

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF:

KIMBERLY SUE CONNER,
Petitioner/Appellee,

and

RON TRACY CONNER,
Respondent/Appellant.

No. 2 CA-CV 2014-0046
Filed August 18, 2014

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c); Ariz. R. Civ. App. P. 28(c).

Appeal from the Superior Court in Pinal County
No. S1100DO201300548
The Honorable Stephen F. McCarville, Judge

APPEAL DISMISSED

Kimberly Conner, Coolidge
In Propria Persona

Ron Conner, Coolidge
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Kelly authored the decision of the Court, in which Judge Howard and Judge Vásquez concurred.

K E L L Y, Presiding Judge:

¶1 Ron Conner appeals from the trial court's order granting Kimberly Conner's petition for dissolution of marriage. Because Ron's notice of appeal was not timely filed, we dismiss the appeal for lack of jurisdiction.

Factual and Procedural Background

¶2 We note as a preliminary matter that Ron does not set forth any facts or citations to the record in his opening brief. We thus rely on our own review of the record. See *Delmastro & Eells v. Taco Bell Corp.*, 228 Ariz. 134, ¶ 2, 263 P.3d 683, 686 (App. 2011); *Flood Control Dist. v. Conlin*, 148 Ariz. 66, 68, 712 P.2d 979, 981 (App. 1985). We view the facts in the light most favorable to upholding the trial court's ruling. *Bell-Kilbourn v. Bell-Kilbourn*, 216 Ariz. 521, n.1, 169 P.3d 111, 112 n.1 (App. 2007).

¶3 Kimberly filed a petition for dissolution of her marriage to Ron in April 2013. She requested \$400 per month in spousal maintenance for a period of twenty-four months. In Ron's response, he stated that neither party was entitled to spousal maintenance. On December 30, 2013, after a hearing, the trial court granted the petition and entered a decree of dissolution of marriage in which it made the following findings: the parties were married in July 2001; their marriage was irretrievably broken; there was community interest in property and debt which required division; and, Kimberly was entitled to spousal maintenance in the amount of \$700 per month for two years based on the comparative financial resources of each party. The order was filed with the clerk of the court on December 31, 2013. Ron filed a notice of appeal on February 11, 2014, in which he stated he was appealing the award of spousal maintenance.

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Discussion

¶4 We have an independent duty to examine our jurisdiction. *In re Marriage of Dougall*, 234 Ariz. 2, ¶ 6, 316 P.3d 591, 594 (App. 2013). “We have no authority to entertain an appeal over which we do not have jurisdiction” and, if jurisdiction is lacking, we must dismiss the appeal. *Id.*, quoting *In re Marriage of Johnson & Gravino*, 231 Ariz. 228, ¶ 5, 293 P.3d 504, 506 (App. 2006).

¶5 “[T]he timely filing of a notice of appeal is a jurisdictional prerequisite to appellate review.” *Id.* ¶ 7, quoting *In re Marriage of Gray*, 144 Ariz. 89, 90, 695 P.2d 1127, 1128 (1985). Rule 9(a), Ariz. R. Civ. App. P., requires a notice of appeal to be filed no later than thirty days after entry of the judgment or order from which the appeal is taken. *See also Wilkinson v. Fabry*, 177 Ariz. 506, 506, 869 P.2d 182, 182 (App. 1992). Here, Ron’s notice of appeal of the trial court’s order entered December 30 and filed on December 31, was untimely because it was filed on February 11, 2014, well beyond Rule 9(a)’s thirty-day requirement. We therefore lack jurisdiction to consider his appeal.

Disposition

¶6 For the foregoing reasons, the appeal is dismissed.