

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

TRACY RAY HILLE,
Plaintiff/Appellee,

v.

BOB SHAW,
Defendant/Appellant.

No. 2 CA-CV 2022-0043
Filed October 7, 2022

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NOT FOR PUBLICATION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 Graham County
No. PO202100029
The Honorable Travis W. Ragland, Judge

AFFIRMED

Bob Shaw
In Propria Persona

HILLE v. SHAW
Decision of the Court

MEMORANDUM DECISION

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

BREARCLIFFE, Judge:

¶1 Appellant Bob Shaw appeals from the trial court’s grant of appellee Tracy Hille’s injunction against harassment against Shaw. 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.” *Mahar v. Acuna*, 230 Ariz. 530, ¶ 2 (App. 2012). In November 2021, Shaw’s neighbor, Hille, filed a petition for an injunction against harassment against Shaw and his girlfriend. Hille alleged that in early October 2021, he had been working on his car and it was “smoking a little bit.” Shaw’s girlfriend was at home with the windows open and she went outside and told Hille to stop working on the car. Shaw then went to Hille’s home and allegedly told Hille he was “a nuisance to the neighborhood.” Hille also stated in his petition that Shaw said to him “this is how neighbors get shot, would you guys like to get shot?” Hille then alleged that, on another day later that month, he was moving his car when Shaw and his girlfriend started “yelling and cussing [him] out through their window.” Hille stated that he had said nothing to them. Hille called the police, and when the police arrived, Shaw began yelling at the police. The injunction against harassment was signed the same day and served on Shaw on November 8, 2021. Shaw contested the injunction and requested a hearing on November 8.

¶3 In February 2022, after the contested hearing, the trial court found that the “vast majority of the evidence presented, and the line of questioning pursued by [Shaw] dealt with his concerns and allegations regarding [Hille’s] supposed land use code, Covenants, Conditions and Restrictions, and/or Homeowner’s Association violations, none of which is relevant to these proceedings.” The court further found that Hille had provided “‘reasonable evidence’ that a series of acts of harassment ha[d] been committed, and that ‘good cause’ exists to believe that irreparable

HILLE v. SHAW
Decision of the Court

harm would result if the injunction is not granted.”¹ The court affirmed the injunction.

¶4 Shaw then filed a request for a new judge and for a new hearing, alleging that the trial judge who heard the contested hearing was biased and prejudiced by “embracing a serious but baseless” injunction against Shaw. Shaw also claimed that the judge may have thought Shaw was “of a religion or ethnicity he detests.” And he claimed that the judge “fabricated false excuses to refuse [Shaw’s] request for dismissal.” The trial court denied both Shaw’s request for a new judge and his request for a new hearing. In the interim, Shaw had also filed a complaint against the judge with the Commission on Judicial Conduct.

¶5 This appeal followed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(5)(b).

Analysis

¶6 On appeal, Shaw requests “the dismissal of the order against harassment” and that the trial judge be “recused from ever having any contact with” Shaw and his girlfriend. “We review orders granting injunctions under a clear abuse of discretion standard,” *LaFaro v. Cahill*, 203 Ariz. 482, ¶ 10 (App. 2002), and we will uphold the trial court’s order if there is substantial evidence to support the injunction, *Wood v. Abril*, 244 Ariz. 436, ¶ 6 (App. 2018). The burden is on the appellant “to ensure that ‘the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised.’” *Blair v. Burgener*, 226 Ariz. 213, ¶ 9 (App. 2010) (quoting *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995)); see also Ariz. R. Civ. App. P. 11(c)(1)(B). Shaw did not provide us with the transcripts from the contested hearings on November 19, 2021 and December 17, 2021.² Without these transcripts, we presume the evidence

¹The trial court later amended its ruling, stating that “[t]he standard of proof required for an injunction against harassment is not the ‘beyond a reasonable doubt’ standard used in criminal matters, but it is instead, preponderance of the evidence” and reaffirmed the injunction.

²Shaw states that he could not obtain the transcripts due to the expense. Although we acknowledge that such costs can be significant, as a reviewing court, we are limited in what we can do without the relevant information concerning the proceedings in question. *Cf. Nat’l Advert. Co. v. Arizona Dep’t of Transp.*, 126 Ariz. 542, 543 (App. 1980) (“Our review is limited to the record on appeal. We can consider only those matters which are presented to us.”) (citation omitted).

HILLE v. SHAW
Decision of the Court

and arguments presented at these hearings supports the court's ruling. See *Blair*, 226 Ariz. 213, ¶ 9. Therefore, we must affirm the court's ruling here.

¶7 Shaw also makes several other allegations that the trial judge was biased and prejudiced against him. We presume that trial judges are free of bias and prejudice, therefore, the party challenging the judge's impartiality must overcome that presumption. *Stagecoach Trails MHC, L.L.C. v. City of Benson*, 232 Ariz. 562, ¶ 21 (App. 2013). To overcome that presumption, one must come forward with evidence and one must generally support all claims on appeal with "appropriate references to the record," "supporting reasons for each contention," and "citations of legal authorities and appropriate references to the portions of the record on which the appellant relies." Ariz. R. Civ. App. P. 13(a)(5), (7). Failure to comply with these rules may constitute waiver of an argument on appeal. *Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009).

¶8 We hold a self-represented individual to the same level of knowledge regarding required procedures and applicable laws as attorneys. See *In re Marriage of Williams*, 219 Ariz. 546, ¶ 13 (App. 2008). And, "It is not incumbent upon the court to develop an argument for a party." *Ace Auto. Prods., Inc. v. Van Duyne*, 156 Ariz. 140, 143 (App. 1987). We cannot say the trial judge was biased or prejudiced against Shaw based solely on the statements made by Shaw in his opening brief. Such serious allegations—which, when lightly thrown about, undermine the public's confidence in the courts—require support. Because Shaw has failed to provide legal or factual support for the arguments and allegations made in his opening brief, we consider his arguments waived on appeal and do not address them.³

Disposition

¶9 For the foregoing reasons, we affirm the trial court's affirmance of Hille's injunction against harassment against Shaw.

³Hille did not file an answering brief in this matter. Although failure to file an answering brief may be considered a confession of error, doing so is within this court's discretion. See *Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994). "We are reluctant to reverse based on an implied confession of error when, as here, the trial court has correctly applied the law." *Id.* Therefore, in our discretion, we decline to do so here.