

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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CHRISTOPHER COMISKEY,  
*Appellant,*

*v.*

DANIELLE D. REYES,  
*Appellee.*

No. 2 CA-CV 2014-0097  
Filed December 24, 2014

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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NOT FOR PUBLICATION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).

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Appeal from the Superior Court in Pima County

No. DV20140480

The Honorable Sharon Douglas, Judge

The Honorable Sean E. Brearcliffe, Judge

**AFFIRMED**

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COUNSEL

Christopher Comiskey, Tucson  
*In Propria Persona*

Mesch, Clark & Rothschild, P.C., Tucson  
By Gary J. Cohen  
*Counsel for Appellee*

**MEMORANDUM DECISION**

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

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ESPINOSA, Judge:

¶1 Appellant Christopher Comiskey contends the trial court erred in granting and affirming an order of protection in favor of Appellee Danielle Reyes and her two children L.C. and I.R-C. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 We view the facts in the light most favorable to upholding the trial court's ruling. *Mahar v. Acuna*, 230 Ariz. 530, ¶ 2, 287 P.3d 824, 826 (App. 2012). Comiskey and Reyes are the parents of a child in common, L.C. They have never been married. In March 2014 Reyes petitioned for an order of protection against Comiskey, alleging that two days earlier he had drugged, beaten, and sodomized the family dog. Following an ex parte hearing with Reyes, the court found Comiskey had "committed an act of domestic violence against [Reyes] within the last year." It then issued an order of protection mandating that Comiskey have no contact with Reyes and her children.

¶3 In May 2014, Comiskey requested a hearing to "determine . . . [his] lawful visitation rights" with the children. The trial court issued a notice setting a hearing at which the "parties are to present testimony and evidence as to whether the Court should continue, revoke, or modify the protective order." At the hearing, Comiskey and Reyes testified and the court admitted into evidence five exhibits, including a police report detailing the investigation into the injuries to the family dog, the dog's medical emergency exam, and photographs of the dog's injuries. Based on the evidence, the court found sufficient grounds for the order of protection to remain in place and ordered that it remain in full force and effect.

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¶4 Comiskey timely appealed. We have jurisdiction pursuant to A.R.S. §§ 12-2101(A)(1), -2101(A)(5)(b), and Rule 9(B)(2) of the Arizona Rules of Protective Order Procedure.

**Order of Protection**

¶5 Comiskey argues that the trial court erred by issuing a protective order against him based on “false allegations,” with no supporting evidence.<sup>1</sup> We review the grant of an order of protection for an abuse of discretion. *Cardoso v. Soldo*, 230 Ariz. 614, ¶ 16, 277 P.3d 811, 816 (App. 2012). “The court abuses its discretion when it makes an error of law in reaching a discretionary conclusion or ‘when the record, viewed in the light most favorable to upholding the trial court’s decision, is devoid of competent evidence to support the decision.’” *Michaelson v. Garr*, 234 Ariz. 542, ¶ 5, 323 P.3d 1193, 1195 (App. 2014), quoting *Mahar v. Acuna*, 230 Ariz. 530, ¶ 14, 287 P.3d 824, 828 (App. 2012). Questions of law are reviewed de novo. *Id.*

¶6 An order of protection shall be continued by the court if the plaintiff demonstrates by a preponderance of the evidence that “[t]he defendant has committed an act of domestic violence within the past year.” A.R.S. § 13-3602(E)(2); Ariz. R. Prot. Order P. 8(F). Pursuant to A.R.S. § 13-3601(A), “domestic violence” includes “[i]ntentionally or knowingly subject[ing] any animal to cruel mistreatment” where the relationship between the victim and defendant is one of persons residing or having resided in the same

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<sup>1</sup>Reyes asserts that Comiskey’s brief is deficient, particularly for failing to cite appropriately to the record and relevant authority, as required by Rule 13(a), Ariz. R. Civ. App. P. We agree, and, as Reyes correctly notes, we may dismiss an appeal when the appellant fails to comply with the Rules of Civil Appellate Procedure. See *Adams v. Valley Nat’l Bank of Ariz.*, 139 Ariz. 340, 342-43, 678 P.2d 525, 527-28 (App. 1984). It is well established that pro se litigants are entitled to “no more consideration” than parties represented by counsel. *Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, ¶ 16, 17 P.3d 790, 793 (App. 2000). In our discretion, however, we address his argument.

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household and/or they have a child in common. A.R.S. §§ 13-3601(A)(1), (2); 13-2910(A)(9).

¶7 Reyes indicated in her petition for order of protection that she and Comiskey “[l]ive[d] together now or lived together in the past” and had a “[c]hild in common.” Accordingly, assuming as we must<sup>2</sup> that evidence was presented at the hearing and accepted by the trial court, Comiskey and Reyes were in a qualified relationship for an order of protection under § 13-3601(A) and § 13-3602(E). Furthermore, we presume that the court found evidence of cruelty to Reyes’s dog by Comiskey. *See Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995). We cannot say, therefore, that the court abused its discretion in granting and affirming the order of protection.<sup>3</sup>

**Disposition**

¶8 Based upon the foregoing, the order of protection is affirmed.

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<sup>2</sup>Comiskey has not provided us with a transcript of the hearing on the protective order, therefore we must presume the record supports the court’s findings. Ariz. R. Civ. App. P. 11(b)(1); *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (1995).

<sup>3</sup>Comiskey requests this court grant him visitation and custodial rights to his children. He had also made such a request of the court below. Such issues, however, are not properly addressed in a protective order proceeding. Rather, topics such as paternity, custody, and parenting time “may only be addressed by the superior court in a separate action under Title 25 of the Arizona Revised Statutes.” Ariz. R. Prot. Order P. 4(B)(1).