

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

SARAH BRANSON,
Appellant,

and

ROMAN GASKILL,
Appellee.

No. 2 CA-CV 2020-0067
Filed December 29, 2020

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NOT FOR PUBLICATION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 Cochise County
No. DO201900138
The Honorable David Thorn, Judge

VACATED AND REMANDED

COUNSEL

Ayala Law Office PC, Tucson
By Siovhana S. Ayala, Wendy L. McHood, and Monali Amin
Counsel for Appellant

Roman Gaskill, Tucson
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Eppich authored the decision of the Court, in which Judge Espinosa and Judge Eckerstrom concurred.

E P P I C H, Presiding Judge:

¶1 Sarah Branson (“Mother”) appeals from the trial court’s order granting regularly scheduled and unsupervised overnight visits to Roman Gaskill (“Father”). For the reasons that follow, we vacate the order and remand for further proceedings.

Factual and Procedural Background

¶2 Mother and Father have two children, C.G., two years old, and F.B., five. Mother filed a petition for dissolution and requested joint legal decision-making authority and reasonable shared parenting time. The trial court entered a decree dissolving the marriage and granting Mother’s request—with Mother’s home as the children’s primary residence. Approximately two months later, Father filed a “Petition for Conciliation/Mediation” concerning child custody. The trial court then transferred the case to conciliation court, but the parties were unable to come to an agreement.

¶3 After a trial with both parties present, the court ordered that Father have parenting time on Friday and Saturday during the first, third, and fourth weekend of every month beginning March 6, 2020, with an extra Sunday if one of his weekends was a three-day weekend. Mother was granted the second and fifth weekend, if the month contained a fifth. Father was granted Thanksgiving, the second week of Christmas break, spring break, and the month of June; Mother was granted the first week of Christmas break, fall break, and the month of July. The parents were to alternate these dates every year thereafter. Father was granted Father’s Day and his birthday; Mother was granted Easter, Mother’s Day, and her birthday. Mother appealed the order, and we have jurisdiction pursuant to A.R.S. § 12-2101(A)(1).¹

¹In October 2020, we suspended the appeal and revested jurisdiction in the trial court to consider whether judgment was final and, if so, to issue a judgment containing language pursuant to Rule 78(c), Ariz. R. Fam.

Best Interests Finding

¶4 Mother argues the trial court abused its discretion because it failed to consider all of the factors under A.R.S. § 25-403 or to make specific findings on the record as to which factors it did consider and because it did not explain why its decision was in the best interests of the children. We review parenting time for an abuse of discretion. *See Engstrom v. McCarthy*, 243 Ariz. 469, ¶ 4 (App. 2018). A court abuses its discretion when it fails to consider the evidence, its findings are unsupported by substantial evidence in the record, or it commits an error of law in reaching a conclusion. *Walsh v. Walsh*, 230 Ariz. 486, ¶ 9 (App. 2012).

¶5 When determining parenting time, the court must make its decision based on the best interests of the children, considering all factors “relevant to the [children’s] physical and emotional well-being[s].” § 25-403(A). If the issue of parenting time is contested, the court “shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child[ren].” § 25-403(B). The court abuses its discretion when it fails to make specific findings under § 25-403. *Hurd v. Hurd*, 223 Ariz. 48, ¶ 11 (App. 2009).

¶6 Here, the trial court was required to make specific findings on the record because it is undisputed that parenting time was contested. Father argues the court did not abuse its discretion and complied with § 25-403 because it discussed the relevant factors with the parties during the hearing. Although the court did discuss factors at the hearing, it did not make the specific findings required.

¶7 The trial court is required to explain its findings and how it weighed the relevant § 25-403 factors to conclude its decisions were in the children’s best interests. *See Hart v. Hart*, 220 Ariz. 183, ¶ 13 (App. 2009) (courts “statutorily required” to weigh statutory factors and make specific findings on the record). This requirement facilitates appellate review because it enables this court to determine which factors the trial court relied on to make its decision and whether the court “focus[ed] too much attention on [one factor] to the exclusion of other relevant considerations.” *Owen v.*

Law P. In December 2020, the trial court issued an order finding no matters remained pending and the order was final and appealable under Rule 78(c). We then vacated the stay and reinstated the appeal. Because certifying the judgment as final pursuant to Rule 78(c) was a purely ministerial task, this cured Mother’s premature notice of appeal. *See McCleary v. Tripodi*, 243 Ariz. 197, ¶ 9 (App. 2017).

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Blackhawk, 206 Ariz. 418, ¶ 12 (App. 2003). It also helps all parties and the court “in determining the best interests of the . . . children both currently and in the future.” *Reid v. Reid*, 222 Ariz. 204, ¶ 18 (App. 2009). In this case, the trial court’s failure to adequately articulate its findings constitutes an abuse of discretion, *see Hurd*, 223 Ariz. 48, ¶ 11, and we are unable to perform an appropriate appellate review. Accordingly, we vacate the court’s order and remand for the court to state on the record its findings in compliance with § 25-403(B).

Attorney Fees

¶8 Mother requests an award of attorney fees on appeal without citation to any legal authority for such an award. This general request does not comply with the requirement that a claim for attorney fees “must specifically state the statute, rule, decisional law, contract, or other authority for an award of attorneys’ fees.” Ariz. R. Civ. App. P. 21(a)(2). We therefore deny the request. *See Parkway Bank & Tr. Co. v. Zivkovic*, 232 Ariz. 286, ¶ 24 (App. 2013).

Disposition

¶9 We vacate the trial court’s order and remand for further proceedings consistent with this decision.