

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

In the Matter of the Estate of:

DOROTHY L. DAVIS, Deceased,

IRENE GLOVER, *Petitioner/Appellant*,

v.

KEITH DAVIS, SR., *Respondent/Appellee*.

No. 1 CA-CV 18-0041
FILED 12-20-2018

Appeal from the Superior Court in Maricopa County
No. PB2014-050940
The Honorable Andrew J. Russell, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Irene Glover, Phoenix
Petitioner/Appellant

The Law Offices of David W. Dow, Phoenix
By David W. Dow
Counsel for Respondent/Appellee

MEMORANDUM DECISION

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Acting Presiding Judge Paul J. McMurdie and Judge Kent E. Cattani joined.

T H U M M A, Chief Judge:

¶1 Irene Glover appeals from a final judgment, entered after an evidentiary hearing, awarding real property to Keith Davis, Sr. (Davis). Because Glover has shown no reversible error, the judgment is affirmed.

FACTS AND PROCEDURAL HISTORY

¶2 The parties' mother, Dorothy L. Davis (Dorothy), died in 2012. A petition for adjudication of intestacy was filed in 2014, listing Glover and Davis, among others, as heirs. Glover and Davis, along with their siblings, were named as co-personal representatives of the estate.

¶3 In July 2017, the co-personal representatives petitioned for instruction on the disposition of real property in Phoenix. Davis claimed Dorothy intended for him to receive the property and that, as a result, the other co-representatives transferred the property to him. Davis presented signed, notarized Assignments of Interest in Real Property (Assignments) from his siblings, namely Glover, Brinette Trigg, Lelton Davis and Harvey Davis (collectively Assignors), that assigned their interest in the property to him.¹ The Assignments were executed shortly after Dorothy's death. Trigg and Glover opposed Davis' claim, asking that the property be sold and the proceeds be divided equally either among Dorothy's heirs or the siblings.

¶4 After an evidentiary hearing, the superior court awarded the property to Davis. Among other things, the court noted that none of the Assignors suggested the signatures on the Assignments were not theirs and no evidence suggested the signatures were forged. This court has jurisdiction over Glover's timely appeal from the resulting final judgment

¹ The Assignments mistakenly listed Trigg's property as the property assigned, an issue resolved in Davis' favor after the evidentiary hearing and not at issue in this appeal.

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pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes sections 12-120.21(A)(1) and -2101(A)(9) (2018).²

DISCUSSION

¶5 Glover’s opening brief does not comply with applicable procedural rules. *See* Ariz. R. Civ. App. P. 13. Among other things, the brief contains no record citations or legal citations, which properly results in a waiver. *See Sholes v. Fernando*, 228 Ariz. 455, 461 ¶ 16 (App. 2011). However, recognizing a preference to “decide cases on their merits,” *Clemens v. Clark*, 101 Ariz. 413, 414 (1966), this court addresses the merits of Glover’s arguments. In doing so, this court will affirm the superior court’s findings unless clearly erroneous, giving due deference to that court’s credibility assessments. *In re Estate of Zaritsky*, 198 Ariz. 599, 601 ¶ 5 (App. 2000).

¶6 Glover argues the property was intended to be divided among Dorothy’s heirs and that Davis failed to produce documentation supporting his ownership of the Property. In doing so, Glover seeks to reweigh evidence considered by the superior court, something this court will not do on appeal. *Vincent v. Nelson*, 238 Ariz. 150, 155 ¶ 18 (App. 2015). Moreover, because Glover did not provide this court a transcript from the evidentiary hearing, Ariz. R. Civ. App. P. 11, the evidence at that hearing is presumed to support the superior court’s findings, *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995).

¶7 The superior court relied on testimony showing the Assignors executed the facially-valid and notarized Assignments, notwithstanding that Glover and two other Assignors did not remember executing the Assignments before a notary. Although a pre-hearing filing by Trigg alleged her “signature was forged,” her testimony at the hearing apparently did not, and the superior court rejected any such forgery claim. The court expressly found that “none of the Assignors suggested that the signatures were not theirs, and no evidence was presented to suggest the signatures were forged.” The court also noted that no party presented testimony from the notary or subpoenaed the notary’s journal or other records.

¶8 The record reflects that the superior court considered the Assignments and the testimony received at the evidentiary hearing in awarding Davis the property. The evidence received at that hearing is

² Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

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presumed to support the findings and rulings. *Baker*, 183 Ariz. at 73. On this record, Glover has shown no reversible error.³

CONCLUSION

¶9 Because Glover has shown no reversible error, the judgment is affirmed.



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

³ After the completion of briefing on appeal, Glover moved to supplement the record to include excerpts from a Secretary of State action against the notary's commission. Because Glover has shown no basis for that motion, it is denied. Moreover, even considering those materials would not alter the result here. No party presented to the superior court evidence or testimony from the notary or credibly claimed signatures were forged. In addition, the materials attached to the motion show the Secretary of State "does not have the authority to assess whether any signature(s) on the document(s) were forged or to settle any legal disputes regarding the document(s)." In short, those materials do not alter the basis for the superior court's ruling and would not negate that court's findings based on the evidence provided.