

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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 re the Matter of:
DAWN HUYNH, *Petitioner/Appellee*,

v.

HUNG TRAN, *Respondent/Appellant*.

No. 1 CA-CV 21-0241 FC
FILED 11-30-2021

Appeal from the Superior Court in Maricopa County
No. FC2018-052583
The Honorable Jon Christian Rea, Judge (Retired)

AFFIRMED

APPEARANCES

Hung Tran, Sacramento, California
Respondent/Appellant

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MEMORANDUM DECISION

Presiding Judge D. Steven Williams delivered the decision of the Court, in which Judge David B. Gass and Judge James B. Morse Jr. joined.

WILLIAMS, Judge:

¶1 Hung Tran (“Father”) appeals from the consent decree dissolving his marriage to Dawn Huynh (“Mother”) and the superior court’s order granting Mother sole legal decision-making authority over their minor children. For the following reasons, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2 Father and Mother divorced by consent decree in 2018. At that time, Arizona lacked jurisdiction to enter custody orders. Mother later petitioned to establish legal decision-making, parenting time, and child support. The superior court reconsidered its jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”), conferring with Judge Awoniyi from the Sacramento County Superior Court. Arizona assumed jurisdiction after the two courts determined Arizona was the home state of the children, and the superior court subsequently awarded Mother sole legal decision-making authority.

¶3 Father did not timely appeal from the consent decree. Accordingly, we lack jurisdiction to consider Father’s claims of error pertaining to the decree. *See Butler Products Co., Inc. v. Roush*, 145 Ariz. 32, 32 (App. 1984) (“Appellate courts do not have jurisdiction to consider appeals which are not timely filed.”).

¶4 Father timely appealed the order granting Mother sole legal decision-making authority. We have jurisdiction over that appeal pursuant to Article 6, Section 9, of the Arizona Constitution, A.R.S. §§ 12-120.21(A)(1), and -2101(A)(1).

DISCUSSION

¶5 Mother failed to file an answering brief. In our discretion we decline to treat Mother’s failure as a concession of reversible error, *see Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994), and instead consider the merits of Father’s appeal, *see Bugh v. Bugh*, 125 Ariz. 190, 191 (App. 1980).

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¶6 Father argues the court erred in awarding Mother sole legal decision-making authority. We review an award of legal decision-making for an abuse of discretion. *DeLuna v. Petitto*, 247 Ariz. 420, 423, ¶ 9 (App. 2019). “An abuse of discretion occurs when the court commits an error of law in reaching a discretionary decision or when the record does not support the court’s decision.” *Id.*

¶7 Father points to nothing in the record to support his argument, nor does he cite to any supporting legal authority. See ARCAP 13(a)(7)(A) (providing that an argument must contain “[a]ppellant’s contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record on which the appellant relies”); *Brown v. U.S. Fid. & Guar. Co.*, 194 Ariz. 85, 93, ¶ 50 (App. 1998) (declining to address a claim made without supporting authority or argument). Further, Father has provided no transcript of the proceeding. See ARCAP 11(c)(1)(B). In the absence of a transcript, we presume the missing record supports the superior court’s rulings. *Kohler v. Kohler*, 211 Ariz. 106, 108, ¶ 8 n.1 (App. 2005). Based upon this limited record, Father has failed to show where the superior court erred.

CONCLUSION

¶8 We affirm the superior court’s order.



AMY M. WOOD • Clerk of the Court
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