

### **PARTY'S DUTY TO ENSURE COMPLETE RECORD**

Volunteer lawyers should advise Clinic clients that it is important to ensure that the record includes all transcripts, exhibits, and other materials necessary for considering and deciding the issues on appeal. For example, if the magistrate or judge made oral findings necessary for considering the issue presented, then a transcript of those oral findings is necessary. A litigant's failure to include that transcript will result in the Court of Appeals refusing to consider the issue. Attached is an example of an appellate decision in which the Court of Appeals declined to address the litigant's contentions for failure to provide the necessary transcripts.

Litigants can find forms and instructions—including forms for designating transcripts and adding to the record—on the Court of Appeals' website at:

[https://www.courts.state.co.us/Forms/Forms\\_List.cfm?Form\\_Type\\_ID=283](https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=283)

21CA0119 Parental Resp Conc CBFC 12-09-2021

COLORADO COURT OF APPEALS

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Court of Appeals No. 21CA0119  
Mesa County District Court No. 20DR404  
Honorable William T. McNulty, Magistrate

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In re the Parental Responsibilities Concerning C.B.F.C., A.C., and A.C.F.,  
Children,

and Concerning J. Guadalupe Cortes Aguilera,

Appellant,

and

Ana Christina Figueroa Gomez,

Appellee.

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JUDGMENT AFFIRMED

Division III  
Opinion by JUDGE LIPINSKY  
Furman and Brown, JJ., concur

**NOT PUBLISHED PURSUANT TO C.A.R. 35(e)**  
Announced December 9, 2021

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J. Guadalupe Cortes Aguilera, Pro Se

No Appearance for Appellee

¶ 1 In this proceeding concerning the allocation of parental responsibilities, J. Guadalupe Cortes Aguilera (father), appearing pro se, appeals those portions of the permanent orders relating to parenting time and child support. We affirm.

### I. Relevant Facts

¶ 2 Father and Ana Christina Figueroa Gomez (mother) never married but are the parents of three children. In July 2020, father petitioned for an allocation of parental responsibilities. In January 2021, a magistrate, with the parties' consent, held a contested permanent orders hearing. *See* C.R.M. 6(b)(2). At that time, father was living in Wheat Ridge and mother was living in Grand Junction with the children. Following the hearing, the magistrate

- found that mother's parenting plan was in the children's best interests and adopted it with some exceptions;
- named mother the children's primary residential parent;
- directed father to exercise his parenting time in Grand Junction until he was able to secure suitable housing for the children;
- established a holiday and summer parenting time schedule;

- required all parenting time exchanges to take place in Grand Junction, except from May through August, when they would occur near Vail;
- found that father’s gross income was \$5,800 per month, which included \$1,000 of “financial support” from his spouse;
- ordered father to pay mother monthly child support in the amount of \$1,433, retroactive to August 2020;
- granted mother’s request to claim all three children as dependents for the 2020 tax year; and
- instructed each party to claim one child every tax year and to alternate the tax exemption for the third child between odd and even years.

¶ 3 Father appeals pursuant to C.R.M. 7(b).

## II. Appellate Record

¶ 4 The record before us does not contain the transcript of the permanent orders hearing. And we note that the magistrate expressly stated that he made partial oral findings at the end of the hearing. *See Friends of Denver Parks, Inc. v. City & Cnty. of Denver*, 2013 COA 177, ¶¶ 34-37, 327 P.3d 311, 316 (district court’s oral

findings may supplement its written order); *see also In re Marriage of Cespedes*, 895 P.2d 1172, 1176 (Colo. App. 1995) (same).

¶ 5 As the appellant, it is father’s responsibility to “include in the record transcripts of all proceedings necessary for considering and deciding the issues on appeal.” C.A.R. 10(d)(3). His failure is significant because, in the absence of a complete record, we must presume that the material portions omitted would support the magistrate’s findings and conclusions. *See In re Marriage of Dean*, 2017 COA 51, ¶ 13, 413 P.3d 246, 250 (“Where the appellant fails to provide . . . a transcript, the reviewing court must presume that the record supports the judgment.”); *see also In re Marriage of Beatty*, 2012 COA 71, ¶ 15, 279 P.3d 1225, 1229 (appellate court must presume, absent a transcript, that the evidence supports the district court’s findings); *In re Marriage of Murray*, 790 P.2d 868, 870 (Colo. App. 1989) (“Statements made in the briefs of a party cannot supply that which must appear from a certified record.”).

¶ 6 Although father appears pro se, “[a] pro se litigant who chooses to rely upon his own understanding of legal principles and procedures is required to follow the same procedural rules as those who are qualified to practice law and must be prepared to accept

the consequences of his mistakes and errors.” *Rosenberg v. Grady*, 843 P.2d 25, 26 (Colo. App. 1992); see *In re Marriage of Snyder*, 701 P.2d 153, 155 (Colo. App. 1985).

### III. Discussion

¶ 7 Father contends that the magistrate erred in (1) not requiring the parties to exchange the children in Vail year-round; (2) allocating the 2021 Labor Day weekend to mother; (3) determining his monthly gross income for child support purposes; (4) granting retroactive child support; and (5) dividing the children’s tax dependency exemptions. We decline to address these contentions because father does not include any record citations to support his factual assertions nor does he provide us with any legal authority to support his claims of error. See C.A.R. 28(a)(7)(B) (appellant must provide citations to the authorities and parts of the record on which the appellant relies); see also *Cikraji v. Snowberger*, 2015 COA 66, ¶ 10, 410 P.3d 573, 576 (compliance with C.A.R. 28 is not a mere technicality; instead, it helps to ensure efficient appellate review); *In re Marriage of Zander*, 2019 COA 149, ¶ 27, 486 P.3d 352, 357 (appellate court may decline to consider an argument not supported by legal authority or any meaningful legal analysis), *aff’d*, 2021 CO

12, 480 P.3d 676; *Biel v. Alcott*, 876 P.2d 60, 64 (Colo. App. 1993) (“An appealing party bears the burden to provide supporting authority for contentions of error asserted on appeal, and a failure to do so will result in an affirmation of the judgment.”). And even if we were to address his contentions, we would be required to presume that the magistrate acted properly because the record lacks the transcript of the permanent orders hearing. *See Dean*, ¶ 13, 413 P.3d at 250; *see also Beatty*, ¶ 15, 279 P.3d at 1229.

#### IV. Conclusion

¶ 8 The judgment is affirmed.

JUDGE FURMAN and JUDGE BROWN concur.