

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

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 2/26/2013
RUTH A. WILLINGHAM,
CLERK
BY: mjt

In re the Matter of:) No. 1 CA-CV 12-0095
)
EDNA MARIE WEBSTER,) DEPARTMENT C
)
Petitioner/Appellee,) Yuma County
) Superior Court
v.) No. S1400DR200100203
) S1400DR200101527
DANNY LEE BOLSER,)
) **DECISION ORDER**
Respondent/Appellant.)
)
_____)

The court has reviewed the record and briefing in this appeal, and the superior court's order entered January 15, 2013. After consideration, and for the reasons that follow,

IT IS ORDERED dismissing this appeal.

In 2001, Danny Lee Bolser ("Father") and Edna Marie Webster ("Mother") were awarded joint legal and physical custody of their minor child, and Mother was designated the primary custodial parent. In 2007, Father obtained primary physical custody of the child. In 2011, Father filed a petition to modify custody, requesting sole legal and physical custody of the child with reasonable parenting time for Mother. After an evidentiary hearing, the superior court ruled that "primary

custody of the minor child shall remain as previously ordered," and awarded Mother parenting time.

Father timely brought this appeal, arguing that his request for custody modification was improperly denied. He did not challenge the parenting time award.

Because the superior court had not supported its ruling with the express findings required under A.R.S. §§ 25-403 and 25-411(L), we suspended the appeal and revested jurisdiction in the superior court for the entry of findings. The superior court entered the appropriate findings in a January 2013 order, and the appeal was reinstated.

We now dismiss the appeal as moot. The superior court's January 2013 order grants Father the very relief he sought in this appeal -- a change in custody awarding sole legal and physical custody of the child to Father. Though this order appears inconsistent with the order from which Father appealed, it means that Father may not now gain any relief from this appeal that he has not already received from the superior court. Dismissal of the appeal is therefore appropriate. The superior court has jurisdiction over any future proceedings.

/s/

PETER B. SWANN, Judge