

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

RENEE CHARLETTA COATES,
Plaintiff/Appellee,

v.

HERBERT RICHARD MCCAULEY,
Defendant/Appellant.

No. 2 CA-CV 2013-0112
Filed January 24, 2014

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NOT FOR PUBLICATION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); Ariz. R. Civ. App. P. 28(c).

Appeal from the Superior Court in Pima County
No. DV20130759
The Honorable Alyce Pennington, Judge Pro Tempore

AFFIRMED

COUNSEL

Herbert R. McCauley, Tucson
In Propria Persona

MEMORANDUM DECISION

Chief Judge Howard authored the decision of the Court, in which
Presiding Judge Vásquez and Judge Miller concurred.

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H O W A R D, Chief Judge:

¶1 Appellant Herbert McCauley appeals from an order of protection entered against him and in favor of Renee Coates and their child in common. For the following reasons, we affirm.

Factual and Procedural Background

¶2 The record reflects the following procedural history. In April 2013, Coates filed a petition for an order of protection against McCauley. She requested that the order prohibit McCauley from coming near her home, work, and child's school and that McCauley be ordered not to possess firearms or ammunition. After an ex parte hearing that same day, the trial court granted the order. McCauley later requested, and was granted, a contested hearing. At that hearing, both Coates and McCauley were sworn and questioned, and the court ordered the order of protection to remain in effect. We have jurisdiction over McCauley's appeal pursuant to A.R.S. § 12-2101(A)(1), (5)(b).¹ See *Mahar v. Acuna*, 230 Ariz. 530, ¶ 11, 287 P.3d 824, 827-28 (App. 2012).

Discussion

¶3 McCauley appears to argue that insufficient evidence supported granting the order of protection or that the trial court did

¹ Although McCauley's notice of appeal states that he is appealing the "order of protection against [him] June 10, 2013" no such order was entered on June 10. Because only one appealable order of protection was entered in this case on May 29, we construe the error in the notice as a technical defect that, absent evidence appellee was misled or prejudiced, we may overlook in determining our jurisdiction. See *Hanen v. Willis*, 102 Ariz. 6, 9-10, 423 P.2d 95, 98-99 (1967) (erroneous date on notice of appeal technical defect that did not prevent appellate court from reaching merits where no evidence error misled or prejudiced appellee).

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not properly weigh the evidence presented.² “We review orders granting injunctions under a clear abuse of discretion standard.” *LaFaro v. Cahill*, 203 Ariz. 482, ¶ 10, 56 P.3d 56, 59 (App. 2002).

¶4 Even though McCauley is a nonlawyer representing himself, he is held to the same standards as a qualified attorney. *See Old Pueblo Plastic Surgery, P.C. v. Fields*, 146 Ariz. 178, 179, 704 P.2d 819, 820 (App. 1985). McCauley’s opening brief does not comply in any meaningful way with Rule 13, Ariz. R. Civ. App. P. The brief contains virtually no assertions of legally relevant facts, lacks argument with citations to authorities, and does not state the basis of this court’s jurisdiction or articulate the proper standard of review. Because McCauley has failed to comply with the rules or adequately develop his arguments, we summarily affirm the trial court’s order granting the order of protection. *See Ariz. R. Civ. App. P. 13(a)(6); In re \$26,980.00 U.S. Currency*, 199 Ariz. 291, ¶ 28, 18 P.3d 85, 93 (App. 2000) (court does not consider bare assertion offered without elaboration or citation to legal authority).

¶5 Moreover, the record does not contain the transcript of the contested hearing. We must presume the missing transcript supports the court’s ruling. *See Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995) (“When a party fails to include necessary items, we assume they would support the court’s findings and conclusions.”).

Disposition

¶6 For the foregoing reasons, we affirm the trial court’s grant of the order of protection.

²Coates did not file an answering brief, and we could regard her failure to do so as a confession of reversible error. *Cardoso v. Soldo*, 230 Ariz. 614, n.1, 277 P.3d 811, 813 n.1 (App. 2012). But we are not required to do so, and in our discretion we address the substance of McCauley’s appeal. *See id.*