

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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STATE OF ARIZONA, *Plaintiff/Appellee*,

*v.*

MONIQUE MADRID, *Defendant*

RANDOLPH & CO. BAIL BONDS, *Intervenor/Appellant*.

No. 1 CA-CV 17-0568  
FILED 6-7-2018

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Appeal from the Superior Court in Maricopa County  
No. CR2016-148510-001  
The Honorable Thomas A. Kaipio, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Kimberly Felcyn, Peter S. Spaw  
*Counsel for Plaintiff/Appellee*

DuMond Law, P.L.L.C., Phoenix  
By Samantha Kelli DuMond  
*Counsel for Real Party in Interest/Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Kenton D. Jones delivered the decision of the Court, in which Judge Michael J. Brown and Judge Jon W. Thompson joined.

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JONES, Judge:

¶1 Intervenor/Appellant Randolph & Co. Bail Bonds (Randolph) appeals the trial court's judgment forfeiting an appearance bond after the defendant, Monique Madrid, failed to appear for court. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 Madrid was released from custody in December 2016 on a \$3,000 appearance bond posted by Randolph.<sup>1</sup> When Madrid failed to appear at a scheduled hearing, the trial court issued a bench warrant for her arrest and scheduled a bond forfeiture hearing for August 15, 2017. At the conclusion of the bond forfeiture hearing, after "consider[ing] whether any factors for mitigation existed," the court found that "no reasonable cause exist[ed] for the Defendant's failure to appear in court" and entered judgment forfeiting the entire appearance bond. Randolph timely appealed, and we have jurisdiction pursuant to Arizona Revised Statutes §§ 12-120.21(A)(1) and -2101(A)(1).

**DISCUSSION**

¶3 Generally, we review a bond forfeiture for an abuse of discretion. *Old West*, 203 Ariz. at 471, ¶ 9 (citing *Garcia*, 201 Ariz. at 205, ¶ 5). Our review is limited in this case, however, by the incomplete nature of the record. An appellant is required to "mak[e] certain the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised." *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995) (citing ARCAP 11(c)). To the extent Randolph wished to appeal the sufficiency of the evidence to sustain the court's conclusions, it was

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<sup>1</sup> We view the facts "in the light most favorable to support the judgment of the trial court." *State v. Old West Bonding Co.*, 203 Ariz. 468, 471, ¶ 9 (App. 2002) (quoting *State v. Garcia Bail Bonds*, 201 Ariz. 203, 205, ¶ 5 (App. 2001)).

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required to order a transcript of the bond forfeiture hearing “within 10 days after filing the notice of appeal.” ARCAP 11(c)(1)(B), (2). Randolph was then required to file the transcript with the clerk and serve a copy on all other parties within five days of receipt. ARCAP 11.1(d)(1), (3).

¶4 The record reflects Randolph did not order the transcript until three months after it filed the notice of appeal. Randolph then requested a sixty-day extension to file the opening brief, citing the lack of transcripts. In an order filed on December 5, 2017, this Court noted Randolph’s failure to “[c]ertify that the party timely ordered and made payment arrangements for a transcript under Rule 11,” *see* ARCAP 15(e)(1), but granted a thirty-day extension to file an opening brief, setting the last day to do so as January 3, 2018. Although a transcript of the bond forfeiture hearing was prepared on or before December 24, 2017, Randolph did not file or serve the parties with a copy. Instead, Randolph filed its opening brief on January 3, 2018 and then delayed the filing of the transcript with this Court until the day after filing its reply brief on February 15.

¶5 Because Randolph did not comply with the Arizona Rules of Civil Appellate Procedure, depriving the State of an opportunity to review the transcript before filing its answering brief, we do not consider the transcript on appeal. *See Auman v. Auman*, 134 Ariz. 40, 42 (1982) (declining to consider a transcript that “was not timely filed and therefore was not available for appellee’s use prior to the time her answering brief was due”) (citing *Primock v. Wilson*, 55 Ariz. 192, 195 (1940)). In the absence of properly filed transcripts, we presume the record supports the trial court’s judgment. *Kohler v. Kohler*, 211 Ariz. 106, 108 n.1, ¶ 8 (App. 2005) (citing *Baker*, 183 Ariz. at 73, and *Johnson v. Elson*, 192 Ariz. 485, 489 (App. 1998)).

¶6 The purpose of an appearance bond “is to assure a defendant’s appearance at the trial or other hearings.” *State v. Bail Bonds USA*, 223 Ariz. 394, 397, ¶ 9 (App. 2010) (quoting *Garcia*, 201 Ariz. at 208, ¶ 19). The trial court has discretion to forfeit all or part of the bond if the defendant violates a condition of the appearance bond and the violation is not explained or excused. *Id.* at ¶¶ 9-10 (citing Ariz. R. Crim. P. 7.6(c), and *Old West*, 203 Ariz. at 475, ¶ 25). The surety has the burden to show by a preponderance of the evidence some explanation or other mitigating factor excusing the defendant’s non-appearance. *See id.* at ¶ 11 (citing *State v. Martinez-Gonzales*, 145 Ariz. 300, 302 (App. 1985)).

¶7 Here, the trial court expressly stated it had “considered whether any factors for mitigation existed” and found that “no reasonable cause exist[ed] for the Defendant’s failure to appear in court.” Nothing in

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the record explains why Madrid failed to appear, and we assume the record supports the court's judgment. *See supra* ¶ 5. Accordingly, Randolph fails to show the court abused its discretion when it entered judgment forfeiting the appearance bond.

**CONCLUSION**

¶8 The trial court's judgment is affirmed.



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