IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

STEVEN CLOUD, *Petitioner/Appellee*,

v.

NATALIA CAMPOS, *Respondent/Appellant*.

No. 1 CA-CV 21-0278 FC
FILED 2-15-2022

Appeal from the Superior Court in Maricopa County
No. FC2017-053474
The Honorable Lori Ash, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Natalia Campos, Queen Creek
Respondent/Appellant

Steven Cloud, Glendale
Petitioner/Appellee

MEMORANDUM DECISION

Judge Samuel A. Thumma delivered the decision of the Court, in which Presiding Judge Maria Elena Cruz and Judge Michael J. Brown joined.

T H U M M A, Judge:

¶1 Natalia Campos (Mother) appeals from the superior court's post-judgment order modifying parenting time and child support. Because Mother has shown no error, the order is affirmed.

FACTS AND PROCEDURAL HISTORY

¶2 In June 2017, Steven Cloud (Father) filed a petition to establish legal decision-making, parenting time and child support for the minor child he shares with Mother after she and the child moved to California. In June 2018, after motion practice and an evidentiary hearing, the court issued a judgment establishing decision-making, parenting time and child support, with Mother and the child remaining in California and Father in Arizona.

¶3 In September 2020, after moving back to Arizona with the child, Mother filed a petition to modify the 2018 judgment. Mother requested modification of parenting time and child support, including backpay for canceled childcare. Mother also made claims of domestic violence in various filings. Father's filings appeared to recognize a change in circumstances but proposed different parenting time schedule and child support obligations.

¶4 In April 2021, the superior court held an evidentiary hearing where both parties testified, and then issued an order modifying the 2018 judgment. As relevant here, the order modified parenting time and child support; directed that neither parent relocate more than 100 miles without complying with A.R.S. § 25-408; found that no credible evidence showed Father had engaged in domestic violence under A.R.S. § 25-403.03(C); did not order reimbursement for prior childcare and did not include childcare costs in the revised child support calculation.

¶5 This court has jurisdiction over Mother's timely appeal pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1) and -2101(A)(2) (2022). *See also Yee v. Yee*, 251, Ariz. 71 (App. 2021).

DISCUSSION

¶6 On appeal, Mother argues the superior court: (1) violated her due process rights by requiring her to comply with A.R.S. § 25-408 before moving with the child; (2) erred in finding there was no credible evidence of domestic violence by Father and (3) erred in not awarding child support "as promised by the court. Appellant is requesting what she was promised be recalculated."[1]

¶7 Although attempting to assert these arguments, Mother's brief on appeal is deficient. An opening brief must include "appropriate references to the record," ARCAP 13(a)(4), and citations to legal authority, ARCAP 13(a)(7)(A). Mother's opening brief does neither, meaning she has waived her arguments. *See Polanco v. Indus. Comm'n*, 214 Ariz. 489, 491 n.2 (App. 2007) (finding appellant's "mention[ing] [the] argument in passing in his opening brief, [but] cites no relevant supporting authority and does not develop it further," constitutes waiver); *Delmastro & Eells v. Taco Bell Corp.*, 228 Ariz. 134, 137 n.2 (App. 2011) (noting failure to adequately cite the record is "an appropriate ground for this court to find an appellant's argument waived."). Additionally, Mother did not provide a transcript of the evidentiary hearing. This court will presume a missing transcript supports the superior court's ruling. *Myrick v. Maloney*, 235 Ariz. 491, 495 ¶ 11 (App. 2014); *see also Cullison v. City of Peoria*, 120 Ariz. 165, 168 n.2 (1978) ("[W]here an incomplete record is presented to an appellate court, the missing portions of that record are to be presumed to support the action of the trial court.") (citation omitted).

[1] In her notice of appeal, Mother also claims that the superior court erred in changing the parenting time schedule. But she does not include this argument in her opening brief, meaning it is waived. ARCAP 13(a)(7); *Van Loan v. Van Loan*, 116 Ariz. 272, 274 (1977).

¶8 Absent waiver, Mother's arguments lack merit on the record presented. Although arguing the court should not have required the parents to comply with A.R.S. § 25-408 before moving, that requirement applied regardless of whether it was cited in the court's order. *See* A.R.S. § 25-408(A) (requiring advance "written notice . . . to the other parent before" moving with the child to another state or "more than one hundred miles within the state"). Because Mother is now an Arizona resident, she is obligated to comply with the statute before moving with the child.

¶9 In addressing Mother's claims of domestic violence, the court applied A.R.S. § 25-403.03(C), concluding the evidence provided did not include credible evidence of such abuse and weighed them accordingly. *See Fuentes v. Fuentes*, 209 Ariz. 51, 55-56 ¶ 18 (App. 2004) (appellate courts presume the superior court fully considered evidence admitted at trial). On this record, Mother has shown no error in the court's findings.

¶10 Finally, Mother argues that child support was calculated incorrectly because the court did not order Father to credit her with what he was no longer paying in childcare costs. The court considered Mother's request but found that she could not obtain a recalculation for costs incurred before she filed her petition. *See Guerra v. Bejarano*, 212 Ariz. 442, 444 ¶ 7 (App. 2006). The court notified her of this limitation and found she provided no credible evidence about childcare costs she wanted reallocated that were incurred after filing the September 2020 petition. Thus, Mother has not shown error in the court calculating child support.

CONCLUSION

¶11 Because Mother has shown no error, the order is affirmed.

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