

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 09/25/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

ANTIONETTE INGRAM, a single) 1 CA-CV 11-0668
woman,)
) DEPARTMENT B
)
Appellant,)
) **MEMORANDUM DECISION**
v.) (Not for Publication -
) Rule 28, Arizona Rules
) of Civil Appellate
PIETRO DIRENDE and GIOVANNA) Procedure)
DIRENDE, man and wife; MARCIE)
TEAGUE dba INTEGRITY WEST REAL)
ESTATE, an Arizona sole)
proprietorship,)
)
Appellees.)

Appeal from the Superior Court in Maricopa County

Cause No. CV2010-017693

The Honorable Hugh E. Hegyi, Judge

AFFIRMED

Antionette Ingram
Appellant *In Propria Persona*

Scottsdale

Mark W. Clary, PLLC
By Mark W. Clary
Attorneys for Appellees DiRendes

Tempe

Marcie Teague, DBA Integrity West Real Estate
Appellee *In Propria Persona*

Avondale

O R O Z C O, Judge

¶1 Appellant Antionette Ingram appeals the superior court's order dismissing her complaint against Appellees Pietro and Giovanna DiRende¹ and Marcie Teague dba Integrity West Real Estate (Teague). For the following reasons, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 Ingram filed a negligence complaint against the DiRendes and Teague.² Thereafter, the DiRendes asked the court to order Ingram to file a cost bond pursuant to Arizona Rule of Civil Procedure 67(d).³ Ingram did not respond to the motion. The superior court deemed Ingram's failure to respond to be

¹ Pietro DiRende died on June 12, 2011, but pursuant to Arizona Revised Statutes (A.R.S.) section 14-3110 (2012), Ingram's claim survived his death. The DiRendes' counsel filed a suggestion of death on August 1, 2011. No party filed a motion for substitution before the court dismissed the complaint. See Ariz. R. Civ. P. 25(a)(1) (requiring dismissal of an action as to a deceased party if no motion for substitution of the proper party has been made within 90 days after a suggestion of death is filed). Because this issue does not affect our determination of this appeal, we treat Pietro DiRende as a proper appellee for purposes of our analysis. See ARCAP 27(a) (stating appellate court may direct appropriate proceedings when a party's death has been suggested on the record but no party substitution has been made).

² Ingram also named John Duetsch and Jane Doe Duetsch as defendants but never served them with the complaint.

³ Rule 67(d) requires the superior court to order a plaintiff to give security for costs when the defendant requests the security and shows by affidavit that the plaintiff does not own property within the state out of which a judgment for costs could be satisfied by execution sale. If the plaintiff fails to timely give the required security, "the court shall order the action dismissed without notice." *Id.*

consent to the motion and ordered her to post a \$6,000 bond no later than August 24, 2011. The court later denied Ingram's request that it reconsider the cost bond order. On September 2, 2011, the court dismissed Ingram's complaint because she had not filed the required bond.

¶13 Ingram timely appealed. We have jurisdiction pursuant to A.R.S. § 12-2101.A.4 (Supp. 2011).

DISCUSSION

¶14 Ingram appeals the superior court's order dismissing her complaint for failure to file a cost bond. However, she does not set forth any cogent argument as to why the court allegedly erred but merely states, without explanation, that the ruling denied her right to due process and equal access to the law.⁴ Accordingly, we affirm the order. See ARCAP 13(a)(6) ("An argument . . . shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on."); *Watahomigie v. Ariz. Bd. of Water Quality Appeals*, 181 Ariz. 20, 26, 887 P.2d 550, 556 (App. 1994)

⁴ Ingram raises several arguments unrelated to the superior court's cost bond order that we do not consider.

(stating that appellate court will not consider claims that are not adequately briefed).⁵

¶15 The DiRendes and Teague request an award of attorney fees and costs incurred in this appeal pursuant to A.R.S. § 12-349 (2003).⁶ In our discretion, we grant the DiRendes' request and award them reasonable attorney fees because we agree Ingram brought this appeal "without substantial justification," pursuant to A.R.S. § 12-349.A.1 and F. We decline to award attorney fees to Teague because she is self-represented. See *Lisa v. Strom*, 183 Ariz. 415, 419-20, 904 P.2d 1239, 1243-44 (App. 1995) (refusing to award attorney fees to self-represented attorney-litigants who spent no money and incurred no debt for legal representation). We grant the DiRendes' and Teague's requests for costs, incurred on appeal, in amounts to be determined upon their compliance with ARCAP 21.

⁵ After this appeal was at issue, Ingram filed a "Motion[] for Sanctions for Abusive Litigation, Professional Misconduct and False Statements Made to the Arizona Appeals Court Tribunal," and an "Emergency Motion to Expedite Appeal for Fraud upon the Court; Appellant Challenges Jurisdiction and Request[s] Proof of Jurisdiction to Appear on the Record." We grant the DiRendes' requests and strike both motions, as well as the appendices filed therewith.

⁶ Teague also cited A.R.S. § 12-241 (2003) as a basis for her request. However, that statute does not concern attorney fees but grants the court authority to appoint and summon interpreters.

CONCLUSION

¶16 For the foregoing reasons, we affirm.

/S/

PATRICIA A. OROZCO, Judge

CONCURRING:

/S/

MAURICE PORTLEY, Presiding Judge

/S/

RANDALL M. HOWE, Judge