

APPENDIX A

DECISION OF STATE COURT OF
APPEALS

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

JOHN GARCIA, *Petitioner/Appellant*,

v.

MELISSA ROBINSON, *Respondent/Appellee*.

No. 1 CA-CV 19-0726 FC
FILED 4-8-2021

Appeal from the Superior Court in Maricopa County
No. FC2018-006042
The Honorable Bradley H. Astrowsky, Judge

AFFIRMED

COUNSEL

John Angel Garcia, Tucson
Petitioner/Appellant

Melissa Robinson, Address protected
Respondent/Appellee

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MEMORANDUM DECISION

Judge Brian Y. Furuya delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Samuel A. Thumma joined.

F U R U Y A, Judge:

¶1 John Garcia (“Father”) appeals the superior court’s order establishing legal decision-making authority and parenting time as to his minor child (“Child”). Father claims error, in part, based on Melissa Robinson’s (“Mother”) failure to comply with a pretrial court order and the court’s alleged failure to make requisite statutory findings. Because Father has not established any error or abuse of discretion, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 The parties share one minor child. In September 2018, Father filed a petition to establish legal decision-making and parenting time. Trial was held in September 2019.

¶3 At trial, without objection, the superior court took judicial notice of Father’s felony criminal conviction for aggravated assault, a domestic violence offense committed against Mother in September 2017. *See* Ariz. Rev. Stat. (“A.R.S.”) § 25-403.03(C) (permitting the superior court to consider “[f]indings from another court of competent jurisdiction” to determine if a person has committed an act of domestic violence). In the presence of Child, Father strangled Mother to the point she lost consciousness. As a result, Mother also was unable to swallow for some time. Father admitted this occurrence.

¶4 The superior court found that this domestic violence was significant and precluded Father from being involved in legal decision making for the Child. *See* A.R.S. § 25-403.03(A). Accordingly, after making specific best-interests findings under A.R.S. §§ 25-403(A) and -403.01(B), the court awarded Mother sole legal decision-making authority, which Father had acquiesced to in his petition. The court found that it would not be “in Child’s best interests to develop a relationship with Father while he [wa]s in prison for a violent assault against Child’s mother,” and thus denied Father’s request for parenting time.

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¶5 Father timely appealed, and we have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) and -2101(A)(1).

DISCUSSION

¶6 Father challenges the superior court's order establishing legal decision-making and parenting time on various grounds, which we review for abuse of discretion.¹ See *DeLuna v. Petitto*, 247 Ariz. 420, 423, ¶ 9 (App. 2019) (involving legal decision-making and parenting time). Accordingly, Father is required to show an error of law or that the record "is devoid of competent evidence to support the court's decision." *Woyton v. Ward*, 247 Ariz. 529, 531, ¶ 5 (App. 2019). We will not disturb the court's factual findings unless they are clearly erroneous. *Strait v. Strait*, 223 Ariz. 500, 502, ¶ 6 (App. 2010). "A finding of fact is not clearly erroneous if substantial evidence supports it, even if substantial conflicting evidence exists." *Kocher v. Dep't of Revenue of State of Ariz.*, 206 Ariz. 480, 482, ¶ 9 (App. 2003). We view the evidence in the light most favorable to sustaining the court's rulings. *Lehn v. Al-Thanayyan*, 246 Ariz. 277, 283, ¶ 14 (App. 2019).

¶7 First, Father challenges the timeliness of Mother's filing of her separate pretrial statement and the exchange of trial exhibits. However, Father never raised objections regarding Mother's alleged procedural failings to the superior court, and therefore this issue is waived on appeal. See *Canyon Ambulatory Surgery Ctr. v. SCF Ariz.*, 225 Ariz. 414, 418, ¶ 10 n.11 (App. 2010) ("We generally do not consider issues raised for the first time on appeal."); see also *Premier Fin. Servs. v. Citibank (Ariz.)*, 185 Ariz. 80, 86 (App. 1995) ("We cannot consider issues and theories that were not presented to the court below.").

¶8 Second, Father contends that the superior court solely relied on Mother's pretrial statement, rather than witness testimony, to inform some of its best-interests and domestic violence findings entered under A.R.S. §§ 25-403(A), -403.01(B), and -403.03(C). However, this contention is unfounded. The record reflects the court's consideration of the evidence presented at trial, including the demeanor of the witnesses, exhibits, and

¹ Mother did not file an answering brief. In the exercise of our discretion, and because the best interests of a minor child are implicated, we decline to treat her failure to file an answering brief as a confession of error. See *Michaelson v. Garr*, 234 Ariz. 532, 544, ¶ 4 n.3 (App. 2014) (citing *Gonzales v. Gonzales*, 134 Ariz. 437, 437 (App. 1982) ("Although we may regard [the] failure to respond as a confession of reversible error, we are not required to do so.")).

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case history, as well as the parties' arguments and agreements. Both Mother and Father testified at trial, and contrary to Father's contention, he was allowed to refute Mother's testimony. *See Vincent v. Nelson*, 238 Ariz. 150, 155, ¶ 18 (App. 2015) ("[T]he family court is in the best position to judge the credibility of witnesses and resolve conflicting evidence, and appellate courts generally defer to the findings of the family court.").

¶9 Third, Father objects to the court-appointed best interests attorney's ("BIA") participation at trial. But the BIA did not "testify in court" as Father contends. Rather, consistent with the appropriate scope of her role, the BIA cross-examined Mother, made arguments to the superior court, and otherwise properly acted in a representative capacity in advocating for the Child's best interests. *See Askamit v. Krahm*, 224 Ariz. 68, 71-72, ¶¶ 12, 14 (App. 2010); ARFLP 10.

¶10 Fourth, Father argues the superior court failed to make findings under A.R.S. § 25-403.03(D), (E), and (F) before entering its legal decision-making and parenting time orders. No error is evident in this regard.

¶11 Subsection (D) of this statute provides that if the superior court determines a parent has committed an act of domestic violence, a rebuttable presumption arises that awarding sole or joint legal decision-making to that parent is contrary to a child's best interests. A.R.S. § 25-403.03(D). Subsection (E) sets forth factors the court must consider in determining if the offending parent has rebutted the presumption. A.R.S. § 25-403.03(E). However, when the court finds the existence of "significant domestic violence pursuant to section 13-3601," the court may not award legal decision-making to the perpetrator of such "significant domestic violence." A.R.S. § 25-403.03(A).

¶12 Here, the superior court took judicial notice of Father's conviction for assaulting Mother in the presence of Child and expressly found such conduct to constitute significant domestic violence. *See id.* Having made this finding, subsections (D) and (E) were inapplicable, and Father's arguments concerning any failure by the court to comply with those subsections are unavailing. Further, even if this were not the case, subsections (D) and (E) concern only parents who are "seeking sole or joint legal decision-making." A.R.S. § 25-403.03(D), (E) (emphasis added). And here, Father's petition makes clear that he sought neither sole nor joint legal decision-making authority. Rather, he requested that Mother be granted sole legal decision-making authority because he was incarcerated. Therefore, Father has failed to show any error.

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¶13 With regard to Father's arguments concerning subsection (F), this provision states that before the superior court can award a parent who has committed an act of domestic violence parenting time with their child, that parent must prove to the court's satisfaction that such parenting time would not endanger the child or significantly impair the child's emotional development. A.R.S. § 25-403.03(F). Here, the court found that it would not be in Child's best interests to award Father any parenting time. Therefore, there was no need to further consider subsection (F)'s requirements. Thus, subsection (F) is inapplicable.

¶14 Lastly, Father argues the superior court failed to make findings under A.R.S. § 25-403.02(C)(4), (6)-(7) (setting forth elements to include in a parenting plan). However, subsection (C) of A.R.S. § 25-403.02 is inapplicable, again because Father was not awarded any parenting time.

CONCLUSION

¶15 Because Father has failed to establish any error or abuse of discretion by the superior court, we affirm.



AMY M. WOOD • Clerk of the Court
FILED: AA

APPENDIX B

DECISION OF STATE TRIAL
COURT

54

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
HONORABLE BRAD ASTROWSKY**

Clerk of the Superior Court
*** Electronically Filed ***
C. Vigil, Deputy
9/23/2019 8:00:00 AM
Filing ID 10899648

John Garcia
Petitioner

Case Number: FC2018-006042

AND

Melissa Robinson
Respondent

**ORDER FOR LEGAL DECISION MAKING, PARENTING TIME AND
CHILD SUPPORT**

The Evidentiary hearing in this matter occurred on 09/19/2019. The Court has considered the evidence which includes where applicable/presented, the demeanor of the witnesses, reviewed the exhibits as well as the case history, and considered the parties' arguments and agreements.

The Court makes the following findings and enters the following orders:

JURISDICTIONAL FINDINGS

THE COURT FINDS as follows:

- There is a minor child common to the parties, namely: Justus Robinson [DOB 5/7/2016].
- Arizona was the child's home state on the date the petition was filed or was the child's home state within six months before the filing and the child is absent from this state but a parent or person acting as a parent continues to live in this state.
- The federal Parental Kidnapping Prevention Act does not apply and that no international law concerning the wrongful abduction or removal of children applies.

LEGAL DECISION-MAKING AND PARENTING TIME

Best Interest Findings: A.R.S. § 25-403

A.R.S. § 25-403(A) enumerates specific factors for the Court to consider, among all factors that are relevant to the child's physical and emotional well-being. The best interest of a child is the primary consideration in awarding legal decision-making authority and parenting time. *Hays v. Gama*, 205 99, 102, ¶ 18, 67 P.3d 695, 698, ¶ 18 (2003).

In making the legal decision making and parenting time determination, the Court is mindful that as a matter of public policy, absent evidence to the contrary, "it is in a child's best interest: (1) To have substantial, frequent, meaningful and continuing parenting time with both parents[; and] (2) To have both parents participate in decision making about the child." See A.R.S. § 25-103(B).

As a precursor to the analysis of the child's best interest and because of the parents' inability to reach an agreement, the Court considers the following issues regarding the parents. See A.R.S. § 25-403.01.

- *Whether a parent's lack of agreement is unreasonable or is influenced by an issue not related to the child's best interests.*

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Mother's position is based upon Father's history of violence - to include his present prison term that is the result of an act of domestic violence against Mother. Father's position is unreasonable given same.

- *The past, present and future abilities of the parents to cooperate in decision-making about the children to the extent required by the order of joint legal decision-making.*

Mother is the listed victim in CR2017-143938. Per the sentencing order in that case, Father is not to have any contact with Mother. Given the history of violence, Mother should not be forced to cooperate with Father concerning decision-making.

- *Whether the joint legal decision-making arrangement is logically possible.*

Mother is the listed victim in CR2017-143938. Per the sentencing order in that case, Father is not to have any contact with Mother. Given the history of violence, Mother should not be forced to cooperate with Father concerning decision-making. Therefore, joint legal decision-making is not logically possible. In addition, Father is presently in prison and cannot be easily reached - even if Mother so desired and there was no prohibition against same.

THE COURT FINDS as follows regarding the child's best interests pursuant to A.R.S. § 25-403(A):

- 1 *The past, present and potential future relationship between the parent and the child*

Mother and Child have and have always had a wonderful and loving relationship. There is no reason to doubt this won't continue into the future.

Father, contrarily, has been incarcerated for a good portion of Child's life. Child was born in May, 2016. Father was arrested in January, 2016, for an act of domestic violence against Mother. He was in custody until March 2016, but was re-arrested in October, 2016. He was in custody until June, 2017, and then arrested in September, 2017, and has remained incarcerated since then. Therefore, Father hasn't ever had the opportunity to develop a bond with his son. Father's ability to do same remains difficult due to his incarceration. This is aggravated by the fact that Father is in prison due to a violent crime he committed against Mother. Furthermore, Father was incarcerated between 2008 and February, 2015, as the result of an assault he committed against the mother of his other children. Father's history of violence and repeated incarcerations will negatively impact his ability to have any relationship with Child in the future. Father won't be released from DOC until 2022 at the earliest.

- 2 *The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.*

Child has a relationship with Mother's older daughter.

Child has no relationship with anyone from Father's family.

- 3 *The child's adjustment to home, school and community.*

Child is comfortable in Mother's home. Child is not yet of school age. Child doesn't participate in any community activities.

- 4 *If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.*

The child is too young to provide meaningful input.

- 5 *The mental and physical health of all individuals involved.*

Mother has no mental or physical health issues of note. Child has no physical or mental health issues of note.

In 2016, Father was diagnosed with bi-polar disorder and schizophrenia and was put on medication for same.

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- 6 *Which parent is more likely to allow the child frequent meaningful and continuing contact with the other parent. (This paragraph does not apply if the Court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being the victim of domestic violence or child abuse.)*

This paragraph doesn't apply because Mother's denial of Father's request for parenting time is made in good faith to protect the child from witnessing an act of domestic violence or being the victim of domestic violence or child abuse.

In 2008, Father served 7.5 years in prison for aggravated assault, unlawful imprisonment, and assault with a deadly weapon committed against the mother of his four other children. Father was released from prison in February, 2015. In May, 2015, Mother and Father shared a home. During Mother's pregnancy Father displayed much violence against Mother. For example, on one occasion he pushed her neck so hard as Mother sat on the toilet that the toilet tank broke. In late 2015, Father strangled Mother. After this incident Father stalked Mother and would appear, uninvited, at Mother's place of employment and at the school of Mother's daughter. The incident that led to Father's current incarceration involved an act of strangulation committed by Father against Mother in the presence of Mother's then ten year-old daughter.

- 7 *Whether one parent intentionally misled the Court to cause an unnecessary delay, to increase the cost of litigation or to persuade the Court to give legal decision-making or parenting time preference to that parent.*

There was no credible evidence presented concerning this factor.

- 8 *Whether there has been domestic violence or child abuse pursuant to A.R.S. § 25-403.03.*

In May, 2015, Mother and Father shared a home. During Mother's pregnancy Father displayed much violence against Mother. For example, on one occasion he pushed her neck so hard as Mother sat on the toilet that the toilet tank broke. In late 2015, Father strangled Mother. After this incident Father stalked Mother and would appear, uninvited, at Mother's place of employment and at the school of Mother's daughter. The incident that led to Father's current incarceration involved an act of strangulation committed by Father against Mother in the presence of Mother's then ten year-old daughter.

- 9 *The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.*

No agreements were reached in this matter; therefore, this factor is inapplicable.

- 10 *Whether a parent has complied with chapter 3, article 5 of title 25, Arizona Revised Statutes.*

The domestic relations education provision of A.R.S. § 25-352 have not been fully satisfied. John Garcia and Melissa Robinson have not completed the Parent Education Program requirements of A.R.S. § 25-352 and/or presented proof of completion as required. John Garcia and Melissa Robinson shall complete an approved Parent Education Program and file proof of completion with the Clerk of this Court within 30 days of filing the decree.

Any party who has not completed the Parent Education Program requirements of A.R.S. § 25-352 as ordered may be held in contempt of court, and shall not file any subsequent pleadings to modify or enforce any provisions of this Judgment until he or she has filed proof of completion. A "Parent Information Program Notice" is available to the parties at the Law Library Resource Center and the Family Court filing counter. The notice details the program requirements and includes a list of approved parent information classes.

- 11 *Whether either parent was convicted of an act of false reporting of child abuse or neglect under A.R.S. § 13-2907.02.*

There was no credible evidence presented concerning this factor.

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In addition to the foregoing, the Court must also consider any history of domestic violence or child abuse (A.R.S. § 25-403.03), any substance abuse issues (A.R.S. § 25-403.04) and any sexual offender issues (A.R.S. § 25-403.05).

Domestic Violence

Melissa Robinson has alleged that John Garcia has committed domestic violence. Therefore, the Court further considers the award of legal decision-making authority and parenting time in light of the alleged presence of domestic violence under A.R.S. § 25-403.03. Arizona's law establishes the following:

A person commits an act of domestic violence if that person has: (1) intentionally, knowingly or recklessly caused or attempted to cause sexual assault or serious physical injury; (2) placed a person in reasonable apprehension of imminent serious physical injury to any person; or (3) engaged in a pattern of behavior for which the court may issue an ex parte order to protect the other parent who is seeking legal decision-making authority or to protect the child or the child's siblings. [A.R.S. § 25-403-03(B)].

The court shall consider evidence of domestic violence as being contrary to the best interests of the child. The court shall consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance. The court shall consider a perpetrator's history of causing or threatening to cause physical harm to another person [A.R.S. § 25-403.03(B)].

In accordance with A.R.S. § 25-403.03(C), the Court has considered the following factors and makes the following findings to determine whether domestic violence has been committed:

1. Findings from another court of competent jurisdiction.

Father is presently incarcerated as a result of his conviction for felony Aggravated Assault against Mother in Maricopa County case CR2017-143938. The court file in that matter reveals the following: On September 23, 2017, Father was trespassing by Glendale Police officers from Mother's home and was told if he returned that he would be arrested. On September 25, 2017, Father returned to Mother's address, strangled her to the point that Mother lost consciousness and urinated on herself. A forensic nurse examination of Mother revealed injuries that were consistent with strangulation. Father also broke a window to Mother's home. All of this occurred in front of Child and Mother's daughter.

2. Police reports.

None were presented.

3. Medical reports.

None were presented.

4. Department of Child Safety records.

None were presented.

5. Domestic violence shelter records.

None were presented.

6. School records.

None were presented.

7. Witness testimony.

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In May, 2015, Mother and Father shared a home. During Mother's pregnancy Father displayed much violence against Mother. For example, on one occasion he pushed her neck so hard as Mother sat on the toilet that the toilet tank broke. In late 2015, Father strangled Mother. After this incident Father stalked Mother and would appear, uninvited, at Mother's place of employment and at the school of Mother's daughter. The incident that led to Father's current incarceration involved an act of strangulation committed by Father against Mother in the presence of Mother's then ten year-old daughter.

THE COURT FINDS that based on the above, John Garcia has engaged in acts of domestic violence against Melissa Robinson.

Having found the existence of domestic violence, the Court addresses the admonition in A.R.S. § 25-403.03 (A), which states that notwithstanding the presumption in subsection D, "joint custody shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to A.R.S. § 13-3601 or if the court finds by a preponderance of the evidence that there has been significant domestic violence." A.R.S. § 25-403.03(A) (emphasis added).

Meaning, a finding of significant domestic violence or a history of significant domestic violence precludes an award of joint legal decision making or an award of sole legal decision making to the parent who committed the significant act of domestic violence. *See Hurd v. Hurd*, 223 Ariz. 48, 51, 219 P.3d 258, 261 (App. 2009) (construing A.R.S. § 25-403.03 before 2012 change from legal custody to legal decision making). Further, "when the party that committed the act of violence has not rebutted the presumption that awarding [legal decision making] to that person is contrary to the best interest of the child, the court need not consider all the other best-interest factors in A.R.S. § 25-403.A." See *id.*

Any domestic violence is serious and cause for concern, particularly when directed at another parent. However, the admonition in subsection A applies only to "significant domestic violence". Significance is a product of three factors: (1) The seriousness of the particular incident of domestic violence, (2) the frequency or pervasiveness of the domestic violence, (3) and the passage of time and its impact. Here, the evidence establishes that by a preponderance of the evidence, there has been domestic violence by John Garcia.

THE COURT FURTHER FINDS that the domestic violence involved in this case is significant. It involves In May, 2015, Mother and Father shared a home. During Mother's pregnancy Father displayed much violence against Mother. For example, on one occasion he pushed her neck so hard as Mother sat on the toilet that the toilet tank broke. In late 2015, Father strangled Mother. After this incident Father stalked Mother and would appear, uninvited, at Mother's place of employment and at the school of Mother's daughter. The incident that led to Father's current incarceration involved an act of strangulation committed by Father against Mother in the presence of Mother's then ten year-old daughter.. In the spectrum of domestic violence, the acts in this case are significant such that the prohibition on awarding sole or joint decision-making authority to the parent who committed the act of domestic violence does apply.

Substance Abuse

A.R.S. § 25-403.04 requires further analysis if a parent has abused drugs or alcohol or has been convicted of any drug offense under title 13, chapter 34 or any violation of A.R.S. § 28-1381, A.R.S. § 28-1382, or A.R.S. § 28-13783 within twelve months before the petition or request for legal decision-making authority or parenting time is filed.

THE COURT FINDS that there is not substantial evidence against either parent.

Sex Offenders

Neither party has presented any evidence to require consideration of the provision of A.R.S. § 25-403.05 (A).

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Legal Decision-Making

Legal decision-making authority, as defined by A.R.S. § 25-401(3), means the legal right and responsibility to make all non-emergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purpose of interpreting or applying any international treaty, federal law, a uniform code or the statutes of other jurisdictions of the United States, legal decision-making means legal custody.

For Justus Robinson

THE COURT FINDS that based upon the above, it is in the child's best interest that Melissa Robinson be awarded sole legal decision-making authority.

IT IS THEREFORE ORDERED awarding Melissa Robinson sole legal decision-making authority regarding Justus Robinson, as defined in A.R.S. § 25-401(6). For the purpose of this order,

“Sole legal decision-making” means one parent has the legal right and responsibility to make major decisions for the child.

Parenting Time

The Court has awarded sole legal decision making of the child to Melissa Robinson. John Garcia, nonetheless, “is entitled to reasonable parenting time to ensure that the minor child has substantial, frequent, meaningful and continuing contact with the parent unless the Court finds, after a hearing, that parenting time would endanger the child's physical, mental, moral or emotional health.”

THE COURT FINDS that the following parenting plan ensures that John Garcia will have substantial, frequent, meaningful and continuing contact with the child. The following parenting plan is practical and also maximizes each parent's parenting time to the extent it is in the child's best interests. *See A.R.S. § 25-403.02 (E).*

IT IS THEREFORE ORDERED that parenting time shall be exercised as follows:

Father is in prison for an act of domestic violence against Mother. Father has a lengthy history of interpersonal domestic violence. Father received at least two prison sentences concerning acts of domestic violence against the mothers of his children. Father has been incarcerated for most of his son's life. It is not in Child's best interests to develop a relationship with Father while he is in prison for a violent assault against Child's mother.

Holiday Schedule: The Holiday Schedule does not apply at this time.

Summer/Vacation: Alternative Summer Schedule.

None.

IT IS ORDERED that the following terms shall apply:

1. **Relocation:** Neither John Garcia nor Melissa Robinson shall relocate the residence of the child outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations without compliance with A.R.S. § 25-408. Any findings that a party has failed to comply may result in sanctions against that party pursuant to the same statute.

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2. **Sex Offenders:** In accordance with A.R.S. § 25-403.05(B), a parent must notify the other parent immediately if the parent knows that a convicted or registered sex offender or a person who has been convicted of a dangerous crime against children (as defined in A.R.S. § 13-705) may have access to the child. The parent must provide notice by first class mail (return receipt requested), by electronic means to an electronic mail address that the recipient provided to the parent for notification purposes or by other communication accepted by the Court.

Additional Parenting Time Orders

Father shall comply with all orders that are in place that prohibit him from having contact with Mother.

CHILD SUPPORT

THE COURT FINDS that:

- The relevant financial factors and the discretionary allowances and adjustments which the Court will allow for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet and order which the Court hereby incorporates and adopts as its findings with respect to child support.
- **Child Support:** John Garcia is obligated to pay child support to Melissa Robinson pursuant to the Arizona Child Support Guidelines in the amount of \$370.00 per month.
- **Past Support:** It is appropriate to award Melissa Robinson an additional judgment for past support in the amount of \$13,320.00 as past support for the three-year period prior to filing of the current petition until today.

IT IS THEREFORE ORDERED that:

- **Child Support:** John Garcia shall pay child support to Melissa Robinson in the sum of \$370.00 per month, payable on the 1st day of each month commencing 10/01/2019 by income withholding order.
- **Past Support:** Melissa Robinson is also granted judgment against John Garcia in the additional amount of \$13,320.00. John Garcia shall pay the additional sum of \$250.00 per month towards this judgment, payable on the first (1st) day of each month beginning 10/01/2019 until paid in full.
- **Other Orders:** If this is a modification of child support, all other prior orders of this Court not modified remain in full force and effect. Father's child support obligation is suspended while he is incarcerated.

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ADDITIONAL ORDERS

IT IS ORDERED Father's obligation to pay child support is suspended while Father serves his prison term.

Father shall comply with all criminal court orders that prohibit his contact with Mother.

The Court found Father's testimony concerning his history of domestic violence against Mother to not be credible.

Mother shall take care of her active arrest warrant concerning her failure to appear for a traffic violation. If Mother does not take care of same, she risks DCS involvement and a potential out-of-home dependency action concerning Child.

Mother shall take no less than 16 hours of parenting skills classes and shall submit proof of same to the Court no later than January 31, 2019.

Father's motivation, at least in part, was clearly to harass, intimidate, or otherwise annoy Mother - the victim of the violent offense for which he is in prison.

No further claims or issues remain for the Court to decide. Therefore, **IT IS FURTHER ORDERED** pursuant to Rule 78(C), Arizona Rules of Family Law Procedure, this final judgment/decree is signed by the Court and it shall be entered by the Clerk. The time for appeal begins upon entry of this judgment by the Clerk. For more information on appeals, see Rule 8 and other Arizona Rules of Civil Appellate Procedure.

IT IS FURTHER ORDERED denying any affirmative relief sought before the date of this Order that is not expressly granted above.

Done in open Court on: 09/19/2019



Judge Brad Astrowsky

APPENDIX C

DECISION OF STATE SUPREME COURT
DENYING REVIEW



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

TRACIE K. LINDEMAN
Clerk of the Court

October 12, 2021

RE: JOHN GARCIA v MELISSA ROBINSON
Arizona Supreme Court No. CV-21-0101-PR
Court of Appeals, Division One No. 1 CA-CV 19-0726 FC
Maricopa County Superior Court No. FC2018-006042

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on October 12, 2021, in regard to the above-referenced cause:

ORDERED: Petition for Review = DENIED.

A panel composed of Chief Justice Brutinel, Vice Chief Justice Timmer, Justice Beene and Justice King participated in the determination of this matter.

Tracie K. Lindeman, Clerk

TO:

John Angel Garcia, ADOC 241721, Arizona State Prison,
Tucson - Whetstone Unit

Melissa Robinson

Amy M Wood

nm

APPENDIX D
ORDER OF STATE COURT OF APPEALS
DENYING RECONSIDERATION

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 5/11/21
AMY M. WOOD,
CLERK
BY: RB

In re the Matter of:) Court of Appeals
JOHN GARCIA,) Division One
Petitioner/Appellant,) No. 1 CA-CV 19-0726 FC
v.)
MELISSA ROBINSON,)
Respondent/Appellee.)

ORDER DENYING MOTION FOR RECONSIDERATION

The court, Presiding Judge Kent E. Cattani, Judge Samuel A. Thumma, and Judge Brian Y. Furuya, has received and considered Appellant's timely filed motion for reconsideration and the motion for extension of time to file the motion for reconsideration. After consideration,

IT IS ORDERED denying the motion for extension of time as moot.

IT IS FURTHER ORDERED denying Appellant's motion for reconsideration.

/s/
Brian Y. Furuya, Judge

A copy of the foregoing
was sent to:

John Angel Garcia ADOC 241721 (mailed)
Melissa Robinson