

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

THERESA HARKABUS,
Petitioner/Appellee,

and

JAMES STAREK,
Respondent/Appellant.

No. 2 CA-CV 2020-0051-FC
Filed March 30, 2021

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NOT FOR PUBLICATION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 Pinal County
No. S1100DO201900211
The Honorable Richard T. Platt, Judge Pro Tempore

AFFIRMED

COUNSEL

The Sampair Group PLLC, Glendale
By Patrick S. Sampair
Counsel for Petitioner/Appellee

James Starek, New Lenox, Illinois
In Propria Persona

IN RE MARRIAGE OF HARKABUS & STAREK
Decision of the Court

MEMORANDUM DECISION

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

V Á S Q U E Z, Chief Judge:

¶1 In this marital-dissolution action, James Starek appeals from the trial court's decree of dissolution. Because Starek has failed to comply with the Rules of Civil Appellate Procedure, we deem his claims waived and affirm the court's judgment.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the trial court's decree. *In re Marriage of Foster*, 240 Ariz. 99, ¶ 2 (App. 2016). Starek and Theresa Harkabus married in 2011 and had one child. Harkabus filed a petition for dissolution of marriage in February 2019. After a one-day bench trial in November 2019, the court issued its under-advisement ruling dissolving the marriage, dividing the parties' community property, awarding Harkabus sole legal decision-making over the parties' child, granting Starek supervised parenting time, awarding Harkabus spousal maintenance, and ordering Starek to pay child support.

¶3 Starek appealed.¹ We have jurisdiction pursuant to A.R.S. § 12-2101(A)(1).

Discussion

¶4 Starek argues the trial court abused its discretion by ordering supervised visitation, spousal maintenance, and child support notwithstanding evidence that supported his testimony. But he has failed to develop any argument or cite any legal authority to support his position. *See* Ariz. R. Civ. App. P. 13(a)(7). Despite Starek's status as a self-represented litigant, we hold him to the same standards as an attorney. *See Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999). Because of the deficiencies in his opening brief, Starek has waived the arguments on

¹Following Starek's notice of appeal, and at the direction of this court, the trial court entered an amended decree reflecting that it was a final order pursuant to Rule 78(c), Ariz. R. Fam. Law P.

IN RE MARRIAGE OF HARKABUS & STAREK
Decision of the Court

appeal. *See Sholes v. Fernando*, 228 Ariz. 455, n.5 (App. 2011) (unsupported argument waived on appeal); *Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2 (App. 2007) (same). Even assuming Starek's opening brief were not deficient, his arguments rest on his disagreement with the trial court's credibility determinations and the weight it assigned to conflicting evidence – which we do not reweigh on appeal. *See Hurd v. Hurd*, 223 Ariz. 48, ¶ 16 (App. 2009).

Disposition

¶5 We affirm the trial court's decree of dissolution. Harkabus has requested attorney fees on appeal pursuant to A.R.S. § 25-324 and Rule 25, Ariz. R. Civ. App. P. In our discretion we deny her request for sanctions under Rule 25 but grant her request for attorney fees under § 25-324 upon her compliance with Rule 21, Ariz. R. Civ. App. P. As the prevailing party, she is also entitled to her costs upon compliance with Rule 21. *See* A.R.S. § 12-341.