

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

YEKATERINA SHTYRKOVA,
Petitioner/Appellant,

v.

DENIS A. GORBUNOV,
Respondent/Appellee.

No. 2 CA-CV 2013-0163
Filed July 28, 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Not For Publication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. SP20060852
The Honorable Margaret L. Maxwell,
Judge Pro Tempore

AFFIRMED

COUNSEL

Karp & Weiss, P.C., Tucson
By Adam C. Page
Counsel for Petitioner/Appellant

West, Elsberry, Longenbaugh & Zickerman, PLLC, Tucson
By Anne Elsberry
Counsel for Respondent/Appellee

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MEMORANDUM DECISION

Presiding Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Brammer¹ concurred.

MILLER, Presiding Judge:

¶1 Yekaterina Shtyrkova appeals from the trial court's ruling granting primary physical custody of her child to the child's father, Denis Gorbunov. She argues the court violated her right to due process when it imposed a time limit on her presentation of evidence at the hearing; it improperly took judicial notice of the child's school calendar; it failed to make sufficient findings of fact on the record pursuant to A.R.S. § 25-403(B); and, the findings it made were erroneous. For the reasons below, we affirm the judgment.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the trial court's ruling. *See Little v. Little*, 193 Ariz. 518, ¶ 5, 975 P.2d 108, 110 (1999). In 2003, Shtyrkova and Gorbunov, then-Tucson residents, had a child together, D. A 2006 paternity order established Gorbunov as the father. The parties never married.

¶3 In 2007, during the last year of her degree program at the University of Arizona, Shtyrkova received a scholarship that was contingent upon her working in Albuquerque, New Mexico for one year after graduation. In 2008, Shtyrkova and Gorbunov entered into an agreement regarding parenting time. The stipulation provided that D. would attend the first semester of kindergarten with Shtyrkova in Albuquerque and the second semester with

¹The Hon. J. William Brammer, Jr., a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and the supreme court.

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Gorbunov in Tucson. D. was to spend half of the summer with each parent.

¶4 In May 2010, after she was accepted to a doctoral program at the Massachusetts Institute of Technology, Shtyrkova filed a motion to modify parenting time and a petition for relocation. The trial court granted her motion, allowing her to relocate to Massachusetts with D. The court ordered that D. was to attend school with Shtyrkova in Massachusetts for the first half of each school year and with Gorbunov in Tucson for the second half of each school year. Gorbunov challenged the court's ruling before this court, and we affirmed the judgment. *See Shtyrkova v. Gorbunov*, No. 2 CA-CV 2010-0199 (memorandum decision filed June 17, 2011). The parents extended this schedule through the 2012-13 school year.

¶5 In spring 2013, Gorbunov moved to California for work. Several months later, Shtyrkova filed a second petition to modify parenting time. At an evidentiary hearing on the petition, Shtyrkova asserted it was no longer in D.'s best interests to have to change schools each semester and argued she should have primary physical custody. She presented evidence and testimony, including the 2013-14 academic calendar of the elementary school D. had attended in Massachusetts. About fifty minutes into Shtyrkova's testimony, the trial judge informed her that she had ten more minutes to finish presenting her case, in order "to divide the time equally" between the parties. Shtyrkova requested extra time or a continuance, but the court denied her requests. After Shtyrkova's testimony, Gorbunov testified and presented evidence, but the academic calendar of the elementary school that D. would attend in California if Gorbunov was granted primary physical custody was neither offered nor admitted in evidence.

¶6 The trial court found that it was in D.'s best interests to live primarily with Gorbunov in California and attend school there and to live with Shtyrkova in Massachusetts during most school breaks. Comparing the academic calendars of the Massachusetts and California schools, the court found that the California schedule allowed more parenting time for the non-primary residential parent than if the child attended school in Massachusetts.

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¶7 Shtyrkova filed a motion for reconsideration, arguing the trial court should not have considered the California school's calendar; alternatively, it incorrectly read it. She also argued the time limit at the hearing prevented her from presenting further testimony that was important to her case, although she did not specify what that testimony would have been. The trial court summarily denied Shtyrkova's motion for reconsideration, and she timely appealed.² We have jurisdiction pursuant to A.R.S. § 12-2101(A)(1).

Was Judicial Notice Proper?

¶8 Shtyrkova argues the trial court erred in considering an exhibit not admitted in evidence: the academic calendar of the school D. would attend if he were to live with Gorbunov in California during all or part of the school year. The California school calendar was neither offered nor admitted in evidence.³ On

² In Shtyrkova's reply brief, she contends Gorbunov's answering brief was untimely filed and asks us to strike his brief. Shtyrkova filed her opening brief and mailed two copies to Gorbunov on March 24, 2014. Pursuant to Rule 15(a), Ariz. R. Civ. App. P., Gorbunov had forty days after service of Shtyrkova's opening brief to file his answering brief. Accounting for the five days required for mailing, the deadline for Gorbunov to file his brief was May 8, 2014. *See* Ariz. R. Fam. Law P. 4(D) and 43(C)(2)(c)-(d) (allowing five additional calendar days when filing if notice occurs by mail); *see also* Ariz. R. Civ. P. 6(e) ("five calendar days are added after the prescribed period would otherwise expire" when service effectuated by mail); Ariz. R. Civ. App. P. 5(a) ("In computing any period of time prescribed by these rules . . . the provisions of Ariz. [R.] Civ. [P.] 6(a) and (e) . . . shall apply."). Thus, Gorbunov's brief was filed timely on May 8, 2014. Shtyrkova's request to strike is denied.

³ Gorbunov notes in his answering brief that a screenshot of the California school's main website was admitted into evidence and that it showed a hyperlink ostensibly pointing to the California school calendar. He contends the calendar was "an extension . . . of the admitted exhibit." Inasmuch as he argues the calendar was

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the record before us, it appears the court took judicial notice of the calendar because its under-advisement ruling included findings of fact explicitly referring to and relying upon the calendar. *See* Ariz. R. Evid. 201(c)(1); *Higgins v. Higgins*, 194 Ariz. 266, ¶¶ 19-20, 981 P.2d 134, 139 (App. 1999). Having concluded the court took judicial notice of the California school’s calendar, we therefore must determine whether such notice was proper. *See Higgins*, 194 Ariz. 266, ¶¶ 19-21, 981 P.2d at 139. We review a trial court’s decision to take judicial notice for an abuse of discretion. *See id.* ¶ 25.

¶9 Rule 201(b), Ariz. R. Evid., provides: “The court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” It is undisputed that the first part of the rule does not apply in the present case—the academic calendar of a particular California elementary school is not generally known within Pima County. *Cf. Univ. of Ariz. v. Pima Cnty.*, 150 Ariz. 184, 188, 722 P.2d 352, 356 (App. 1986) (fact University of Arizona continues to have men’s basketball team generally known in Pima County); *Williams v. Stewart*, 145 Ariz. 602, 603, 703 P.2d 546, 547 (App. 1985) (fact pools may become dirty without negligence generally known in jurisdiction); *Beck v. Jaeger*, 124 Ariz. 316, 317, 604 P.2d 18, 19 (App. 1979) (noting substantial cost-of-living increase since 1973 “a matter of common knowledge”). We therefore examine whether judicial notice of the calendar was proper under Rule 201(b)(2), Ariz. R. Evid.

¶10 Shtyrkova asserts judicial notice was improper under Rule 201(b)(2) because the California school calendar is subject to reasonable dispute. She relies on *Higgins*, in which this court held that a trial court abused its discretion in taking judicial notice of the purported fact that one spouse’s adulterous cohabitation necessarily had a “very serious and harmful detrimental effect upon the children.” 194 Ariz. 266, ¶¶ 19-21, 25, 981 P.2d at 271-72. The court

admitted into evidence “[by] extension,” he provides no authority supporting his argument, and we are aware of none.

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in *Higgins* reasoned that because this claim was neither generally known nor accurately and readily determined, judicial notice was improper. *Id.* But here, in contrast, the California school’s academic calendar can readily and accurately be determined by resort to sources—such as the school’s official website or the school’s administrative personnel⁴—whose accuracy cannot reasonably be questioned; therefore, the calendar is not subject to reasonable dispute. *Cf. Demer v. IBM Corp. Ltd. Plan*, 975 F. Supp. 2d 1059, 1081 n.9 (D. Ariz. 2013)⁵ (judicial notice of website’s contents proper where website’s authenticity, accuracy, and reliability undisputed); *Francarl Realty Corp. v. Town of East Hampton*, 628 F. Supp. 2d 329, 332 n.3 (E.D.N.Y. 2009) (judicial notice of website permissible where authenticity not challenged and capable of accurate and ready determination), *vacated in part on other grounds*, 375 Fed. App. 145 (2d Cir. 2010).

¶11 We further note Shtyrkova does not dispute the factual accuracy or authenticity of the California school calendar. Rather, she argues the trial court made factual errors in its comparison of the California and Massachusetts school calendars.⁶ Because there is no

⁴The record does not specify how the trial court actually obtained the calendar to prepare her under-advisement ruling. But under the plain language of the rule, the court’s actual source is irrelevant. To be judicially noticeable, the rule requires only that a fact “*can* be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” not that it in fact *was* determined from such sources. Ariz. R. Evid. 201(b) (emphasis added).

⁵The text of Ariz. R. Evid. 201(b) is identical to that of Fed. R. Evid. 201(b). “Where the language of an Arizona rule parallels that of a federal rule, federal court decisions interpreting the federal rule are persuasive but not binding” Ariz. R. Evid., prefatory cmt. to 2012 amend.

⁶For example, Shtyrkova disputes the court’s calculation of snow days and asserts that the Massachusetts school has an extra weekend off. To the extent Shtyrkova asks us to reweigh the evidence or substitute our evaluation of the facts, we decline to do

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reasonable dispute as to the California school calendar’s factual accuracy, authenticity, or reliability, we conclude the court did not abuse its discretion by taking judicial notice of the calendar. Ariz. R. Evid. 201(b)(2) and (c)(1).

Opportunity to Be Heard

¶12 Shtyrkova next argues that even if judicial notice of the calendar were proper, she was deprived of an opportunity to be heard as to the propriety of such judicial notice. She contends that under Rule 201(e), Ariz. R. Evid., she was entitled, as a matter of law, to an evidentiary hearing on her motion for reconsideration, including an opportunity to testify about the California school’s calendar and to question Gorbunov regarding the calendar. We review the interpretation of a rule de novo, *Schwab Sales, Inc. v. GN Const. Co.*, 196 Ariz. 33, ¶ 3, 992 P.2d 1128, 1130 (App. 1998), and we review a court’s ruling on a motion for reconsideration for an abuse of discretion, see *McGovern v. McGovern*, 201 Ariz. 172, ¶ 6, 33 P.3d 506, 509 (App. 2001).

¶13 A trial court may take judicial notice at any stage of the proceeding, even without first notifying a party. Ariz. R. Evid. 201(d) and (e). Upon timely request, a party is entitled to be heard regarding the propriety of taking judicial notice, including a request after the fact if the court took judicial notice before notifying the party. Ariz. R. Evid. 201(e). However, a party’s right to be heard under Rule 201(e) does not necessarily include a right to a formal, oral hearing. See *Amadasu v. The Christ Hosp.*, 514 F.3d 504, 507-08 (6th Cir. 2008); *Am. Stores Co. v. Comm’r of Internal Revenue*, 170 F.3d 1267, 1271 (10th Cir. 1999).

¶14 Shtyrkova relies on *In re Marriage of Kells*, 182 Ariz. 480, 897 P.2d 1366 (App. 1995), to support her contention that the trial court erred in denying her a formal hearing. But her reliance is misplaced. The question before this court in *Kells* was whether the trial court’s taking judicial notice of the truth of assertions made in a

so. See *Castro v. Ballesteros-Suarez*, 222 Ariz. 48, ¶ 11, 213 P.3d 197, 201 (App. 2009).

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party's affidavit that had not been entered in evidence was proper, and we held that it was not. 182 Ariz. at 483-84, 897 P.2d at 1369-70. The question of what procedural rights are included within the entitlement to be heard under Rule 201(e), Ariz. R. Evid., was not before the court in that case. *Id.* Here, unlike the situation in *Kells*, there is no dispute as to the factual accuracy of the judicially noticed information. *See id.*

¶15 Although a formal hearing may be appropriate in certain cases, there was no factual dispute here as to the accuracy of the calendar noticed. Shtyrkova's right to be heard under Rule 201(e) as to the propriety of judicial notice was satisfied when the trial court considered and denied her motion for reconsideration. Accordingly, the court did not abuse its discretion when it implicitly concluded that a formal hearing would be superfluous.

Best Interests of the Child Determination

¶16 Shtyrkova raises two arguments related to the trial court's child custody determination. First, she contends the court erred in weighing D.'s best interests under A.R.S. § 25-403(A) by finding the schedule of the California school afforded the non-custodial parent more opportunity for parenting time. Next, she asserts the court erred by failing to make specific findings as required by A.R.S. § 25-403(B). We review a court's determination in a child custody dispute for a clear abuse of discretion. *Owen v. Blackhawk*, 206 Ariz. 418, ¶ 7, 79 P.3d 667, 669 (App. 2003).

¶17 The trial court is given broad discretion to determine what will be most beneficial for the child, but the primary consideration must be the child's welfare. *Porter v. Porter*, 21 Ariz. App. 300, 302, 518 P.2d 1017, 1019 (1974); *see also* A.R.S. § 25-403(B) (requiring court in contested cases to "make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child"); *Jordan v. Rea*, 221 Ariz. 581, ¶ 16, 212 P.3d 919, 926 (App. 2009) (terms in parenting plan must be in child's best interests). The court abuses its discretion if the record, "viewed in the light most favorable to upholding the trial court's decision, is 'devoid of competent evidence to support' the

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decision.” *Little*, 193 Ariz. 518, ¶ 5, 975 P.2d at 110, quoting *Fought v. Fought*, 94 Ariz. 187, 188, 382 P.2d 667, 668 (1963).

¶18 Among the factors the trial court considered in its ruling was the time the non-custodial parent would have with D. based on a comparison of the California and Massachusetts schools’ academic calendars. The court considered the schools’ start and end dates, the dates and lengths of the schools’ vacations, and whether the schools had snow days and how many. The court found that “the schedule of the California school provides more opportunity for the non-primary residential parent to have parenting time than the Massachusetts school.”

¶19 Viewing the evidence in the light most favorable to upholding the trial court’s ruling, we disagree with Shtyrkova’s argument that the court abused its discretion in determining D.’s best interests with respect to the calendars. Comparing the two schools’ calendars is a complex task involving numerous competing considerations. Shtyrkova essentially asks us to reweigh the evidence presented and the calendars against each other. This we may not do. *Brown v. U.S. Fid. & Guar. Co.*, 194 Ariz. 85, ¶ 36, 977 P.2d 807, 814 (App. 1998) (court of appeals does not reweigh evidence); see also *Hutcherson v. City of Phx.*, 192 Ariz. 51, ¶ 12, 961 P.2d 449, 451 (1998) (noting trial court better positioned to weigh evidence than appellate court). The court’s ruling reflects that the court weighed the two calendars against each other with an eye toward D.’s interests in a good education and quality time with both parents. We see no clear error or abuse of discretion in its finding.

¶20 Shtyrkova next asserts the trial court abused its discretion by failing to make specific findings of fact on the record about all relevant factors among those enumerated in § 25-403(A), as required by § 25-403(B).⁷ Section 25-403(B) requires the court make

⁷Section 25-403(B), A.R.S., provides: “In a contested legal decision-making or parenting time case, the court shall make specific findings on the record about all relevant factors and the reasons for which the decision is in the best interests of the child.” Findings are required in physical custody cases as well as legal custody cases. *Owen*, 206 Ariz. 418, ¶ 11, 79 P.3d at 670.

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such findings on the record with respect to all relevant best-interests factors in contested custody cases, both in order to facilitate appellate review and in order to aid the trial court in its present and future determinations of the child's best interests. *Reid v. Reid*, 222 Ariz. 204, ¶ 18, 213 P.3d 353, 358 (App. 2009).

¶21 Shtyrkova correctly notes that it is an abuse of discretion for a trial court to fail to make these findings in a contested custody case. *See In re Marriage of Diezsi*, 201 Ariz. 524, ¶ 5, 38 P.3d 1189, 1191 (App. 2002). She relies on two cases in which this court reversed a trial court's ruling on the basis of inadequate § 25-403(B) findings: *Owen*, 206 Ariz. 418, ¶ 12, 79 P.3d at 670, and *Diezsi*, 201 Ariz. 524, ¶¶ 4-5, 38 P.3d at 1191. Both are distinguishable. In *Diezsi*, the trial court failed to make *any* findings on the record, 201 Ariz. 524, ¶ 5, 38 P.3d at 1191, and in *Owen*, the trial court merely listed some statutory factors by number and made detailed findings as to only one, 206 Ariz. 418, ¶ 12, 79 P.3d at 670-71.

¶22 Here, the trial court's under-advisement ruling reflects that it considered numerous factors in § 25-403(A) to determine D.'s best interests. In addition to the comparison of the two calendars discussed above, the court included findings on the record related to the parents' past interstate moves, the details of prior court-ordered custody arrangements, D.'s interpersonal and scholastic success to date, his involvement with extracurricular activities, the curricula of the relevant schools, and the size and location of each parent's current apartment. The court also noted that D.'s paternal grandmother lives with Gorbunov in California and provides childcare after school. These findings relate to § 25-403(A)(1), (2), and (3), at a minimum, and also are relevant to D.'s best interests in ways not explicitly enumerated in the statute. And the court reasonably could have concluded that none of the remaining enumerated statutory factors were relevant in this particular case. *See* § 25-403(A) ("The court shall consider all factors *that are relevant* to the child's physical and emotional well-being, including" the enumerated factors). The findings of fact in the court's ruling were sufficient to satisfy § 25-403(B). Accordingly, we conclude the court did not abuse its discretion.

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Friends in “Both States”

¶23 Shtyrkova contends the trial court abused its discretion by relying on its finding that D. had friends in “both states.” She reads “both states” to mean Massachusetts and California and maintains that the record does not support such a finding. We review a court’s factual findings for an abuse of discretion and do not reverse unless the findings are clearly erroneous. *In re Marriage of Gibbs*, 227 Ariz. 403, ¶ 6, 258 P.3d 221, 224 (App. 2011).

¶24 The relevant portion of the trial court’s under-advisement ruling is as follows:

4. On 7-29-10, in pertinent part, the Court ordered that [D.] would attend school for the fall semester in Massachusetts and for the spring semester in Arizona.

5. The Petitioner and Respondent have followed this order, and agree that although there have been some difficulties with the change of curricula between the two schools, [D.] has done well in both schools. [D.] has friends in both states. [D.] has had extra-curricular activities in both states.

¶25 Shtyrkova misreads the ruling. Although the trial court found that “[D.] has friends in both states,” in context it is clear that “both states” refers to Massachusetts and Arizona, as explicated earlier in the ruling, not Massachusetts and California, as Shtyrkova argues. “[T]his order” mentioned in Paragraph 5 references the court’s July 2010 order discussed in Paragraph 4, which pertained only to Massachusetts and Arizona. The reference in Paragraph 5 to D.’s prior success in “both schools” further confirms this reading, because D. had not yet attended school in California as of the September 2013 hearing upon which these findings are based. Thus, “both states” in Paragraph 5 can refer only to Massachusetts and Arizona. There is ample evidence in the record to support a finding that D. had friends in both Massachusetts and Arizona.

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Accordingly, such finding was not clearly erroneous, nor was it an abuse of discretion to rely on it.

The Time Limit and Due Process

¶26 Shtyrkova argues the trial court abused its discretion by imposing a time limit on her presentation of evidence at the September 2013 hearing and denying her request for a continuance. She maintains that in doing so, the court violated her federal and state constitutional rights to due process of law. We review a court's imposition of time limits for an abuse of discretion, *Gamboa v. Metzler*, 223 Ariz. 399, ¶ 13, 224 P.3d 215, 218 (App. 2010), and we review constitutional issues de novo, *Carlson v. Ariz. State Pers. Bd.*, 214 Ariz. 426, ¶ 12, 153 P.3d 1055, 1059 (App. 2007).

¶27 A trial court has broad authority to impose and enforce time limits on proceedings, as long as those limits are reasonable under the circumstances. Ariz. R. Fam. Law P. 22(1) and 77(B)(1) (authorizing court to impose reasonable time limits on all proceedings and limit time to scheduled time); *Gamboa*, 223 Ariz. 399, ¶ 13, 224 P.3d at 218; *see also* Ariz. R. Evid. 611(a)(2) (court should exercise reasonable control over presentation of evidence to "avoid wasting time"). Rigid time limits generally are disfavored, but a court's discretion is nevertheless broad. *Gamboa*, 223 Ariz. 399, ¶ 13, 224 P.3d at 218. Yet, a time limit may not infringe on a party's right to due process, which includes notice and an opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333, 348 (1976), quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Huck v. Haralambie*, 122 Ariz. 63, 65, 593 P.2d 286, 288 (1979). Due process is "flexible," and the procedural protections it calls for vary according to the particular situation. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972); *see also United States v. Woods*, 931 F. Supp. 433, 438-41 (E.D. Va. 1996) (one-hour time limit to present evidence at administrative hearing did not violate due process right to be heard in meaningful manner).

¶28 Here, the trial court did not abuse its discretion in placing a time limit on Shtyrkova's presentation of evidence. In the proposed order she provided to the court in conjunction with her July 2013 petition to modify parenting time, she suggested the

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hearing should be two hours long, and the court adopted her proposed order. When the court divided time equally between the parties, it was not acting capriciously or unreasonably. To the contrary, in attempting to ensure the hearing would end within the scheduled time, the court was exercising the broad discretion in trial management afforded it under the rules. *Gamboa*, 223 Ariz. 399, ¶ 16, 224 P.3d at 218; see Ariz. R. Fam. Law P. 22(1) and 77(B)(1); Ariz. R. Evid. 611(a)(2). Shtyrkova had an opportunity to present considerable evidence at the hearing—including approximately an hour of testimony and seven exhibits—touching on many of the relevant factors enumerated in A.R.S. § 25-403(A). The time limit did not deprive Shtyrkova of an opportunity to be heard in a meaningful manner. The court did not abuse its discretion.

¶29 Furthermore, even if we were to assume the trial court abused its discretion, Shtyrkova would still need to show she was prejudiced by the error to warrant reversal. *Brown*, 194 Ariz. 85, ¶ 30, 977 P.2d at 813. She would be unable to do so, however, because she failed to make an offer of proof at the post-judgment hearing providing a reasonably detailed description of the testimony that the time limit supposedly prevented her from presenting. See Ariz. R. Evid. 103(a)(2); *Gamboa*, 223 Ariz. 399, ¶¶ 17-18, 224 P.3d at 218-19; *State v. Towerly*, 186 Ariz. 168, 179, 920 P.2d 290, 301 (1996). Her various attempts to make such an offer of proof now in her opening and reply briefs will not do the job—the error was not preserved below and is waived. *Chapman v. Levi-Strauss*, 145 Ariz. 411, 412, 701 P.2d 1219, 1220 (App. 1985); 1 Daniel J. McAuliffe & Shirley McAuliffe, *Ariz. Prac., Law of Evidence* § 103:3 (4th ed.) (failure to make offer of proof waives claim of error in exclusion of evidence).

¶30 Shtyrkova also appears to argue the trial court's failure to tell her at the beginning of the hearing that she would have only one hour to present her case constitutes a lack of notice that is repugnant to due process. But she fails to develop this argument adequately and cites no authority to support it. It therefore is waived and we do not address it further. See *Sholes v. Fernando*, 228 Ariz. 455, ¶ 16, 268 P.3d 1112, 1118 (App. 2011) (appellate court will not address issues or arguments waived by party's failure to

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develop them adequately); Ariz. R. Civ. App. P. 13(a)(6) (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”).

Disposition

¶31 For the reasons stated above, the trial court’s judgment is affirmed.