

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

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IN RE THE MARRIAGE OF

ARIEL ENRIQUEZ,  
*Petitioner/Appellee,*

*and*

BIANCA GASTELUM,  
*Respondent/Appellant.*

No. 2 CA-CV 2021-0108-FC  
Filed May 24, 2022

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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NOT FOR PUBLICATION  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 Pima County  
No. D20191411  
The Honorable Cathleen Linn, Judge Pro Tempore

**DISMISSED IN PART; AFFIRMED IN PART**

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COUNSEL

Ames-Light & Associates P.C., Tucson  
By Susan A. Light  
*Counsel for Appellee*

Bianca Gastelum, Tucson  
*In Propria Persona*

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**MEMORANDUM DECISION**

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

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¶1 Bianca Gastelum (Wife) appeals from the trial court’s decree dissolving her marriage with Ariel Enriquez (Husband). For the reasons stated below, we dismiss the appeal in part for lack of jurisdiction, but we otherwise affirm because Wife has failed to comply with the Arizona Rules of Civil Appellate Procedure.

**Factual and Procedural Background**

¶2 We view the evidence in the light most favorable to affirming the decree. *In re Marriage of Foster*, 240 Ariz. 99, ¶ 2 (App. 2016). Husband and Wife were married in 2010 and have five minor children. In May 2019, Husband filed a petition for dissolution of marriage. After a four-day bench trial and written closing arguments, the court issued the decree of dissolution on July 13, 2021. In the decree, the court dissolved the parties’ marriage, awarded Husband sole-legal decision making for all five children, granted Wife parenting time with the three youngest children, ordered Wife to pay child support, and divided the parties’ property.

¶3 Wife has appealed. We have jurisdiction to address issues relating to the decree under A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).

**Discussion**

¶4 This court derives its jurisdiction by statute, and, in every appeal, we have an independent obligation to ensure we have jurisdiction. *Deal v. Deal*, 252 Ariz. 387, ¶ 6 (App. 2021). Here, we lack jurisdiction on direct appeal to decide Wife’s arguments pertaining to the trial court’s temporary orders on legal-decision making and parenting time except to the extent those orders were adopted in the court’s decree. *See Villares v. Pineda*, 217 Ariz. 623, ¶¶ 10-11 (App. 2008). Because “the temporary orders were preparatory in nature as they were made in anticipation of further resolution of the issues at trial,” they can only be raised in a petition for special action. *Id.* ¶ 11. Wife never sought special-action relief, and the divorce decree superseded the temporary orders. Ariz. R. Fam. Law P. 47(j) (“Temporary orders . . . are unenforceable . . . following entry of a final

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decree . . .”). Accordingly, we will not address Wife’s separate arguments on these issues and will limit our discussion to Wife’s arguments arising from the decree of dissolution.

¶5 In her opening brief, Wife addresses each factor under A.R.S. § 25-403, which a trial court must consider when determining legal-decision making and parenting time. However, her opening brief fails to comply with our procedural rules. It does not contain a table of contents, Ariz. R. Civ. App. P. 13(a)(1), a table of citations, Ariz. R. Civ. App. P. 13(a)(2), a compliant statement of the case, Ariz. R. Civ. App. P. 13(a)(4), or a compliant statement of facts, Ariz. R. Civ. App. P. 13(a)(5), and she does not state her “precise relief sought,” Ariz. R. Civ. App. P. 13(a)(9). She also fails to provide any citation to the record or the applicable standard of appellate review. Ariz. R. Civ. App. P. 13(a)(7). Most critically, with the exception of the factors listed in § 25-403, which she essentially uses as headings for her arguments, Wife fails to cite any legal authority to support her position on appeal. *Id.* (appellate argument must contain “citation to supporting legal authority”). Despite Wife’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). Her arguments are therefore waived. See *J.W. v. Dep’t of Child Safety*, 252 Ariz. 184, ¶ 11 (App. 2021) (“Arguments that are unsupported by legal authority and adequate citation to the record are waived.”).

¶6 Even if Wife’s opening brief were not procedurally deficient, we would not grant her relief, to the extent any is requested, because her arguments are also substantively, fatally flawed. Most of her arguments suffer the same defect in that they are essentially asking us to reweigh evidence – which we will not do. See *Hurd v. Hurd*, 223 Ariz. 48, ¶ 16 (App. 2009). Additionally, Wife has not provided this court with the transcripts of the relevant trial court proceedings.<sup>1</sup> In the absence of such transcripts, we presume the evidence and arguments presented below support the trial court’s ruling. *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995). Given this

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<sup>1</sup>After Husband filed his answering brief, Wife requested an order permitting her to submit transcripts with her reply brief, asserting she incorrectly “assumed that [this] court requested all evidence including court audio or transcripts.” We denied her request because (1) she was required to order transcripts within ten days of filing her notice of appeal, see Ariz. R. Civ. App. P. 11(c)(2), and (2) the late filing prejudiced Husband, see *Auman v. Auman*, 134 Ariz. 40, 42 (1982) (untimely transcript filed after answering brief deadline was not part of record for purposes of appeal).

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assumption and our review of the available record, Wife has not shown that the court abused its discretion.<sup>2</sup> *See Nold v. Nold*, 232 Ariz. 270, ¶ 11 (App. 2013) (appellate court reviews legal decision-making and parenting time orders for abuse of discretion); *Stein v. Stein*, 238 Ariz. 548, ¶ 5 (App. 2015) (appellate court reviews child support orders for abuse of discretion); *Helland v. Helland*, 236 Ariz. 197, ¶ 8 (App. 2014) (appellate court reviews division of property for abuse of discretion).

¶7 Husband requests an award of attorney fees and costs on appeal pursuant to A.R.S. § 25-324. Under this statute, we have the discretionary authority to award attorney fees “after considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings.” A.R.S. § 25-324(A). The trial court found that “there is no substantial disparity of financial resources between the parties” and that “both parties have behaved in an unreasonable, excessive manner toward one another throughout this litigation when dealing with issues concerning the children and their own interaction.” In our discretion, we therefore deny his request. However, as the prevailing party, Husband is entitled to his costs on appeal pursuant to A.R.S. § 12-341 and upon his compliance with Rule 21, Ariz. R. Civ. App. P.

**Disposition**

¶8 For the foregoing reasons, we dismiss in part but otherwise affirm the decree of dissolution.

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<sup>2</sup>Wife also mentions the trial court denied her procedural due process, which would require a de novo review. *See Jeff D. v. Dep't of Child Safety*, 239 Ariz. 205, ¶ 6 (App. 2016). Similar to her other contentions, she provides no meaningful argument on this issue and thus it is waived. Even if the issue were ripe for review, the available record does not support her position.