

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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IN RE THE MARRIAGE OF

LARRY P. SMITH,  
*Petitioner/Appellee,*

*and*

ALEXANDRA SMITH,  
*Respondent/Appellant.*

No. 2 CA-CV 2019-0166-FC  
Filed April 2, 2020

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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NOT FOR PUBLICATION  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).*

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Appeal from the Superior Court in Cochise County  
No. DO201700499  
The Honorable David Thorn, Judge

**AFFIRMED**

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Alexandra Smith, Sierra Vista  
*In Propria Persona*

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**MEMORANDUM DECISION**

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Vásquez concurred.

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BREARCLIFFE, Judge:

¶1 Appellant Alexandra Smith appeals the trial court’s order granting her and appellee Larry Smith joint legal decision-making authority over their son. We have jurisdiction pursuant to A.R.S. § 12-2101(A)(1) and we affirm.

**Analysis**

¶2 Appellant Smith contends that the trial court “did not properly consider or weigh all of the admitted evidence” in making its determination and that its determination is “not supported by the evidence or is contrary to law.” Although Larry Smith did not file an answering brief, because the matter involves the best interests of a minor child, we will not exercise our discretion to consider such failure a confession of error. *See Hoffman v. Hoffman*, 4 Ariz. App. 83, 85 (1966).

¶3 The trial court must assign legal decision-making authority and allocate parenting time in accordance with the best interests of the child. A.R.S. § 25-403; *DeLuna v. Petitto*, 247 Ariz. 420, ¶ 11 (App. 2019). In determining the child’s best interests, the court must consider “all factors that are relevant,” including those listed in A.R.S. § 25-403(A), and must make its findings on the record. § 25-403; *see also Hart v. Hart*, 220 Ariz. 183, ¶ 17 (App. 2009) (noting specific findings need not be included in separate document). It is an abuse of discretion for the trial court to fail to make these required findings. *Hurd v. Hurd*, 223 Ariz. 48, ¶ 11 (App. 2009). We review a trial court’s legal decision-making determination for an abuse of discretion. *Nold v. Nold*, 232 Ariz. 270, ¶ 11 (App. 2013). An abuse of discretion exists when the record lacks any competent evidence to support the decision. *Little v. Little*, 193 Ariz. 518, ¶ 5 (1999).

¶4 In its ruling, the trial court addressed each of the best-interests factors set forth in § 25-403(A), finding that the evidence was “neutral” as to each. That is, it found that the evidence favored neither parent. Appellant bears the burden on appeal to provide this court with any

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transcript necessary to the resolution of the appeal. Ariz. R. Civ. App. P. 11(c)(1)(A). Despite this burden, Appellant did not provide us with a complete transcript of the custody hearing, instead providing only a few pages as an attachment to her opening brief. In the absence of a complete transcript, we must assume the testimony and other evidence as a whole supports the trial court's findings and conclusions. *See Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995). Consequently, we cannot say that the court abused its discretion.

¶5 Nonetheless, even if Appellant had provided the necessary, complete transcripts, she fails to provide any legal argument in support of her claim of error, but rather requests that we reweigh the evidence. "The trial court is given broad discretion in determining what will be the most beneficial for the child[]," because "it is in the best position to determine what is in the child[]'s interest." *Porter v. Porter*, 21 Ariz. App. 300, 302 (1974). "We must give due regard to the trial court's opportunity to judge the credibility of the witnesses," and we will not reweigh conflicting evidence. *Hurd*, 223 Ariz. 48, ¶ 16.

**Disposition**

¶6 We affirm the trial court's legal decision-making determination.