

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

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IN RE THE MARRIAGE OF

DARRYL ALLEN,  
*Petitioner/Appellee,*

*and*

DAPHNE ALLEN,  
*Respondent/Appellant.*

No. 2 CA-CV 2022-0134-FC  
Filed July 19, 2023

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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NOT FOR PUBLICATION  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 Pinal County  
No. S1100DO202101568  
The Honorable Lawrence M. Wharton, Judge Pro Tempore

**AFFIRMED**

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Daphne Allen, Tempe  
*In Propria Persona*

IN RE THE MARRIAGE OF ALLEN  
Decision of the Court

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**MEMORANDUM DECISION**

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

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V Á S Q U E Z, Chief Judge:

¶1 Daphne Allen appeals from the trial court’s order denying her post-dissolution motion for relief from judgment. We affirm.

**Factual and Procedural Background**

¶2 In October 2021, Darryl Allen filed a petition for dissolution of his ten-year marriage to Daphne. At the conclusion of a one-day trial, the trial court divided the marital assets. As relevant here, the court awarded Darryl the marital residence and awarded Daphne her share of the equity. The court denied Daphne’s request for spousal maintenance.<sup>1</sup> Beginning the day after trial and continuing over several months, Daphne filed various motions and requests, essentially asking the court to reconsider its determinations and culminating in a motion for relief from judgment under Rule 85, Ariz. R. Fam. Law P.<sup>2</sup> At the conclusion of a hearing at which both parties were sworn and given the opportunity to testify, the court denied her motion, finding that Daphne “has not been able to demonstrate that there has been a fraud, mistake or any kind of behavior” that would entitle her to relief from the decree. Daphne appealed, and we have jurisdiction under A.R.S. §§ 12-120.21 and 12-2101(A)(2).

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<sup>1</sup>The trial court cited A.R.S. § 25-530, which prohibits it from considering service-related disability income in making a spousal maintenance award.

<sup>2</sup>Daphne first filed a motion for relief from judgment under Rule 60, Ariz. R. Civ. P., which the trial court construed as a motion for relief from judgment under Rule 85(b)(3), Ariz. R. Fam. Law P.

IN RE THE MARRIAGE OF ALLEN  
Decision of the Court

**Discussion**

¶3 As a preliminary matter, Daphne’s notice of appeal states that she is challenging the trial court’s September 7, 2022 order denying her motion for relief from judgment under Rule 85, Ariz. R. Fam. Law P.<sup>3</sup> To the extent Daphne raises issues on appeal related to the court’s April 2022 decree of dissolution distributing community assets and denying her request for spousal support, we lack jurisdiction to consider them. Daphne did not file a notice of appeal from the decree, and the time for doing so has long since passed. *See* Ariz. R. Civ. App. P. 9(a) (“party must file a notice of appeal . . . no later than [thirty] days after entry of the judgment from which the appeal is taken”); *In re Pima Cnty. Mental Health No. A20170058*, 248 Ariz. 118, ¶ 4 (App. 2020) (“When a notice of appeal is not timely filed, this court does not have jurisdiction to decide the appeal.”). The savings clause of Rule 9(e)(1), Ariz. R. Civ. App. P., does not apply here because both of Daphne’s motions for relief from judgment were filed more than twenty-five days after entry of the judgment. *See* Ariz. R. Civ. App. P. 9(e)(1)(E).

¶4 As to the remaining issues, Daphne’s opening brief is insufficient to permit our meaningful review of her arguments. She has therefore waived any claims on appeal related to the trial court’s September 2022 ruling denying her motion for relief from judgment.<sup>4</sup> Rule 13(a)(7)(A), Ariz. R. Civ. App. P., requires an appellant to provide “supporting reasons” and “citations to legal authorities” for each issue presented on appeal, neither of which Daphne has done. *See Sholes v. Fernando*, 228 Ariz. 455, n.1 (App. 2011) (appellant waives any claim not supported with argument containing citations to record and relevant authorities). This rule applies to pro se litigants as well as those represented by counsel. *See Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, ¶ 16 (App. 2000) (“[A] party who conducts a case without an attorney is entitled to no more consideration from the court than a party represented by counsel, and is held to the same standards expected of a lawyer.”).

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<sup>3</sup>Because the trial court’s ruling was unsigned, this court revested jurisdiction for that court to issue a signed order. The signed ruling was entered on February 6, 2023.

<sup>4</sup>Darryl did not file an answering brief. In our discretion, and because Daphne has not raised a debatable issue, we decline to construe Darryl’s failure as a confession of error. *See Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994).

IN RE THE MARRIAGE OF ALLEN  
Decision of the Court

**Disposition**

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We affirm the trial court's September 2022 order.