

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

WENDY MCCURDY,
Appellee,

v.

JENNIFER ENGLISH,
Appellant.

No. 2 CA-CV 2020-0074
Filed January 28, 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NOT FOR PUBLICATION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 Pima County
No. D20181014
The Honorable Jane Butler, Judge Pro Tempore

AFFIRMED

COUNSEL

McNorton Fox PLLC, Tucson
By Lisa C. McNorton
Counsel for Appellee

Jennifer Sawyer English, Tucson
In Propria Persona

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, Jennifer English appeals from the trial court’s ruling designating her a vexatious litigant. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We view the evidence in the light most favorable to upholding the trial court’s ruling. *Johnson v. Johnson*, 131 Ariz. 38, 44 (1981). English and Wendy McCurdy were married in 2014, and in 2018, McCurdy filed a petition for dissolution of marriage without children. After protracted litigation involving numerous motions and hearings, the trial court held a three-day bench trial in August and December 2019, took the matter under advisement, and ordered the parties to submit written closing arguments.

¶3 Before the trial court entered a decree of dissolution, McCurdy filed a motion to designate English a vexatious litigant under A.R.S. § 12-3201. Throughout the pendency of the case, English filed numerous pleadings, motions, and requests. In its ruling designating English a vexatious litigant, the court found that she had unreasonably expanded or delayed court proceedings, filed several documents lacking any “basis in fact or law,” and re-litigated matters on which the court had already ruled. As a result, and as to the pending case only, the court barred English from filing “any more pleadings, motions or requests for relief in this divorce action without a Court order accepting a proposed filing filed by the family law division Judge,” with the exception that English could file a “petition for third party rights at any time.”

¶4 English appealed from the ruling.¹ Thereafter, the trial court issued its decree of dissolution.

¹ English’s notice of appeal indicates that she is appealing the “Judgment entered on March 6, 2020.” No document was filed on that date.

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Discussion

¶5 In her opening brief, English does not address whether this court has jurisdiction to review the trial court’s March 2020 ruling finding her to be a vexatious litigant. We have an “independent obligation in every appeal to ensure we have jurisdiction.” *Robinson v. Kay*, 225 Ariz. 191, ¶ 4 (App. 2010).

¶6 Our jurisdiction is defined by statute, *see* A.R.S. § 12-2101(A), and because the trial court’s ruling designating English a vexatious litigant is in effect a grant of injunctive relief, we have jurisdiction under § 12-2101(A)(5)(b). *See Madison v. Groseth*, 230 Ariz. 8, n.8 (App. 2012).

¶7 English has waived review, however, because her opening brief fails to comply with Rule 13(a), Ariz. R. Civ. App. P. It does not contain the appropriate section headings, *id.*, a table of contents, Ariz. R. Civ. App. P. 13(a)(1), a compliant table of citations, Ariz. R. Civ. App. P. 13(a)(2), or a compliant statement of facts, Ariz. R. Civ. App. P. 13(a)(4). But more critically, her combined issues and arguments section lacks “appropriate references to the portions of the record on which [she] relies,” and she does not use the legal citations she provides to support meaningful argument. Ariz. R. Civ. App. P. 13(a)(7)(A). Despite English’s status as a self-represented litigant, we hold her to the same standards as an attorney. *See Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999). The deficiencies in her opening brief constitute a waiver of the arguments raised on appeal. *See Sholes v. Fernando*, 228 Ariz. 455, n.5 (App. 2011) (waiving arguments that were “unsupported with citation to authority or the record”); *Polanco v. Indus. Comm’n*, 214 Ariz. 489, n.2 (App. 2007) (same).

Disposition

¶8 We affirm the trial court’s vexatious-litigant ruling. McCurdy has requested attorney fees and costs on appeal pursuant to A.R.S. §§ 25-324, 12-341. Therefore, contingent on her compliance with Rule 21,

Liberally construing the notice of appeal, we understand English to be appealing the March 10, 2020 ruling designating her a vexatious litigant, which was dated March 6. *See Gutierrez v. Gutierrez*, 193 Ariz. 343, ¶ 30 (App. 1998); *see also Hanen v. Willis*, 102 Ariz. 6, 9-10 (1967) (finding jurisdiction despite notice of appeal citing date of minute entry about judgment rather than date final judgment entered).

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Ariz. R. Civ. App. P., we award McCurdy her reasonable attorney fees incurred on appeal.