

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

DAVID MAYNES,
Petitioner/Appellant,

and

LAURA MAYNES,
Respondent/Appellee.

No. 2 CA-CV 2022-0056-FC
Filed June 15, 2023

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NOT FOR PUBLICATION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. D20180171
The Honorable Lisa I. Abrams, Judge
The Honorable Gilbert Rosales Jr., Judge Pro Tempore

AFFIRMED

COUNSEL

David Maynes, Tucson
In Propria Persona

The Reyna Law Firm P.C., Tucson
By Ron Reyna
Counsel for Respondent/Appellee

IN RE MARRIAGE OF MAYNES
Decision of the Court

MEMORANDUM DECISION

Judge Eckerstrom authored the decision of the Court, in which Judge Kelly and Judge O'Neil concurred.

ECKERSTROM, Judge:

¶1 David Maynes appeals from the trial court's decree dissolving his marriage to Laura Maynes. He challenges the court's division of assets, in particular the award of certain pension funds and a mobile home to Laura. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A)(1).¹

¶2 David is not represented by counsel in this appeal. Nevertheless, he is "given the same consideration on appeal as one who has been represented by counsel," and he "is held to the same familiarity with court procedures and the same notice of . . . rules . . . as is expected of a lawyer." *Higgins v. Higgins*, 194 Ariz. 266, ¶ 12 (App. 1999).

¶3 The opening brief does not comply with our procedural rules. See Ariz. R. Civ. App. P. 13(a). Most importantly, it fails to provide the required "argument" containing "contentions concerning each issue presented for review, with supporting reasons for each contention, and with 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)(7)(A). We therefore deem any claims David might have raised waived. See *Boswell v. Fintelmann*, 242 Ariz. 52, n.3 (App. 2017) (failure to develop and support conclusory arguments results in waiver); *Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (claim is waived if not argued in opening brief with supporting legal authorities and citations to record).

¹In August 2022, we concluded that the trial court's April 2019 dissolution decree was not appealable because it lacked the finality language required by Rule 78, Ariz. R. Fam. Law P. We therefore suspended the appeal and revested jurisdiction in the trial court to allow for the entry of a final, appealable order. The trial court entered such an order in September 2022, and we then vacated the stay and reinstated the present appeal. See Ariz. R. Civ. App. P. 9(c).

IN RE MARRIAGE OF MAYNES
Decision of the Court

¶4 David contends he presented certain evidence to the trial court to prove the marriage “was fraudulent.” Even had he not waived this claim on appeal by failing to support it with appropriate argument, the claim fails. After admitting exhibits and hearing testimony from the parties, the court found that they had been married from 2011 to 2018 and divided community property accordingly. We have no basis to second-guess the trial court’s fact and credibility determinations. *See Gutierrez v. Gutierrez*, 193 Ariz. 343, ¶ 13 (App. 1998) (appellate court defers to trial court’s determination of witness credibility and weight to give conflicting evidence).

¶5 This is particularly so because David has failed to provide a transcript of the evidentiary hearing that resulted in the dissolution decree he now challenges. *See* Ariz. R. Civ. App. P. 11(c)(1)(B) (“If the appellant will contend on appeal that a judgment, finding or conclusion, is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record transcripts of all proceedings containing evidence relevant to that judgment, finding or conclusion.”). In the absence of a transcript, we presume that whatever transpired at the hearing supported the trial court’s findings and conclusions. *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995). Given this presumption, we find no abuse of discretion in the trial court’s division of assets. *See Hammett v. Hammett*, 247 Ariz. 556, ¶ 13 (App. 2019).

¶6 Laura requests an award of attorney fees and costs on appeal under Rule 21, Ariz. R. Civ. App. P., and A.R.S. § 25-324. Because, as Laura correctly observes, this appeal “was not grounded in fact or based on law,” we must award her reasonable costs and attorney fees. § 25-324(B)(2). As the prevailing party, Laura is also entitled to her costs on appeal under A.R.S. § 12-341.

Disposition

¶7 We affirm the order of the trial court and award Laura the reasonable attorney fees and costs she has incurred on appeal.