

IN THE UTAH COURT OF APPEALS

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| Eric Richard Alban, |) | MEMORANDUM DECISION |
| |) | (Not For Official Publication) |
| Petitioner and Appellee, |) | |
| |) | Case No. 20060985-CA |
| v. |) | |
| |) | F I L E D |
| Jennifer Alban, |) | (April 10, 2008) |
| |) | |
| Respondent and Appellant. |) | 2008 UT App 130 |

Third District, Silver Summit Department, 034500023
The Honorable Bruce C. Lubeck

Attorneys: Donald E. Little, Austin, Texas, for Appellant
Harry Caston, Salt Lake City, for Appellee

Before Judges Thorne, Billings, and Davis.

BILLINGS, Judge:

Jennifer Alban appeals the trial court's modification of her divorce decree following her divorce from Eric Richard Alban. She argues that the trial court's order violated the Fourteenth Amendment to the United States Constitution because it denied her equal protection. In other words, she contends that the modified divorce decree discriminates against her because she is a woman. She further argues that the trial court abused its discretion in finding that a substantial change in circumstances warranted the modification. We affirm.

First, Ms. Alban's equal protection arguments are inadequately briefed. Rule 24(a)(9) of the Utah Rules of Appellate Procedure outlines the requirements for arguments in briefs submitted to this court:

The argument shall contain the contentions and reasons of the appellant with respect to the issues presented, including the grounds for reviewing any issue not preserved in the trial court, with citations to the authorities, statutes, and parts of the record relied on. A party challenging a fact finding must first marshal all record

evidence that supports the challenged finding.

Utah R. App. P. 24(a)(9). We dismiss arguments that do not meet these requirements. See State v. Sloan, 2003 UT App 170, ¶ 13, 72 P.3d 138 (citing Smith v. Smith, 1999 UT App 370, ¶ 8, 995 P.2d 14). Particularly, "[b]riefs must contain reasoned analysis based upon relevant legal authority. An issue is inadequately briefed when the overall analysis of the issue is so lacking as to shift the burden of research and argument to the reviewing court." Id.

Ms. Alban offers no meaningful analysis, and only cursory legal citation in her reply brief, for the assertion that the trial court's ruling violated her federal equal protection rights. Furthermore, Ms. Alban mentions that the trial court's ruling violated her state constitutional claims, but offers no case law or legal argument. Thus, we decline to address the merits of Ms. Alban's arguments under these circumstances. See State v. Shepherd, 1999 UT App 305, ¶ 27, 989 P.2d 503 (declining to consider the merits of issues briefed where defendant's brief failed to cite relevant legal authority or provide any meaningful analysis), see also State v. Bobo, 803 P.2d 1268, 1272 (Utah Ct. App. 1990) (explaining proper method for presenting state constitutional claims); State v. Johnson, 771 P.2d 326, 328 (Utah Ct. App. 1989) (rejecting nominal allusions to state constitutional guarantees).

Next, Ms. Alban contends that the trial court abused its discretion in finding that a substantial change in circumstances warranted the modification. Here, Ms. Alban does offer some legal authority for her position, citing the legal requirements for a modification of a divorce decree concerning a change in circumstances. However, she has failed to properly marshal evidence that would indicate that the trial court abused its discretion. The marshaling rule requires appellants to "'marshal all the evidence in favor of the facts as found by the trial court and then demonstrate that even viewing the evidence in a light most favorable to the court below, the evidence is insufficient to support the findings of fact.'" Save Our Schools v. Board of Educ., 2005 UT 55, ¶ 10, 122 P.3d 611 (quoting Chen v. Stewart, 2004 UT 82, ¶ 76, 100 P.3d 1177). Because Ms. Alban has failed to marshal the evidence, "we assume the evidence supports the trial court's findings." See Chen, 2004 UT 82, ¶ 80. Accordingly, we affirm the trial court's ruling.

Mr. Alban asks for his costs and attorney fees on appeal because Ms. Alban's appeal is not grounded in fact, in violation

of rule 33 of the Utah Rules of Appellate Procedure. See Utah R. App. P. 33. We do not award him his costs and fees on appeal.

Judith M. Billings, Judge

WE CONCUR:

William A. Thorne,
Associate Presiding Judge

James Z. Davis, Judge