IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

ADISON J. EAGAR, *Petitioner/Appellant*,

v.

BRENDA JAIMES, *Respondent/Appellee*.

No. 1 CA-CV 17-0507 FC
FILED 4-3-2018

Appeal from the Superior Court in Maricopa County
No. FC2017-001776
The Honorable Timothy J. Thomason, Judge

AFFIRMED

COUNSEL

Adison J. Eagar, Phoenix
Petitioner/Appellant

MEMORANDUM DECISION

Judge Kenton D. Jones delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge James B. Morse Jr. joined.

J O N E S, Judge:

¶1 Adison Eagar (Father) appeals from the family court's order dissolving his marriage to Brenda Jaimes (Mother). For the following reasons, we affirm.[1]

FACTS AND PROCEDURAL HISTORY

¶2 Father and Mother were married in October 2014 and Mother gave birth to the parties' only child (Child) in January 2015. Father petitioned for dissolution of the marriage in March 2017.

¶3 After a contested hearing in July 2017, the family court entered an order dissolving the parties' marriage. Within the decree, the court found the parties had stipulated to a plan for legal decision-making and parenting time that was in Child's best interests. The court adopted the plan, which provided for joint legal decision-making, primary physical custody to Father, and parenting time to Mother every other weekend and one evening per week plus alternating holidays. The court ordered Mother to pay $150 per month in child support — approximately $100 per month less than prescribed by the Arizona Child Support Guidelines, *see* Ariz. Rev. Stat. (A.R.S.) § 25-320 app.,[2] because "Mother is suffering from financial distress and Father touted his financial stability in Court." The court also found no community debts or assets requiring allocation.

¶4 Father timely appealed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and -2101(A)(1).

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[1] Mother did not file an answering brief. Although we could regard this failure as a confession of error, *see* ARCAP 15(a)(2); *Thompson v. Thompson*, 217 Ariz. 524, 526 n.1, ¶ 6 (App. 2008), in our discretion, we decline to do so, *see Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994).

[2] Absent material changes from the relevant date, we cite a statute's current version.

DISCUSSION

¶5 Father first argues the family court abused its discretion in granting Mother overnight visitation with Child and ordering Mother to pay child support of only $150 per month. We review the court's decisions regarding parenting time and child support for an abuse of discretion. *Sherman v. Sherman*, 241 Ariz. 110, 112, ¶ 9 (App. 2016) (child support); *Nold v. Nold*, 232 Ariz. 270, 273, ¶ 11 (App. 2013) (parenting time). We defer to the court's factual findings unless they are clearly erroneous — that is, they lack substantial support in the record. *McNeil v. Hoskyns*, 236 Ariz. 173, 176, ¶ 13 (App. 2014) (citing *Kocher v. Dep't of Revenue*, 206 Ariz. 480, 482, ¶ 9 (App. 2003)).

¶6 As the appellant, Father "is responsible for making certain the record on appeal contains all transcripts or other documents necessary for [this Court] to consider the issues raised on appeal." *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995); *see* ARCAP 11(b) (explaining the duty of the appellant to order certified transcripts). No transcript was provided here, and in the absence of a complete record, we presume both that substantial evidence supports the family court's factual findings, both express and implied, and that the court properly exercised its discretion. *See Renner v. Kehl*, 150 Ariz. 94, 97 n.1 (1986) (citing *Auman v. Auman*, 134 Ariz. 40, 42-43 (1982), and *Visco v. Universal Refuse Removal Co.*, 11 Ariz. App. 73, 76 (1969)). On this record, we find no error in the orders regarding parenting time and child support.

¶7 Father also argues the family court erred by failing to rule upon requests to limit third parties from babysitting Child. The record does not support this contention. The decree specifically "den[ies] any affirmative relief sought before the date of th[e] Order that is not expressly granted." Father does not urge error in the denial of his requests, and we find none.

¶8 Finally, Father argues the family court erred by failing to "rule on the open credit card." Neither party referenced any credit card in the pleadings below, and the court found "no community debts were identified for allocation." In the absence of a complete record, we again presume the court's findings and conclusions are supported by the evidence. *See supra* ¶ 6. We note, however, that to the extent community debt was omitted, it is by operation of law "held by the parties as tenants in common, each possessed of an undivided one-half interest," A.R.S. § 25-318(D), and subject to civil suit for enforcement. *Ellsworth v. Ellsworth*, 5 Ariz. App. 89, 92-93 (1967).

CONCLUSION

¶9 The family court's orders are affirmed.

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