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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Marriage of:

TRANG VAN CAMP, *Petitioner/Appellee*,

v.

JONATHAN VAN CAMP, *Respondent/Appellant*.

No. 1 CA-CV 16-0341 FC
FILED 7-6-2017

Appeal from the Superior Court in Maricopa County
No. FC2015-000407
The Honorable Suzanne E. Cohen, Judge

AFFIRMED

COUNSEL

Singer Pistiner P.C., Scottsdale
By Jason Pistiner
Counsel for Petitioner/Appellee

Jonathan Van Camp, Chandler
Respondent/Appellant Pro Se

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MEMORANDUM DECISION

Presiding Judge Randall M. Howe delivered the decision of the Court, in which Judge Lawrence F. Winthrop and Judge Jon W. Thompson joined.

H O W E, Judge:

¶1 Jonathan Van Camp (“Father”) challenges various aspects of a dissolution decree. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Father and Trang Van Camp (“Mother”) were married in January 1995. Mother petitioned for dissolution of the parties’ marriage in January 2015. At that time, the parties had three minor children.

¶3 In May 2015, the family court issued temporary orders. The family court found that Father had “engaged in acts of domestic violence against [Mother]” and ordered him to maintain his current psychological treatment, including counseling and medications, with treatment reports provided to Mother and her counsel twice a month. The court granted Father joint legal decision-making authority and unsupervised parenting time contingent upon his compliance with the conditions in the temporary orders. The court also ordered Father to pay \$1,500 per month in child support. Shortly thereafter, Father’s counsel withdrew without Father’s consent. Father moved *in propria persona* for reconsideration of the temporary orders, which the court denied.

¶4 Mother later notified the family court that Father had not complied with several portions of the temporary orders, including failing to timely pay child support and provide bi-monthly updates on his psychological treatment. The court set a return hearing for July 1, 2015, but Father did not receive timely notice of the hearing and did not appear. Nonetheless, the court suspended Father’s joint legal decision-making authority and parenting time at that hearing. The family court judge subsequently disqualified himself from the case.

¶5 At a hearing a month later, a second family court judge affirmed the suspension of Father’s joint legal decision-making authority and parenting time after Father testified and acknowledged that he had not fully complied with the temporary orders. Father continued to refuse to

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provide updates on his psychological treatment to Mother and her counsel. Father later filed a spreadsheet listing dates on which he purportedly received “[o]ngoing treatment . . . to recover from the abuse put upon him by [Mother]” and requested that his parenting time be restored, but the court declined to grant any relief.

¶6 The court set trial for December 2015. Father retained a second attorney on or about November 30, 2015, who moved to continue the trial. The court granted a continuance to March 2, 2016. Father’s counsel also moved to restore Father’s joint legal decision-making authority and parenting time, contending that Father either never or no longer needed regular psychological treatment. The court again denied relief, finding that Father’s “lengthy failure to comply [was] not diminished by his recent compliance.”

¶7 One month before trial, Father’s counsel moved to withdraw from the representation without Father’s consent. Father did not respond to counsel’s motion, and the family court granted it on February 24, 2016. Two days later, Father moved for a change of judge for cause. The presiding family court judge denied Father’s motion.

¶8 On the day of trial, Father arrived approximately 15 minutes late. Upon arriving, Father told the family court that his second attorney had withdrawn without preparing him for trial and requested another continuance, which the court denied. Father then left the courtroom despite the court warning him that trial would proceed in his absence. Father re-entered the courtroom a few minutes later, tried to hand the judge a portion of his pretrial statement, and left again. Father returned once more to object to the court’s handling of his second attorney’s withdrawal, then left a third time and did not return. The court found Father’s actions of “choosing to leave the courtroom and causing disruption” were willful and proceeded in his absence. Mother testified that: (1) in 2013, Father had assaulted her in front of their oldest son, (2) during the summer of 2015, Father harassed her by trespassing and refusing to leave her residence, and (3) Father violated the order of protection she obtained against him. Six days after trial, Father filed a “separate pre-trial statement” and then filed a series of exhibits two days later.

¶9 The family court entered a final dissolution decree under Arizona Rule of Family Law Procedure (“Rule”) 81(A) about two weeks later. The court found that Father had committed significant domestic violence against Mother and awarded Mother sole legal decision-making authority for the three children. The court awarded Father one hour per

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week of supervised parenting time and ordered him to pay monthly child support of \$1,282. The court also awarded Mother significant spousal maintenance for 12 years.

¶10 Father retained a third attorney who moved for a new trial under Rule 83, arguing that the timing of the ruling on Father's second attorney's motion to withdrawal prejudiced Father's ability to prepare for trial. The court denied the motion and awarded Mother attorneys' fees pursuant to A.R.S. § 25-324(A). Father timely appealed.

DISCUSSION

¶11 Father raises several issues in his opening brief but provides no citations to legal authority, in violation of Arizona Rule of Civil Appellate Procedure 13(a)(7). We surmise Father's arguments to be that: (1) the family court erred by granting Father's second attorney's motion to withdraw and denying his subsequent oral motion to continue trial; (2) the family court failed to consider his contention that Mother had committed domestic violence against him; (3) the family court's May 2015 temporary orders should not have required him to report his psychological treatment to Mother; (4) the family court erred by finding that he committed domestic violence; and (5) the two family court judges who presided over this matter were biased against him. We review each of these arguments below.

**1. The Family Court Did Not Err by Granting Father's
Second Attorney's Request to Withdraw and Proceeding
with Trial**

¶12 We review the ruling on Father's second attorney's motion to withdraw for an abuse of discretion. *See Agraan v. Superior Court*, 4 Ariz. App. 141, 143 (1966) (motions to withdraw "are directed to the court's discretion"). We use the same standard in reviewing the denial of Father's oral motion to continue the trial, the impetus for Father's walkout. *See Ornelas v. Fry*, 151 Ariz. 324, 329 (App. 1986).

¶13 Father contends that the family court waited too long to allow his second attorney to withdraw, leaving him insufficient time to prepare for trial. But counsel's motion clearly stated that Father opposed the withdrawal. It thus was reasonable for the court to let Father's response time pass before ruling on the motion. *See Ariz. R. Fam. L. P. 35(A)(3)* (setting a ten-day period in which to file a response to a motion); 4(A) (weekends and holidays are not included in time periods shorter than eleven days); 4(D) (five additional days granted for electronic service). Father did not respond to the motion to withdraw, and he waited until the

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day of trial to seek a continuance based on his alleged inability to prepare for trial.¹

¶14 Father next contends that his second attorney's withdrawal violated his due process rights. "Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner." *Huck v. Haralambie*, 122 Ariz. 63, 65 (1979). Father does not contend that he did not have reasonable notice of the March 2, 2016 trial date. Father also does not dispute that he appeared at trial and voluntarily left the courtroom, foregoing his opportunity to present evidence. Given these facts, we cannot say the family court abused its discretion by granting the motion to withdraw, denying Father's oral motion to continue trial, or proceeding with trial after Father walked out. *See* Ariz. R. Fam. L. P. 77(C)(1) (once a trial date has been set, continuances should not be granted absent "a written motion setting forth sufficient grounds and good cause, or as otherwise ordered by the court"); *cf. State v. Fettis*, 136 Ariz. 58, 58-59 (1983) (stating that a criminal defendant "who voluntarily absents himself from trial" may be tried in absentia); *Encinas v. Mangum*, 203 Ariz. 357, 359 ¶ 10 (App. 2002) (civil litigants do not have an absolute due process right to counsel).

2. Father Presented No Evidence at Trial to Support His Domestic Violence Allegations

¶15 Father spends a considerable portion of his opening brief arguing that the family court should have found that Mother committed domestic violence and that he did not. Father chose to not participate at trial and presented no evidence to support these allegations. We therefore do not consider them. *Davis v. Davis*, 230 Ariz. 333, 338 ¶ 28 (App. 2012) (finding husband's argument waived after he "failed to raise it with the family court and on appeal failed to support it with citations to the record or legal authority").

3. Father Cannot Challenge the Family Court's Temporary Orders on Appeal

¶16 Father also contends the family court erred by ordering him to provide bi-monthly updates on his psychological treatment to Mother and her counsel. This order was included in the court's May 2015 temporary

¹ Father did request a continuance in his motion for change of judge, but that motion was directly routed to the presiding family court judge. Father did not alert the trial judge to his request before the day of trial.

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orders, which are not appealable other than through a special action. *Villares v. Pineda*, 217 Ariz. 623, 625 ¶ 11 (App. 2008). In any event, Father's psychological treatment clearly was relevant to the court's legal decision-making and parenting time determinations. A.R.S. § 25-403(A)(5).

4. The Family Court Did Not Err by Finding That Father Committed Domestic Violence

¶17 Father argues that the family court erred by finding that he committed domestic violence against Mother. The family court found that Father engaged in significant domestic violence. "Our duty on review does not include re-weighing conflicting evidence or redetermining the preponderance of the evidence" and we will affirm the trial court's ruling if substantial evidence supports it. *Hurd v. Hurd*, 223 Ariz. 48, 52 ¶ 16 (App. 2009). Here, substantial evidence supports the family court's finding. At trial, Mother testified that Father assaulted her in front of their oldest child. Additionally, Mother stated that Father harassed her throughout the entirety of the proceedings, which caused her to obtain an order of protection. Further, evidence at trial showed that Father violated Mother's order of protection on more than one occasion. Finally, Father failed to dispute the existence of domestic violence at trial. Thus, the family court did not err by finding that Father engaged in significant domestic violence.

5. Father Fails to Establish Any Judicial Bias

¶18 Father also cites several rulings that he contends evince bias and prejudice on the part of both family court judges. We review the denial of his motion for change of judge based on alleged bias for an abuse of discretion. *Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, 568 ¶ 21 (App. 2013). Adverse rulings alone do not demonstrate bias; Father must show that an extrajudicial source of bias or deep-seated favoritism existed. *Id.* Father offers no such evidence regarding either judge who presided over this case.

6. Mother Is Entitled to Recover Attorneys' Fees on Appeal

¶19 Mother requests attorneys' fees on appeal under A.R.S. § 25-324(A). Before we award fees, we must consider the parties' financial resources and the reasonableness of their positions throughout the proceedings. *Keefer v. Keefer*, 225 Ariz. 437, 441 ¶ 16 (App. 2010).

¶20 The family court found that Father had significantly more financial resources than Mother, and neither side offers anything on appeal to suggest that has changed. We also find that Father has taken

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unreasonable positions in this appeal. In short, Father asks us to overturn a final decree that resulted from a trial he chose to walk out of, citing evidence that he did not present to the court. We therefore award Mother reasonable attorneys' fees in an amount to be determined upon her compliance with Arizona Rule of Civil Appellate Procedure 21.

CONCLUSION

¶21 For the foregoing reasons, we affirm the family court's final decree and its rulings discussed above.



AMY M. WOOD • Clerk of the Court
FILED: AA