me the amount you're receiving. I don't care what it's for. If you want to explain after what it's for, I'm okay, but I want to know how much you're receiving per child.

[Kendrick]: About \$95.

The Court: Per child, each --

[Kendrick]: Yes, Your Honor.

The Court: -- how often, a month --

[Kendrick]: Per month, yes, Your Honor.

N.T., 11/12/2025, at 7-8. As Kendrick has six total children—the four at issue in this case, plus two others—she receives \$570.00 per month from the VA for her children. **See id.**

Although Kendrick testified before the bench warrant judge that the \$570 she receives monthly from the VA for her children is included in—not in addition to—her \$1,800 monthly disability payment, this was not the testimony she provided at the contempt hearing. **See** N.T., 10/8/2025, at 13-15. The trial court, as the arbiter of credibility, was free to accept the testimony she provided before it at the hearing in question. **See *In re Q.R.D.***, 214 A.3d 233, 239 (Pa. Super. 2019) (“[T]he trial court is free to believe all, part, or none of the evidence presented, and is likewise free to make all credibility determinations and resolve conflicts in the evidence.”) (citation omitted).

Thus, at the November 12, 2025 hearing, the trial court heard testimony from Kendrick that she received \$4,170.00 per month from the VA. **See** N.T., 11/12/2025, at 7-8, 26. Accepting as true her testimony that her expenses totaled \$1,700 per month, the record supports a finding that she had the present ability to pay the \$2,000 purge condition.

We agree with Kendrick, however, that the trial court never made “a finding, **on the record**, as to whether [Kendrick], based upon the evidence presented at the hearing, does or does not have the present ability to pay the court-ordered amount of support.” Pa.R.Civ.P. 1910.25-5(b) (emphasis

added). Instead, the court merely stated that “[t]his [c]ourt’s going to find you in contempt” and set the purge condition of \$2,000. N.T., 11/12/2025, at 50-51. While we certainly empathize with the trial court’s frustration in dealing with Kendrick’s failure to pay child support, the language of the rule is clear that the court was required to make a finding at the hearing, on the record, as to her present ability to pay the purge condition. **See** Pa.R.Civ.P. 1910.25-5(b). Its failure to do so was error.

Nevertheless, we decline to vacate the order and remand for further proceedings because Kendrick paid the purge condition within a few days of its entry. **See** Trial Court Opinion, 2/9/2026, at 18 (“[Kendrick] paid the \$2,000 purge condition on November 17, 2025.”). Remanding for further proceedings for the court to make an on-the-record finding as to Kendrick’s ability to pay would have no practical effect. This Court is therefore unable to award Kendrick relief.³

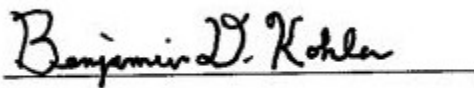
³ We note that Kendrick raises an argument that the trial court improperly placed the burden on her to prove she did not have the ability to pay the purge condition. **See** Kendrick’s Brief at 12-13. At the time of this writing, the burden of proof/production on this issue remains an unsettled area of the law. Recently, our Supreme Court, in an evenly divided decision, addressed the issue of whether a contemnor, after a finding of contempt, who argues that he is unable to pay a purge condition, waived the claim for failing to proffer affirmative proof of his financial circumstances. **See Bredbenner v. Hall**, 353 A.3d 683 (Pa. 2026) (Opinion Announcing Judgment of Court). Three Justice would place the burden on the petitioning party; three would employ a shifting burden that begins with a burden of production by the alleged contemnor to show an inability to pay; and one Justice would find the “burden rests solely on the court that is utilizing its discretionary power.” **See id.** at (Footnote Continued Next Page)

Finally, Kendrick argues that the trial court improperly relied on “benefits fraud” in determining her ability to pay. Kendrick’s Brief at 26-28. Specifically, she contends that the trial court directed her to conceal her incarceration from the VA to ensure that she had the funds necessary to satisfy the purge condition. **See id.**

At the contempt hearing, Kendrick’s counsel expressed concern that if the trial court were to sentence her to a term of incarceration, she would not receive her VA benefits payment. **See** N.T., 11/12/2025, at 45-46. Although the trial court responded in a terse and frustrated manner, it certainly did not instruct Kendrick to commit fraud. **See id.** at 45-46, 48-49. This argument merits no relief.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/1/2026

695-96; **id.** at 697 (Todd, C.J., concurring); **id.** at 704 (Brobson, J., concurring). **But see MacPherson v. Magee Mem’l Hosp. for Convalescence**, 128 A.3d 1209, 1223 (Pa. Super. 2015) (“While the ultimate order of a plurality opinion[,] i.e. an affirmance or reversal, is binding on the parties in that particular case, legal conclusions and/or reasoning employed by a plurality certainly do not constitute binding authority.”) (emphasis omitted). Based upon our resolution of the pending matter, we find it unnecessary to make a finding on this basis.