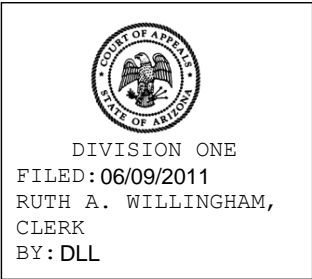


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



In re the Matter of:) 1 CA-CV 10-0422
)
CAROL A. ARNESON,) DEPARTMENT A
)
Petitioner/Appellant,) **MEMORANDUM DECISION**
)
v.)
) Not for Publication -
ROBERT L. ARNESON,) (Rule 28, Arizona Rules
) of Civil Appellate Procedure)
Respondent/Appellee.)
)
)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. FN 2009-017048

The Honorable William L. Brotherton Jr., Judge

AFFIRMED

Carol A. Borkowski
Appellant *In Propria Persona*

Surprise

D O W N I E, Judge

¶1 Carol Borkowski, formerly known as Carol Arneson, ("Wife") appeals from the superior court's denial of her request for spousal maintenance. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Wife and Robert Arneson ("Husband") were married in 1984. In October 2009, Wife filed for divorce and requested an award of spousal maintenance. Husband opposed the request.

¶3 Prior to trial, Husband and Wife agreed regarding division of the marital residence and some community debts, but could not reach an agreement regarding spousal maintenance and division of the remaining community property. The court held a one-day trial on these issues. At the conclusion of trial, the court ruled that Wife had failed to carry her burden of proof regarding entitlement to spousal maintenance; it therefore denied her request.

¶4 Wife filed an "Appeal for Alimony" on May 7, 2010, asserting that, because her expenses exceeded her income, and Husband's income exceeded his expenses, the court should have awarded her spousal maintenance. Wife later filed a document entitled "Add Information Attachment to Appeal - Alimony filed May 7, 2010," wherein she sought to provide additional information regarding Husband's monthly expenses. We have jurisdiction over this matter pursuant to Arizona Revised Statutes ("A.R.S.") section 12-2101(B).¹

¹ The court stated in an unsigned minute entry that it deemed Wife's "Appeal for Alimony" to be a motion for reconsideration. Because the court signed its minute entry from the dissolution hearing pursuant to Arizona Rule of Family Law

DISCUSSION

¶5 Wife contends the court erred by denying her request for spousal maintenance and argues Husband submitted false monthly expenses at trial. “An award of spousal maintenance is within the sound discretion of the trial court’ and we will reverse only upon a finding of an abuse of that discretion.” *In re Marriage of Pownall*, 197 Ariz. 577, 583, ¶ 31, 5 P.3d 911, 917 (App. 2000) (citation omitted).

¶6 To be eligible for spousal maintenance, Wife was required to prove one of four statutory factors at trial: (1) that she lacks sufficient property, including property awarded to her, to meet her reasonable needs; (2) that she is unable to support herself through appropriate employment or lacks the ability to obtain adequate employment; (3) that she contributed to the educational opportunities of Husband; or (4) that she had a marriage of long duration and is of an age which may preclude her from gaining suitable employment. A.R.S. § 25-319(A)(1-4).

Procedure 81, it was a final appealable order, and we thus treat Wife’s “Appeal for Alimony” as a timely notice of appeal. See *Gutierrez v. Gutierrez*, 193 Ariz. 343, 350, ¶ 30, 972 P.2d 676, 683 (App. 1998) (stating appellate court will liberally construe the sufficiency of a notice of appeal if the result is neither misleading nor prejudicial to the appellee). Husband did not file an answering brief. Although we may treat this as a confession of error, in our discretion, we decline to do so. *Gonzalez v. Gonzales*, 134 Ariz. 437, 437, 657 P.2d 425, 425 (App. 1982).

¶7 The superior court determined that Wife did not prove any of the statutory grounds that would entitle her to spousal maintenance. Based on this determination, the court was not required to reach the issue of whether Husband had sufficient resources to pay spousal maintenance.

¶8 Wife has not provided us with a transcript of the dissolution trial. Thus, we must assume that the evidence offered at trial supported the court's decision. Ariz. R. Civ. App. P. 11(b) (appellant is responsible for ordering all relevant transcripts); *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995) (when a party fails to include entire record on appeal, appellate court assumes the missing portions would support the trial court's findings and conclusions). Based on the record before us, we find no abuse of discretion in denying Wife's request for spousal maintenance.

CONCLUSION

¶9 We affirm the judgment of the superior court.

/s/
MARGARET H. DOWNIE, Judge

CONCURRING:

/s/
DIANE M. JOHNSEN, Presiding Judge

/s/
JON W. THOMPSON, Judge