

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

AUG 26 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

RICARDO E. MEZA,)	2 CA-CV 2010-0046
)	DEPARTMENT A
Plaintiff/Appellant,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 28, Rules of Civil
ARIZONA DEPARTMENT OF)	Appellate Procedure
ECONOMIC SECURITY; GRANT)	
WINSTON, Administrative Law Judge;)	
NANCY LOGAN, Assistant Attorney)	
General,)	
)	
Defendants/Appellees.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. C20091401

Honorable Kenneth Lee, Judge

AFFIRMED

Ricardo E. Meza

Tucson
In Propria Persona

Terry Goddard, Arizona Attorney General
By Kevin R. Smith

Phoenix
Attorneys for Defendant/Appellee
Arizona Department of Economic Security

H O W A R D, Chief Judge.

¶1 Ricardo Meza appeals from the superior court’s judgment affirming the administrative law judge’s (ALJ) decision finding that probable cause existed that he had abused his daughter. Meza raises several arguments on appeal. For the reasons that follow, we affirm.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the ALJ’s decision. *Way v. State*, 205 Ariz. 149, ¶ 2, 67 P.3d 1232, 1233 (App. 2003). The Arizona Department of Economic Security (ADES) accused Meza of child abuse for having restrained his daughter, “causing [her] to sustain a bruise injury on her jaw.” ADES notified him of the allegations, and Meza requested a hearing, which ADES scheduled. Six days prior to the scheduled date, Meza moved to continue the hearing, but the ALJ denied his request as untimely. At the hearing, the ALJ determined that probable cause existed to find that Meza had committed child abuse and ordered ADES to confirm Meza’s abuse in its “Central Registry.” Meza appealed that decision to superior court, where it was affirmed. This appeal followed.

Discussion

¶3 Meza argues that the ALJ abused his discretion by denying his motion to continue the hearing as untimely because Rule R2-19-110, Ariz. Admin. Code, does not strictly require such a motion to be made fifteen days or more prior to the hearing. “On appeal from the superior court’s review of an administrative decision, we determine, as did the superior court, whether the agency’s decision was illegal, arbitrary, capricious, or

involved an abuse of discretion.” *State ex rel. Winkleman v. Ariz. Navigable Stream Adjudication Comm’n*, 224 Ariz. 230, ¶ 13, 229 P.3d 242, 249 (App. 2010).

¶4 Meza cites Rule R2-19-110, which addresses the factors the ALJ should consider when ruling on a motion to continue or expedite a hearing. These factors include the time remaining between the filing of the motion and the hearing date, the position of the other parties, and the reason for the party’s or representative’s unavailability. Ariz. Admin. Code R2-19-110. Rule R2-19-106(C), Ariz. Admin. Code, sets forth the time limits for filing such motions. It requires motions be made at least fifteen days before a hearing, “[a]bsent good cause.” A party demonstrates good cause when the basis for the motion could not have been known earlier, despite reasonable diligence, and when a ruling on the motion will 1) “further administrative convenience, expedition or economy” or 2) “avoid undue prejudice to any party.” Ariz. Admin. Code R2-19-106(C).

¶5 Meza filed his late motion requesting additional time because he did not receive the information he needed from ADES until nine days earlier. However, ADES gave him more than three months’ notice of the hearing, and he acknowledges he had received it. Furthermore, he concedes that he requested the file from ADES less than one month before the hearing.¹ Given his inaction for several months, the ALJ could find he failed to establish good cause for the untimely request for a continuance. We, therefore,

¹Meza states that he called ADES several times in the months following receipt of the hearing notice and that it took some time for him to learn how to request his file, but he does not cite any evidence to support this assertion. And the hearing notice specifically instructs him to submit a written request to ADES’s Regional Review Specialist to obtain a copy of his record.

cannot say the ALJ's decision to deny his motion was arbitrary, capricious, or an abuse of discretion. *See Winkleman*, 224 Ariz. 230, ¶ 13, 229 P.3d at 249.

¶6 Meza makes several other assertions in his opening brief, but they are not supported by any legal authority. He states that he “does not have knowledge of the laws and is not aware of the statutes of this case,” and he then “asks the court for discretion in this matter because [he] is not an attorney and does not know how to look up the laws and statutes and rules for his case.” But despite Meza's pro se status, he is held to the same standards as an attorney. *See Old Pueblo Plastic Surgery, PC v. Fields*, 146 Ariz. 178, 179, 704 P.2d 819, 820 (App. 1985). Moreover, the *Guide for Self-Represented Litigants*, which is available through this court's website, was created for just this reason—to help pro se parties with their appeal. *See* <http://www.appeals2.az.gov/PROSEGuides.cfm>.

¶7 Because Meza's remaining arguments lack appropriate citation to legal authority or the record, they are waived. *See* Ariz. R. Civ. App. P. 13(a)(6) (“An argument . . . shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.”); *Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393-94 n.2 (App. 2007) (appellant's failure to develop and support argument waives the issue on appeal). And to the extent that Meza raises new arguments in his reply brief, we do not consider them. *See Phelps v. Firebird Raceway, Inc.*, 210 Ariz. 403, n.1, 111 P.3d 1003, 1005 n.1 (2005).

Conclusion

¶8 In light of the foregoing, we affirm the superior court’s judgment.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge