

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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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JEREMY MICHAEL GISH, *Petitioner/Appellee*,

*v.*

JENNIFER ANN GREYSON, *Respondent/Appellant*.

No. 1 CA-CV 18-0258 FC

FILED 11-17-2020

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Appeal from the Superior Court in Maricopa County

No. FC2017-093448

The Honorable Rodrick J. Coffey, Judge

**AFFIRMED**

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COUNSEL

Rowley Long & Simmons PLLC, Mesa

By Scott R. Rowley

*Counsel for Petitioner/Appellee*

Al Arpad Esq., Phoenix

By Alexander R. Arpad

*Counsel for Respondent/Appellant*

**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe delivered the decision of the Court, in which Judge Kent E. Cattani and Judge Cynthia J. Bailey joined.

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**H O W E**, Judge:

¶1 Jennifer Ann Greyson (“Mother”) appeals the trial court’s orders attributing income to Jeremy Michael Gish (“Father”) of \$3,000 per month for child support calculation purposes and awarding Father \$15,000 in attorney’s fees. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 During dissolution proceedings in 2017, Father asserted in an affidavit of income that he was self-employed and that his income was \$3,000 per month. At a hearing, Father denied Mother’s assertion that he earned \$215,000 per year. He testified that his monthly draw income was \$3,000. He stated that his business grossed \$210,000 in deposits in 2016, which excluded expenses such as rent, parts, employees, lights, supplies, payroll, equipment, tools, and utilities. He further testified that his 2015 personal income tax return showed a business profit of \$11,938. Mother testified she had no evidence that he earned \$215,000 per year. The court issued a temporary child support order that Mother pay Father child support based on his \$3,000 monthly income.

¶3 At trial five months later, Father testified that his income had not changed and asked the court to affirm the previous child support calculation. The trial court dissolved the parties’ marriage and again ordered Mother to pay Father child support based on his stated \$3,000 monthly income. The court noted that “[t]he evidence presented during the trial did not change the [c]ourt’s determination regarding the parties’ incomes[.]” The court also ordered Mother to pay Father \$15,000 in reasonable attorneys’ fees, finding that Mother had acted unreasonably throughout the proceedings.

¶4 Mother moved for a new trial, which the trial court denied. She filed a notice of appeal, and this Court stayed the appeal on Mother’s request so she could seek relief from the judgment based on changed circumstances.

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¶5 In 2018, Father updated his affidavit of financial information, stating his monthly income as \$3,989.82. Mother moved for relief from judgment. Shortly before the hearing on the motion, Father again updated his affidavit to state that his total monthly income was \$3,200 per month and listed \$300 in expenses paid by his employer. In the joint pretrial statement and at the hearing, Father testified that his income had not substantially changed since the time of the temporary orders hearing or since the decree. Mother testified that Father’s income for child support purposes should be calculated as gross receipts from his business minus business expenses, and including draws, rental income, and distributions from a trust. Although Mother testified that Father’s income was higher than the \$36,000 “or so” annual income he claimed, she did not know if she could “get a real number” for Father’s income based on the information she had at the time of hearing.

¶6 The trial court modified child support based on a change in parenting time and again used \$3,000 for Father’s monthly income. The court noted that it “heard no persuasive evidence regarding changes to the parties’ income.” In considering Mother’s motion for relief from judgment, the court declined to modify the decree. Mother filed amended notices of appeal.

¶7 We have jurisdiction over Mother’s timely appeal pursuant to Arizona Revised Statutes (“A.R.S.”) section 12–2101(A)(1), (2), and (5)(a).

**DISCUSSION**

**I. Father’s Income for Child Support Calculation**

¶8 Mother challenges the child support calculation, arguing the trial court erred in attributing Father income of \$3,000 per month for child support calculation purposes. We review a child support award for abuse of discretion. *Cummings v. Cummings*, 182 Ariz. 383, 385 (App. 1994). The court abuses its discretion if the record lacks competent evidence to support its decision or the court made a legal error. *Little v. Little*, 193 Ariz. 518, 520 ¶ 5 (1999); *Kohler v. Kohler*, 211 Ariz. 106, 107 ¶ 2 (App. 2005). We view the evidence in the light most favorable to affirming the trial court’s ruling and will affirm if the evidence reasonably supports it. See *Boncoskey v. Boncoskey*, 216 Ariz. 448, 451 ¶ 13 (App. 2007). We review *de novo* the interpretation of the Arizona Child Support Guidelines, A.R.S. § 25–320 (“Guidelines”), governing child support calculations. *Patterson v. Patterson*, 226 Ariz. 356, 358 ¶ 4 (App. 2011).

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¶9 Mother argues that the court failed to attribute income to Father in accordance with Guidelines § 5(c) for self-employed individuals and erroneously used his self-reported monthly draw income of \$3,000 rather than computing self-employment income as receipts minus expenses, and failed to add in self-employment benefits or trust income from an inheritance. Mother provided no specific testimony that would permit the court to adjust Father’s income on these bases, however, and admitted she had no “real number” for his income. In the absence of evidence supporting Father’s self-employment gross receipts, related expenses, self-employment benefits, or trust income, the trial court did not abuse its discretion in relying on his testimony that he drew a monthly salary of \$3,000 to determine his income.

¶10 Mother next argues that although Father reported his income as more than \$3,900 shortly before the 2019 hearing, the court failed to use that figure for his income in calculating child support. However, Father updated his affidavit again before the trial and listed his income as \$3,200 and \$300 in expenses. He testified that his income had not substantially changed since the decree, at which time his income was \$3,000. Even if the evidence conflicted, “we do not reweigh the evidence” on appeal and instead “defer to the family court’s determinations of witness credibility and the weight given to conflicting evidence.” *Lehn v. Al-Thanyyan*, 246 Ariz. 277, 284 ¶ 20 (App. 2019). The court did not abuse its discretion in finding that Father’s income was \$3,000.

## II. Attorneys’ Fee Award

¶11 Mother also argues the trial court erred in finding that she acted unreasonably during the litigation and ordering her to pay Father’s attorneys’ fees under A.R.S. § 25-324. We review the court’s award of attorneys’ fees for abuse of discretion. *Magee v. Magee*, 206 Ariz. 589, 590 ¶ 6 (App. 2004).

¶12 The trial court did not abuse its discretion. Pursuant to A.R.S. § 25-324, the trial court considered both the relative financial resources of the parties and the reasonableness of their positions. The trial court found that the parties had similar financial resources, but found that Mother had “taken unreasonable positions throughout [the] proceeding[s] that have caused Father to incur significant amounts of attorneys’ fees.” Specifically, the court found that:

Mother refused to allow Father to have parenting time and took unreasonable positions in this proceeding regarding the

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amount of parenting time he should have with the child. She made unsubstantiated allegations of child abuse against Father. She sought to rescind the parties' Rule 69 Agreement regarding parenting time and legal decision making authority before the trial without a valid justification for doing so. She requested that Father produce voluminous financial records. He compiled eight boxes of documents and made them available for Mother and her counsel to review, but neither Mother nor her attorney took the time to review them before the trial. She has also filed multiple pre-trial motions that were not meritorious. Throughout her unreasonable actions, Mother has significantly prolonged and complicated this matter, causing Father to incur attorneys' fees.

¶13 Because reasonable evidence in the record supports the court's findings, the court did not abuse its discretion in awarding fees to Father.<sup>1</sup>

CONCLUSION

¶14 For the foregoing reasons, we affirm the trial court's ruling. In our discretion, we deny both parties' request for attorneys' fees on appeal. We award costs to Father upon compliance with Arizona Rule of Civil Appellate Procedure 21.



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

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<sup>1</sup> Mother argues that she and her counsel did review Father's financial documents before trial. Even if they did so, Mother's other conduct detailed in the trial court's ruling support its unreasonableness finding.