IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

IN RE THE MARRIAGE OF

NATHAN N. VILLA,
Petitioner/Appellant,

and

ROXANA V. VILLA NKA NATHALIA ARASELY O'NEAL QUEEN,
Respondent/Appellee.

No. 2 CA-CV 2025-0024-FC
Filed November 24, 2026

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NOT FOR PUBLICATION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)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. D20222811
The Honorable Gilbert Rosales Jr., Judge Pro Tempore

AFFIRMED IN PART; VACATED IN PART AND REMANDED

COUNSEL

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Nathalia Queen, Tucson
In Propria Persona

MEMORANDUM DECISION

Vice Chief Judge Eppich authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Staring concurred.

E P P I C H, Vice Chief Judge:

¶1 In this dissolution of marriage action, Nathan Villa appeals from the trial court's legal decision-making and parenting time orders. He also challenges the court's use of a court-appointed advisor and the arrears, child support, and spousal maintenance judgments. For the following reasons, we affirm in part, vacate in part, and remand.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to affirming the trial court's order. *In re Marriage of Foster*, 240 Ariz. 99, ¶ 2 (App. 2016). Villa and Nathalia Queen married in June 2014 and had two children together. In October 2022, Villa petitioned for dissolution of marriage. Among other issues, Villa and Queen disputed parenting time, legal decision-making, child support, and spousal maintenance.

¶3 A year later, the court conducted the parties' trial. At the conclusion of the trial, however, the court advised the parties that it was appointing a court-appointed advisor (CAA) because it did not have adequate information and "a lot of allegations [were] being thrown" each way by the parties. Shortly thereafter, the court appointed a CAA in the case to investigate and make recommendations regarding the children's best interests.

¶4 In the months after trial, the court conducted several review hearings in response to various motions for temporary orders filed by both parties and requests to enforce those orders. The court ultimately issued a ruling in November 2024, establishing joint legal decision-making and awarding Queen primary parenting time.[1] The court also ordered Villa to

[1]In May 2026, Villa submitted a verified petition to modify legal decision-making and parenting time. But the court kept its parenting time and legal decision-making orders in place.

pay child support arrears, child support, and spousal maintenance.[2] This appeal followed, and we have jurisdiction pursuant to A.R.S. §§ 12-120.21 and 12-2101(A)(1).[3]

Discussion

I. Legal Decision-Making and Parenting Time

¶5 Villa argues the trial court erred in ordering joint legal decision-making and in allocating primary parenting time to Queen. We review a trial court's award of legal decision-making and parenting time for an abuse of discretion. *Gish v. Greyson*, 253 Ariz. 437, ¶ 31 (App. 2022). An abuse of discretion occurs when the court fails to consider the evidence, its findings are unsupported by substantial evidence in the record, or it commits an error of law in reaching a conclusion. *Walsh v. Walsh*, 230 Ariz. 486, ¶ 9 (App. 2012). We review factual findings, however, for clear error. *Kelsey v. Kelsey*, 186 Ariz. 49, 51 (App. 1996).

¶6 In determining legal decision-making and parenting time, the trial court must make its decision in accordance with the "best interests of the child." A.R.S. § 25-403(A). And it must weigh all factors relevant to the child's well-being. *Id.* As relevant here, the court must consider, among other factors, the mental health of the individuals, whether one parent is more likely to allow the child contact with the other parent, and whether a parent has abused drugs or alcohol. *Id.*; A.R.S. § 25-403.04.

A. Mental health

¶7 Villa first argues the trial court erred by awarding Queen "any parenting time" in light of her "mental health issues." When determining legal decision-making and parenting time, the court must

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[2]In July 2025, Villa submitted a verified petition to modify the spousal maintenance, child support, and arrears orders. The court denied the petition.

[3]The dissolution proceeding also involved the division of property and debts. The trial court declined to address the property and debt disputes, however, because of a bankruptcy court order staying the court's authority to resolve the property issues. Seeing "no just reason for delay," the court entered its ruling on the other matters as a final judgment pursuant to Rule 78(b), Ariz. R. Fam. Law P.

consider the "mental and physical health of all individuals involved." § 25-403(A)(5).

¶8 In its ruling, the trial court noted Queen had "a concerning history of mental health instability that has had profound implications for her global functioning." The court reviewed Queen's medical records, which indicated she had prior "suicide attempts and panic attacks" but was engaged in counseling and under the care of a psychiatrist. Ultimately, the court determined that Queen's ability to exercise parenting time depended on the management of her mental health concerns but that "[s]he appears to be maintaining mental health stability at present."

¶9 Discussing § 25-403(A)(5), the trial court noted "concerning aspects of both parties' mental health." The court addressed reports that Villa drank alcohol in excess, leading to "angry outbursts and inappropriate physical discipline toward the children." And it also discussed Villa's arrests for driving under the influence and disorderly conduct. Regarding Queen, the court noted that Queen was engaged in mental health treatments and "participating in the services recommended by her therapist." The record supports these findings, as Queen informed the court at a review hearing that she was engaged in counseling.

¶10 Villa's argument amounts to a request for us to reweigh the evidence, which we will not do. *See Hurd v. Hurd*, 223 Ariz. 48, ¶ 16 (App. 2009). The trial court made specific findings not only as to the mental health of both parents but as to all relevant factors in § 25-403(A). And ultimately, "the trial judge is in the best position to determine the issues" and is therefore given "wide discretion in deciding what will be in the best interests of the child." *Black v. Black*, 114 Ariz. 282, 284 (1977). Because the court's mental health findings are supported by the record, we conclude Villa has failed to show an abuse of discretion with respect to the mental health of the parties. *See Walsh*, 230 Ariz. 486, ¶ 9.

B. Contact with other parent

¶11 Next, Villa contends the trial court abused its discretion because Queen "wrongfully withheld the children" from him. Specifically, Villa argues Queen only provided access to the children when he gave her money and that Queen's motions to the court attempted to terminate Villa's "access to the children." Under § 25-403(A)(6), the court must consider "[w]hich parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent."

¶12 Here, the trial court found that both "parties have cooperated to share parenting time." While Villa did testify there was a period in which Queen wanted money in exchange for him seeing the children, he also testified that she had been cooperative "lately" in letting him see the children. Indeed, Villa testified that Queen was "being real easy nowadays" in letting him see the children. In sum, there is substantial evidence to support the court's finding that the parties will abide by the court's parenting time orders. *See Walsh*, 230 Ariz. 486, ¶ 9. Thus, the court did not abuse its discretion by coming to this conclusion. *See Gish*, 253 Ariz. 437, ¶ 31.

C. Substance abuse

¶13 Villa also argues the trial court failed to properly consider Queen's "substance abuse issues" pursuant to § 25-403.04 and that the court "should have ordered [Queen] to complete no less than six months of random, weekly substance tests." In its under-advisement ruling, the court ultimately concluded that § 25-403.04 was "[n]ot applicable." We agree with Villa that the court erred in failing to apply § 25-403.04.

¶14 Section 25-403.04(A) directs the trial court how to proceed when it determines that a parent has abused drugs within twelve months of the filing of a petition. In the present case, the record clearly establishes that Queen abused substances within twelve months of the filing of Villa's petition in October 2022. Indeed, Queen testified she had used fentanyl without a prescription just a "few months" before the trial in late 2023. Further, a 2022 psychiatric evaluation produced at trial established Queen had reported using fentanyl multiple times a day. It also stated—and Queen confirmed at trial—that she said she had recently "attempted suicide by fentanyl overdose." The evaluation further noted that Queen had a history of "opioid dependence" and that she had used opioids "daily for the past 5 years," including "fentanyl" and "oxy" with "5-10 pills a day." In sum, the record is replete with evidence establishing Queen had abused fentanyl in the relevant time period. By summarily concluding that § 25-403.04 was inapplicable, the court clearly erred.[4]

[4]In its under advisement ruling, the court's finding that the statute was not applicable appears under a heading reading: "*12. In addition to the foregoing, the Court must also consider any history of domestic violence, drug related offenses of either party, and any sexual offenses (A.R.S. § 25-403.03, .04, and .05).*" It appearing that this language may be part of a standard form of order, and because the required substance abuse considerations under

¶15 Section 25-403.04 provides that a determination of substance abuse by a parent gives rise to a rebuttable presumption against legal decision-making by that parent. In determining whether the parent has rebutted that presumption, the court must consider certain evidence, including, at a minimum, the results of six months of random drug testing. § 25-403.04(B)(2).

¶16 Here, the record suggests that Queen underwent two drug tests, which are the only tests the trial court appeared to rely on in arriving at its decision.[5] Because the court erred in failing to apply the presumption as required by the statute, we vacate the portion of the judgment awarding joint legal decision-making.

¶17 We note that, by its terms, the presumption in § 25-403.04 only applies to legal decision-making. § 25-403.04(A). Nevertheless, the statute implicates parenting time insofar as it requires findings that both legal decision-making and parenting time arrangements ordered by the trial court appropriately protect the child. § 25-403.04(A)(2). Moreover, A.R.S. § 25-403.02(B) requires that a parenting plan be consistent with the child's best interests in § 25-403.04. Because the court failed to consider the proper application of the latter statute, notwithstanding its conclusion that substance abuse was not an "immediate concern," we remand and direct the trial court to consider whether changes to parenting time are warranted under § 25-403.04.[6]

II. Court-Appointed Advisor

¶18 Villa argues the trial court erred in appointing the CAA after trial and improperly delegated best interest findings to her. Because the court appointed the CAA during the pendency of a parenting time and legal decision-making proceeding, we review for an abuse of discretion. *See Gish*,

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§ 25-403.04 are not limited to "offenses," we encourage the trial court to modify any standardized language in the form accordingly, so as to reduce the risk of error in future cases.

[5]Although the two tests were administered six months apart, that does not constitute "random drug testing for a six month period" as required by § 25-403.04(B)(2).

[6]To the extent that the court decides to make changes to parenting time, corresponding changes to the child support judgment may be warranted as well. *See* A.R.S. § 25-320 app. § V.

253 Ariz. 437, ¶ 31; *see also* Ariz. R. Fam. Law P. 10.1 (CAA appointment is discretionary).

¶19 Under A.R.S. § 25-406, a "court may order an investigation and report" in contested legal decision-making and parenting time proceedings. The court can appoint a CAA for any reason it deems appropriate. Ariz. R. Fam. Law P. 10.1(a). And a party may call the advisor as a witness and cross-examine the advisor at a hearing. Ariz. R. Fam. Law P. 10.1(d)−(e).

¶20 Due to "concerning allegations the parties had made against each other" at trial, the court designated a CAA to help it determine the veracity of the parties' claims. After several months of investigation, the CAA drafted a report. The parties discussed an interim report in April 2024 at a review hearing, and they discussed the final report in a July 2024 review hearing. And at both hearings, the CAA was present.

¶21 We disagree with Villa's argument that the trial court erred by appointing the CAA after the trial concluded. The statute provides no timing requirements for a CAA's appointment. § 25-406. Nor do the Arizona Rules of Family Law Procedure. Ariz. R. Fam. Law P. 10.1. Rule 10.1(a) states that the court may appoint an advisor "[f]or any reason the court deems appropriate." Villa cites no authority, and we find none, that requires the court to appoint an advisor prior to or during trial.

¶22 Next, we reject Villa's assertion that he did not have an opportunity to examine the CAA. In its appointment order, which the trial court issued post-trial, the court explicitly recognized that the "[CAA] may be cross-examined as a witness regarding the advisor's report," as Rule 10.1 provides. The court conducted multiple review hearings after its post-trial appointment of the CAA. Yet in none of those hearings did Villa request permission from the court to question the CAA or put forth his own witnesses.

¶23 We further disagree with Villa's argument that a CAA should not have been appointed because the trial court could have ordered a mental examination to resolve any issues related to "[Queen's] mental condition." Rule 10.1(a) allows the court to appoint a CAA "[f]or any reason the court deems appropriate." Thus, there was no error.

¶24 Villa also argues the trial court improperly delegated its duty to make best-interest findings to the CAA. We disagree. Indeed, as Villa correctly asserts, "[t]he best interests of the child . . . are for the court alone

to decide." *DePasquale v. Superior Court*, 181 Ariz. 333, 336 (App. 1995). But here, the court did not "delegate a judicial decision" nor "abdicate its responsibility to exercise independent judgment." *Id.* While the court did consider the CAA's findings, its November 2024 ruling is also replete with references made to trial testimony, exhibits, and other documents in the record. It did not merely adopt the CAA's recommendations. *Cf. id.* (trial court erred by declaring it "would order whatever interim custody the psychologist might recommend"). The court weighed the evidence before it, made best-interest findings, and rendered an independent judgment. *See id.* Accordingly, we conclude the court did not abuse its discretion in appointing and relying on the CAA. *See Gish*, 253 Ariz. 437, ¶ 31.

III. Child Support

¶25 Next, Villa argues the trial court failed to credit him with the appropriate amount of past-paid support and miscalculated its award of child support. We review an award of child support for an abuse of discretion. *Nash v. Nash*, 232 Ariz. 473, ¶ 5 (App. 2013). And we "accept the court's findings of fact unless they are clearly erroneous, but we draw our own legal conclusions from facts found or implied in the judgment." *Id.*

A. Arrears

¶26 On appeal, Villa argues that the trial court miscalculated its arrears judgment because it failed to consider prior payments he had made from September 2022 to September 2023. Before trial, in May 2023, the court ordered Villa to pay $1,000 in monthly "family support." In its November 2024 ruling, the court awarded Queen an arrears judgment of $16,000 for past-due child support for the period of June 2023 to September 2024, with the court finding that Villa failed to "submit proof of having made such payments into evidence." The court may order an arrears judgment against a parent who has failed to pay previously ordered child support. *See Jarvis v. Jarvis*, 27 Ariz. App. 266, 267-68 (1976).

¶27 We are unpersuaded by Villa's argument. While Villa introduced some evidence of payments made to Queen, it is unclear from the record whether these payments were, in fact, the family support payments the trial court had ordered. Indeed, many of the payments certainly were not, as they were made in 2022 and early 2023—before the court's child support order in May 2023. Villa, however, did introduce evidence of payments he had made to Queen from June 2023 to September 2023, after the court's order. Yet none of those payments were $1,000, and none stated they were for family support. The only payment with a

description during that period noted it was for the "electric bill," even though the court had ordered Villa to pay the utility companies directly. Villa also argues that he should be credited with his share of the amount that Queen received from a tax refund check. But that check was received months before the court's order and therefore cannot be part of the court's ordered payments.

¶28 At the conclusion of trial, the court instructed the parties to submit written closing arguments to the issues of "child support only." And the court asked the parties to make arguments as to whether Villa's payments were "in fact child support." Villa failed to do so. In his written response, Villa merely stated that "[c]hild [s]upport shall be calculated pursuant to the Arizona Child Support Guidelines." And though the court explicitly asked Villa to produce supporting documentation with respect to these purported child support payments in his written closing argument, Villa provided none.

¶29 In between the trial's conclusion and the court's November 2024 ruling, the court conducted three review hearings, in April, July, and September of 2024. Villa submitted no exhibits during the April and July hearings. The court did admit exhibits from Villa in the September hearing, but the only exhibit pertaining to child support was a child support worksheet Villa completed. Like he did at trial, Villa argued that he should be credited with half the amount Queen received from a tax refund check that was addressed to both of them. But, once again, the record reflects that check was received in October 2022, before the court's order in May 2023.

¶30 Thus, it was not clearly erroneous for the trial court to find that Villa failed to submit evidence of past-due child support payments. *See Nash*, 232 Ariz. 473, ¶ 5. The court did not abuse its discretion in ordering a $16,000 arrears judgment. *See id.*

B. Child support income

¶31 Villa also contends the trial court miscalculated his child support income. In its November 2024 ruling, the court ordered Villa to make monthly payments of $1,174 to Queen for child support. In doing so, the court found Villa's annual child support income to be $128,399. The court drew those numbers from Villa's 2021 tax return, which Queen provided. That tax return shows Villa's gross sales from his landscaping business that year totaled $218,000. It also states Villa's business expenses: $81,000 in supplies and $7,560 in other expenses. And it shows Villa paid a self-employment tax of $2,082.

¶32 The Arizona Child Support Guidelines provide: "Child Support Income from self-employment . . . means gross receipts minus ordinary and necessary expenses as determined by the court to be required to produce the income. Ordinary and necessary expenses include one-half of the self-employment tax actually paid." A.R.S. § 25-320 app. § II(A)(1)(e). Here, the trial court properly applied the guidelines. When subtracting supplies, expenses, and half of the self-employment tax paid from Villa's gross receipts, the amount equals the court's finding. *See id.*

¶33 We reject Villa's assertion that the trial court should have found his income to be $6,000 a month. The court found the 2021 tax return to be the best evidence of Villa's income. And the record supports that finding. Villa failed to provide documentation, including tax returns, to the court, instead relying on a financial affidavit without any supporting documents to substantiate his claim that his earning capacity had decreased. We will not disturb the trial court's finding, since we "defer to the trial court's determination of . . . the weight to give conflicting evidence." *Gutierrez v. Gutierrez*, 193 Ariz. 343, ¶ 13 (App. 1998).

¶34 And to the extent Villa argues the trial court erred by failing to deduct his self-employment tax paid during 2023, we disagree. The court relied on what it considered the best evidence before it—Villa's 2021 tax return. The court did not consider, nor have before it, Villa's 2023 tax return. We assume Villa intended to argue that the court failed to consider his self-employment tax paid during 2021. But, as we addressed above, the court properly applied that amount in its calculation of Villa's child support income.

¶35 Moreover, we disagree with Villa's argument that the trial court erred by reducing Queen's child support income by $738, for support of her two children not common to Villa, "because she receives child support from the father of those children." The child support guidelines state that "[i]f a parent is the primary residential parent of a child from other relationships, that parent's Child Support Income may be reduced" by following the "simplified application of the Guidelines." § 25-320 app. § II(B)(2)(d). This application requires the court to determine the parent's child support income and number of other children, and to then consult the schedule of basic support obligation in the Child Support Guidelines. *See id.*

¶36 The record indicates that Queen was the primary residential parent of two other children not common to Villa. On her financial affidavit, Queen indicated that she has two other children, and she also

testified that she was their "primary caregiver." Therefore, § 25-320 app. § II(B)(2)(d) applies. Here, the trial court found that Queen was only qualified to obtain minimum wage employment, leading to the conclusion that her monthly child support income was $2,487.33. On the schedule of basic support obligation, the closest child support income listed is $2,500.[7] § 25-320 app. (Schedule of Basic Support Obligation). For a parent making $2,500 a month with two children, the parent's child support income may be reduced by $738—the amount ordered by the court. *See id.*; § 25-320 app. § II(B)(2)(d). Accordingly, it was not error for the court to deduct $738 from Queen's child support income. The court did not abuse its discretion with respect to its child support judgment. *See Nash*, 232 Ariz. 473, ¶ 5.

IV. Spousal Maintenance

¶37 Finally, Villa argues the trial court erred by awarding spousal maintenance, or, alternatively, the award was excessive. We review a spousal maintenance award for an abuse of discretion. *Boyle v. Boyle*, 231 Ariz. 63, ¶ 8 (App. 2012). And we will affirm the judgment if any reasonable evidence supports it. *Helland v. Helland*, 236 Ariz. 197, ¶ 22 (App. 2014).

¶38 In the present case, the trial court found Queen was entitled to an award of spousal maintenance under A.R.S. § 25-319(A)(1), (2), and (4). The court considered and made findings as to all thirteen factors listed in § 25-319(B). And, having considered those factors, it ordered Villa to pay Queen spousal maintenance of $2,000 per month for thirty-six months, commencing December 2024.

¶39 As relevant here, spousal maintenance is appropriate when the spouse seeking maintenance "[l]acks sufficient property" to provide for the spouse's reasonable needs, "[l]acks earning ability in the labor market that is adequate to be self-sufficient," or "[h]as made a significant financial or other contribution to the education, training, vocational skills, career or earning ability of the other spouse or has significantly reduced that spouse's income or career opportunities for the benefit of the other spouse." § 25-319(A)(1), (2), (4). Section 25-319(B) provides multiple factors for

[7]To determine the basic child support obligation, the Child Support Guidelines instruct courts to "[l]ocate the income closest to the parents' Combined Adjusted Child Support Income figure on the Schedule of Basic Support Obligation and select the column for the number of children involved." § 25-320 app. § III(A)(1).

determining the amount and duration of spousal maintenance, including the length of the marriage, the ability of the spouse seeking maintenance to meet his or her needs, and the spouses' comparative earning abilities.

¶40 Villa argues the award should be abandoned or reduced because Queen "has chosen not to work" and "is likely unemployed due to her choice not to address her substance problem." Additionally, he contends his earning capacity has been "drastically reduced." But these arguments amount to a request for this court to reweigh the evidence, which we will not do. *See Andrews v. Andrews*, 252 Ariz. 415, ¶ 7 (App. 2021).

¶41 Indeed, we conclude that the trial court's spousal maintenance award and related findings are supported by reasonable evidence. *See Helland*, 236 Ariz. 197, ¶ 22. The court consulted the factors in § 25-319(B) and made detailed findings on each applicable factor. As part of those findings, the court concluded that Queen was only eligible for minimum wage employment, noting that she has no formal education or skills certification. Additionally, the court noted Villa's landscaping business has generated income of more than $200,000 per year and that Queen did not work outside the home during their marriage; instead, she managed the household and raised their children, thereby increasing Villa's earning capacity.

¶42 The record supports these findings. Queen testified that she was the only parent who took care of the children, and in her financial affidavit, she stated she was a "[s]tay at home mom." She also testified that she was planning to go back to school after her separation from Villa but was unable to for financial reasons. Instead, she returned to her job as an exotic dancer. And prior to that, the last job she indicated she had was in 2013, when she worked in a food truck. Moreover, Villa's 2020 and 2021 tax returns display gross receipts of over $200,000 in both years. And, as we addressed above, Villa provided no supporting documentation—at trial or at a review hearing—for the court to confirm whether his earning capacity did, in fact, decrease.

¶43 Finally, we reject Villa's argument that thirty-six months of spousal maintenance was excessive. Villa and Queen married in June 2014. For spousal maintenance purposes, their marriage length was 100 months.[8]

[8]Pursuant to A.R.S. § 25-319 app. § IV(B)(1), the duration of a marriage for spousal maintenance purposes "is the number of months from the date of marriage to the date of service of process of the dissolution or legal separation petition." Here, the parties were married on June 27, 2014. And

And, for marriages with durations between 60 months and 120 months, the Arizona Spousal Maintenance Guidelines mandate a spousal maintenance award lasting between six months and forty-eight months. A.R.S. § 25-319 app. § IV(B)(2)(a)(iii). The trial court's award of thirty-six months' spousal maintenance falls squarely within that range. *See id.* We therefore conclude the court did not abuse its discretion. *See Boyle*, 231 Ariz. 63, ¶ 8.

Disposition

¶44 For the foregoing reasons, we affirm in part, vacate in part, and remand for the trial court to apply § 25-403.04 in accordance with this decision.

Queen was served with the petition for dissolution on October 29, 2022. Thus, their marriage length for purposes of spousal maintenance was just over 100 months.