

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



DIVISION ONE  
FILED: 06/07/2011  
RUTH A. WILLINGHAM,  
CLERK  
BY: DLL

In re the Matter of: ) No. 1 CA-CV 10-0743  
)  
MARC HILAIRE, ) DEPARTMENT D  
)  
Petitioner/Appellant, ) **MEMORANDUM DECISION**  
)  
v. ) Not for Publication -  
) (Rule 28, Arizona Rules  
NORMA NORRISE, ) of Civil Appellate Procedure)  
)  
Respondent/Appellee. )  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. FC2009-007418

The Honorable Robert E. Miles, Judge

**AFFIRMED**

Mark Hilaire  
In *Propria Persona* Petitioner/Appellant

Laveen

Gillespie, Shields & Durrant  
By DeeAn Gillespie Strub  
Mark A. Shields  
Attorneys for Respondent/Appellee

Mesa

G E M M I L L, Judge

¶1 Marc Hilaire ("Father") appeals from the superior court's order granting Norma Norrise ("Mother") sole custody of

the parties' minor daughter, J.H. For the following reasons, we affirm.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 Father and Mother have never been married. In 1995, while the parties were presumably living in California, Mother gave birth to their daughter, J.H. Mother was awarded custody of J.H., and in 2002 they moved to Nevada where Mother currently resides. In 2003, Father moved to Arizona where he currently resides. In March 2008, a California court modified its earlier custody award and gave Father sole physical custody of J.H. Mother was awarded parenting time. From 2004 to December 2009, J.H. lived with Father in Arizona.

¶3 In December 2009, J.H. spent part of her Christmas vacation with Mother in Nevada. On December 28, 2009, Mother filed a petition in Maricopa County Superior Court to modify custody, parenting time and child support of J.H. Mother's petition alleged, among other things, that Father refused to abide by the 2008 California custody order, that Father abused J.H., and that J.H. no longer wanted to live with Father in Arizona. When Father attempted to pick up J.H. in January 2010, Mother refused to give over J.H. and filed an emergency petition for temporary physical custody of J.H., which the superior court granted.

¶14 An evidentiary hearing on Mother's petition to modify custody was conducted in March 2010. A transcript of that proceeding has not been provided to this court. Based on the court's minute entry from the proceeding, it appears the court heard testimony from Mother and Father. In August 2010, the court issued a minute entry order, awarding Mother sole custody of J.H., and ordering Father to pay child support to Mother. The court found, among other things, that J.H. is fearful of Father and that she has stated that "Father touches her inappropriately." The court also found that J.H. has a strained relationship with Father, but has a good relationship with Mother, and that J.H. wants to live with Mother.

¶15 Father timely appeals. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S") section 12-2101(B) (2003).

#### **ANALYSIS**

¶16 Father raises several issues on appeal. As best we can discern, it appears Father is making the following arguments: (1) Mother's exhibits were not timely delivered to Father, (2) the court erred by not rescheduling the hearing, (3) Mother's testimony was not credible, and (4) there was insufficient evidence to support the court's decision. Because Father's brief does not contain citations to the record, provide legal authority, or further develop the arguments raised, we do not address Father's arguments and consider them waived. See

ARCAP 13(a)(6) (a brief shall contain arguments with citations to authorities, statutes, and parts of the record relied upon); *Ritchie v. Krasner*, 221 Ariz. 288, 305, ¶ 62, 211 P.3d 1272, 1289 (App. 2009) (failure to support arguments with legal authority may constitute abandonment and waiver of that claim).

¶7 Moreover, to the extent Father is challenging the court's findings and the sufficiency of the evidence, we note that Father has not provided this court with a transcript of the March 2010 hearing. It is the appellant's burden to ensure "the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised." *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995). In the absence of a transcript, an appellate court will presume that the record supports the trial court's rulings. *Kohler v. Kohler*, 211 Ariz. 106, 108 n.1, ¶ 8, 118 P.3d 621, 623 n.1 (App. 2005).

#### CONCLUSION

¶8 The court's order modifying custody of J.H. and ordering Father to pay child support to Mother is affirmed.

¶9 Mother requests her attorneys' fees and costs on appeal pursuant to A.R.S. § 25-324 (Supp. 2010). Considering the parties' financial resources and Father's failure to provide a transcript of the proceedings in superior court and to comply with the Arizona Rules of Civil Appellate Procedure ("ARCAP"),

we will in our discretion award an amount of reasonable attorneys' fees to Mother contingent upon her compliance with ARCAP 21. Mother is also entitled to an award of her taxable costs on appeal.

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
PATRICK IRVINE, Judge

\_\_\_\_\_/s/\_\_\_\_\_  
PHILIP HALL, Judge