

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

LEAH MICHELLE MERRITT,
Petitioner/Appellee,

and

LEE ANDREW MERRITT,
Respondent/Appellant.

No. 2 CA-CV 2017-0020-FC
Filed July 24, 2017

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. D20161526
The Honorable Ken Sanders, Judge Pro Tempore

AFFIRMED

Leah Michelle Merritt, Tucson
In Propria Persona

Lee Andrew Merritt, Tucson
In Propria Persona

IN RE MARRIAGE OF MERRITT
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Staring authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Kelly¹ concurred.

S T A R I N G, Presiding Judge:

¶1 Lee Andrew Merritt appeals from the trial court's December 2016 decree of dissolution of marriage. He appears to seek reversal of the parenting-time order, challenging the court's decision to award sole legal decision-making authority to his former spouse, Leah Michelle Merritt. Because Lee has failed to comply with the Rules of Civil Appellate Procedure, we deem his claims waived and affirm the decree.

Factual and Procedural Background

¶2 The parties married in 2012 and have one child, born in 2013. Leah filed a petition for dissolution of her marriage to Lee in May 2016. After a trial, the trial court entered a decree of dissolution in December 2016. Based on evidence of sexual abuse presented at trial, the court concluded joint decision making and parenting time were not in the child's best interests. The court awarded Leah sole legal decision-making authority, allowed Lee supervised parenting time, and required Lee to submit to a psychosexual evaluation. Lee filed a timely notice of appeal, and we have jurisdiction pursuant to A.R.S. § 12-2101(A)(1).

Discussion

¶3 Lee appears to contend that because the Arizona Department of Child Safety failed to substantiate a 2016 report of child abuse, and because Lee was not charged with child abuse, the

¹The Hon. Virginia C. Kelly, a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and our supreme court.

IN RE MARRIAGE OF MERRITT
Decision of the Court

trial court did not have substantial evidence to deny his request for joint legal decision making and equal parenting time. But Lee's appellate brief consists mainly of factual assertions without any citation to the record as required by Rule 13(a)(5), Ariz. R. Civ. App. P., and he does not develop any legal argument to support his contentions. Thus, we conclude his claims are waived or abandoned on appeal.² See Ariz. R. Civ. App. P. 13(a)(7) (appellate brief must contain argument with citation to authority); *FIA Card Servs., N.A. v. Levy*, 219 Ariz. 523, n.1, 200 P.3d 1020, 1021 n.1 (App. 2008) (failure to develop argument on appeal constitutes abandonment). Further, to the extent Lee asserts any argument, it is that he disagrees with the trial court's conclusions about witness credibility and its resolution of conflicting evidence. We defer to the trial court with respect to such matters and do not reweigh the evidence on appeal. See *Hurd v. Hurd*, 223 Ariz. 48, ¶ 16, 219 P.3d 258, 262 (App. 2009). Finally, in light of Lee's failure to provide a copy of the transcript of the trial, we must presume the record supports the court's findings and decision. See *Bliss v. Treece*, 134 Ariz. 516, 519, 658 P.2d 169, 172 (1983) (appellate court presumes missing portion of record supports trial court decision).

Disposition

¶4 For the foregoing reasons, we affirm the trial court's December 2016 decree of dissolution of marriage.

²We recognize Lee represents himself in this appeal, as he did in the trial court. Although we make accommodations for self-represented parties, we are required to consider the merits of his appeal the same as if he were represented by counsel. See *Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983); see also *Guide for Self-Represented ("Pro Se" or "Pro Per") Appellants and Appellees* iii (rev. ed. 2015), <http://www.azcourts.gov/Portals/89/PDFs/PostedByASCFeb2016.pdf>.