

IN THE UTAH COURT OF APPEALS

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Rebecca Gillette,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20060808-CA
v.)	
)	F I L E D
Steven Michael Costa,)	(March 22, 2007)
)	
Respondent and Appellant.)	<u>2007 UT App 104</u>

Fourth District, Provo Department, 054401077
The Honorable James R. Taylor

Attorneys: Steven Michael Costa, Aliso Viejo, California,
Appellant Pro Se
Steven C. Tycksen and Chad C. Shattuck, Salt Lake
City, for Appellee

Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Steven Michael Costa appeals from various decisions issued by the district court. We affirm.

Costa first argues that the district court erred when it failed to modify an order regarding child support. Second, Costa argues that the district court erred when it ordered him to pay for extracurricular activities and schooling. Third, Costa asserts that he is entitled to a credit of \$400.00 for alimony paid to Rebecca Gillette. Last, Costa requests that this court reverse an award of attorney fees.

Costa's arguments are inadequately briefed. Rule 24(a)(9) of the Utah Rules of Appellate Procedure mandates that an "argument shall contain the contentions and reasons of the

appellant with respect to the issues presented . . . with citations to the authorities [and] statutes." Utah R. App. P. 24(a)(9). Costa has failed to meet this duty and has not provided "adequate legal analysis and legal authority in support of [his] claims." Flower Homeowners Ass'n v. Snow Flower, Ltd., 2001 UT App 207, ¶14, 31 P.3d 576 (quotations and citation omitted). Consequently, Costa's "assertions do not permit appellate review." Id. "While failure to cite to pertinent authority may not always render an issue inadequately briefed, it does so when the overall analysis of the issue is so lacking as to shift the burden of research to the reviewing court." State v. Thomas, 961 P.2d 299, 305 (Utah 1998). Therefore, we decline to address Costa's arguments on appeal.

Moreover, we note that Costa has failed to marshal any evidence in support of the trial court's findings. "In order to challenge a court's factual findings, an appellant must first marshal all the evidence in support of the finding and then demonstrate that the evidence is legally insufficient to support the finding even when viewing it in a light most favorable to the court below." Chen v. Stewart, 2004 UT 82, ¶76, 100 P.3d 1177 (quotations and citation omitted); see also Utah R. App. P. 24(a)(9) ("A party challenging a fact finding must first marshal all record evidence that supports the challenged finding."). Instead, Costa "simply reasserts the evidence [he] presented to the district court and asks this court to reconsider the validity of that evidence. In fact, [Costa's] arguments are 'nothing but an attempt to have this [c]ourt substitute its judgment for that of the [district] court on a contested factual issue. This we cannot do.'" Sweet v. Sweet, 2006 UT App 216, ¶7, 138 P.3d 63 (mem.) (quoting Covey v. Covey, 2003 UT App 380, ¶28, 80 P.3d 553).

When a party fails to meet the marshaling requirement, this court may affirm the trial court's ruling "on that basis alone." Chen, 2004 UT 82 at ¶80. Costa barely references the district court's factual findings, let alone marshals the evidence in support of such findings. Costa's failure to marshal any facts in this case provides this court with an additional basis to decline to address Costa's arguments.

Accordingly, we affirm the district court's order and award Gillette costs pursuant to rule 34 of the Utah Rules of Appellate Procedure.¹ See Utah R. App. P. 34(a).

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge

¹We deny Gillette's request for attorney fees pursuant to Utah Code section 30-3-10.4(4). See Utah Code Ann. § 30-3-10.4(4) (Supp. 2006) ("If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney's fees as costs against the offending party."). Gillette argues that this court should award attorney fees because the appeal was filed in bad faith. This is not a case egregiously lacking in a reasonable factual or legal basis. See Cooke v. Cooke, 2001 UT App 110, ¶14, 22 P.3d 1249 ("The sanction for filing a frivolous appeal applies only in 'egregious cases' with no 'reasonable legal or factual basis.'" (citation omitted)); see also Utah R. App. P. 33(a).