

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

RAYSENE R. HALL,
Petitioner/Appellant,

v.

MENSAH D. FOLLY,
Respondent/Appellee.

No. 2 CA-CV 2023-0083
Filed August 22, 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NOT FOR PUBLICATION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. SP20161100
The Honorable Helena S. Seymour, Judge Pro Tempore

AFFIRMED

COUNSEL

Raysene Hall, Tucson
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Brearcliffe authored the decision of the Court, in which Judge Eckerstrom and Judge Kelly concurred.

B R E A R C L I F F E, Presiding Judge:

¶1 Raysene Hall appeals from the trial court's orders regarding legal decision-making and parenting time. For the following reasons, we affirm.

Factual and Procedural Background

¶2 Hall and Mensah Folly share a child, V.F. Starting in 2017, pursuant to a court order, the parties shared joint legal decision-making and equal parenting time. In August 2018, each party filed a petition to modify legal decision-making and parenting time, and Hall filed a motion to relocate from Tucson to Phoenix. At an evidentiary hearing the following month, the trial court entered temporary orders affirming joint legal decision-making and parenting time and specified how parenting time exchanges should occur, but it did not rule on Hall's motion to relocate to Phoenix.

¶3 In March 2019, Hall filed new motions to relocate, a motion for leave to obtain a passport for V.F., and motions seeking sole custody. At a status conference, the trial court temporarily granted Hall sole legal decision-making authority and affirmed the current parenting time plan, but it deferred matters of relocation, the passport, and other legal decision-making issues for trial.

¶4 In April 2020, after the modification trial, the trial court denied Hall's relocation request and awarded Hall sole legal decision-making, but maintained equal parenting time. The court also ordered the parties to attend co-parenting classes, and, among other things, ordered Hall to participate in treatment or therapy to address the recommendations in a recent psychological evaluation.

¶5 In March 2022, Folly filed a petition seeking sole legal decision-making and modified parenting time. Folly asserted that Hall had repeatedly violated the parenting time order and was not fit for sole legal decision-making. After a trial in December 2022, the trial court awarded

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sole legal decision-making authority to Folly but maintained equal parenting time—including a requirement that in-person exchanges be supervised. The court ordered Hall to pay for the cost of supervised exchanges for a year and for Hall and Folly to split the cost thereafter until they could demonstrate two years of exchanges “where neither party has requested the assistance of law enforcement and/or the Department of Child Safety.” The court also ordered the parties to enroll in a high conflict co-parenting class and ordered Hall to enroll in individual therapy.

¶6 Hall appealed. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and 12-2101(A).

Discussion

¶7 On appeal, Hall challenges multiple aspects of the trial court’s March 2023 order. Her arguments include: that the court’s orders were based on a belief that she suffers from mental illness, when in fact she has no mental illness; that it is not in V.F.’s best interest for Folly to have sole legal decision-making authority, and she should be awarded sole authority instead; that the court’s finding that she engaged in domestic violence was erroneous; that the trial judge was biased against her and should have recused; and that she should not bear the cost of supervised exchanges.

¶8 We affirm the trial court ruling chiefly for two reasons. First, Hall has not provided this court a transcript of the December 2022 trial upon which the court’s March 2023 ruling is based. To enable this court to review any alleged error on appeal, Hall “is responsible for making certain the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised.” *Baker v. Baker*, 183 Ariz. 70, 73 (App. 1995); see Ariz. R. Civ. App. P. 11(c). When a party is responsible for providing a transcript and fails to do so, we must assume that the missing transcript “would support the court’s findings and conclusions.” *Baker*, 183 Ariz. at 73. And, here, because the court’s findings and conclusions were based on evidence presented at the December 2022 trial, we must assume the evidence supported the court’s ruling. See *id.*

¶9 Second, Hall’s opening brief does not conform with Rule 13, Ariz. R. Civ. App. P. “Opening briefs must present and address significant arguments, supported by authority that set forth the appellant’s position on the issue in question.” *Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009). An opening brief must include, among other things, a statement of facts with “appropriate references to the record,” and arguments supported by “citations of legal authorities and appropriate references to the portions of the record on which the appellant relies,” as well as “the applicable standard of appellate review with citation to supporting legal authority.”

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Ariz. R. Civ. App. P. 13(a). Because Hall's brief does not meet these requirements, we deem her arguments waived. *See Ritchie*, 221 Ariz. 288, ¶ 62.

¶10 We are mindful that Hall is representing herself in this matter. However, “[w]e hold unrepresented litigants in Arizona to the same standards as attorneys.” *Flynn v. Campbell*, 243 Ariz. 76, ¶ 24 (2017). We also note that Folly, for his part, did not file an answering brief. We have discretion to consider Folly's failure to do so a confession of error. *See Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994). We choose not to do so here because Hall has failed to demonstrate arguable trial court error. *See id.* (declining to reverse based on implied confession where trial court correctly applied law).

Disposition¹

¶11 For the foregoing reasons, we affirm.

¹Hall does not request attorney fees on appeal but does request her attorney fees “for trial.” We decline this request because she has provided no basis for our authority to award attorney fees on behalf of the trial court. *See Hale v. Amphitheater Sch. Dist. No. 10*, 192 Ariz. 111, ¶ 20 (App. 1998) (attorney fees award is within the sound discretion of the trial court).