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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

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

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In Re the Marriage of:

RUBEN GALLEGO, *Petitioner/Appellant*,

and

KATHERINE SW GALLEGO, *Respondent/Appellant*,

*v.*

THE WASHINGTON FREE BEACON,

*Real Party in Interest/Appellee.*

No. 1 CA-CV 24-0527

FILED 10-10-2024

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Appeal from the Superior Court in Yavapai County

No. P1300DO201601004

The Honorable John David Napper, Judge

**AFFIRMED**

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COUNSEL

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GALLEGO/GALLEGO v. WA FREE BEACON  
Decision of the Court

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**MEMORANDUM DECISION**

Presiding Judge Brian Y. Furuya delivered the decision of the Court, in which Judge James B. Morse Jr. and Judge David D. Weinzwieg joined.

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**F U R U Y A**, Judge:

¶1 The Gallegos appeal the unsealing of their divorce records as ordered by the Yavapai Superior Court. They argue the court abused its discretion when it rejected some of the proposed redactions to the record. We accept jurisdiction through special action and affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 The Gallegos sought dissolution of their marriage in 2016. At their request, the court sealed the records of their divorce proceedings in their entirety later that year. The court found at that time that “the privacy interests of the parties outweighs the general open records policy.” The Gallegos’ marriage dissolution was finalized in 2017.

¶3 Years later, in 2024, *The Washington Free Beacon* moved to unseal the Gallegos’ divorce records in the Yavapai Superior Court. The Gallegos did not want the record unsealed. The court found the original order sealing the record was improper and ordered the Gallegos to submit their redaction requests. The court accepted some redactions requested by the Gallegos to protect the privacy interests of their financial information and the best interests of their minor child. The rejected redactions are at issue here.

**DISCUSSION**

**I. Appellate Jurisdiction and Standard of Review**

¶4 Jurisdiction over this appeal depends upon two things: (1) “the issues raised by the appeal from the order must be different from those that would arise from an appeal from the underlying judgment,” and (2) “the order must either affect the judgment or relate to it by enforcing it or

GALLEGO/GALLEGO v. WA FREE BEACON  
Decision of the Court

staying its execution.” *Arvizu v. Fernandez*, 183 Ariz. 224, 226–27 (App. 1995) (citations omitted).

¶5 Here, the issues raised in this appeal are different from those that would arise from an appeal from the underlying divorce decree. The Gallegos meet the first standard for establishing jurisdiction. However, as the Gallegos concede, the order on appeal is “entirely independent and ancillary to the underlying judgment.” The Gallegos fail to establish jurisdiction because the order at issue does not affect the original decree or relate to it by enforcing it or staying its execution. *See Arvizu*, 183 Ariz. at 226–27; *see also* Arizona Revised Statutes § 12-2101(A)(2).

¶6 Still, when “this court lacks appellate jurisdiction, we may exercise our discretionary special action jurisdiction under appropriate circumstances, even when the parties have not requested such relief.” *Phillips v. Garcia*, 237 Ariz. 407, 410 ¶ 6 (App. 2015). Special action jurisdiction exists when there is no other “equally plain, speedy, and adequate remedy by appeal.” Ariz. R.P. Spec. Act. 1(a). We will accept special action jurisdiction when “the case presents purely legal issues, issues involving a matter of first impression, or issues of statewide importance.” *Dep’t of Child Safety v. Stocking-Tate*, 247 Ariz. 108, 112 ¶ 7 (App. 2019). Further, exercise of special action jurisdiction may be appropriate when a child’s best interests stand in the balance. *See Dep’t of Child Safety v. Beene*, 235 Ariz. 300, 303 ¶ 7 n.5 (App. 2014), *as amended* (July 30, 2014).

¶7 The Gallegos should have filed for special action relief. The court’s order will take effect to unseal portions of the record without meaningful review if we do not address the merits and a minor child’s privacy interests are alleged to be implicated. Therefore, we will, in our discretion, treat this appeal as a petition for special action and grant review on the merits.

¶8 The Gallegos assign error in two respects. First, they argue the court erred by failing to make written findings to support its order unsealing their divorce records. Second, they argue the court erred by rejecting portions of their proposed redactions.

¶9 We review the court’s decisions regarding sealing or unsealing court records for an abuse of discretion. *See Ctr. For Auto Safety v. Goodyear Tire & Rubber Co.*, 247 Ariz. 567, 571 ¶ 16 (App. 2019). A court abuses its discretion if it applies an erroneous rule of law in reaching its

GALLEGO/GALLEGO v. WA FREE BEACON  
Decision of the Court

decision. *Id.* If its decision is supported by any reasonable evidence, we will not disturb the court's exercise of its discretion. *Id.*

**II. The Court Was Not Required to Make Specific Findings in Its Order Unsealing the Record.**

¶10 Citing Arizona Rule of Family Law Procedure ("ARFLP") 17 and Arizona Rule of Civil Procedure ("ARCP") 5.4, the Gallegos contend that the court's order must be vacated because it did not provide written findings to support its decision to grant *The Free Beacon's* motion to unseal.

¶11 Here, the order at issue stems from a motion to unseal. Pursuant to ARFLP 82, "[t]he court is not required to state findings or conclusions in a ruling on any motion unless [the ARFLP] provide otherwise." ARFLP 82(a)(2). The court was therefore under no obligation to make any findings or conclusions unless some other authority imposed that obligation. ARFLP 82(a)(2). The Gallegos' reliance on ARFLP 17 is misplaced. That rule imposes a requirement for the court to make written findings only to justify sealing court records, not when, as here, the court orders records unsealed. *Compare* ARFLP 17(c) *with* ARFLP 17(f).

¶12 The Gallegos contend that ARFLP 17 should incorporate ARCP 5.4(h), which imposes a requirement that the court "state the reasons for unsealing [] document[s] or, if the order denies a motion to unseal [] document[s], the reasons for denying it." ARCP 5.4(h). But this case is governed by the ARFLP. *See* ARFLP 1(a). And though the ARCP may find application to family law cases in certain circumstances, that is "only when [the ARFLP] expressly incorporate them." ARFLP 1(c).

¶13 The language of ARFLP 17(f) governs unsealing court records in family law cases and that rule does not expressly incorporate the ARCP. Nor does that rule contain the same language as ARCP 5.4 and "[w]e are not at liberty to rewrite a [rule] under the guise of judicial interpretation." *Tucson Unified Sch. Dist. v. Borek*, 234 Ariz. 364, 368 ¶ 11 (App. 2014) (cleaned up); *see also Chronis v. Steinle*, 220 Ariz. 559, 560 ¶ 6 (2009) ("We construe rules of court using the same principles applicable to interpretation of statutes.").

¶14 The Gallegos point to the 2016 order sealing their case's records, arguing that this status quo should have been maintained. But this position fails to account for ARFLP's requirement that they, as the party opposing unsealing, show overriding current or continuing circumstances that justify maintaining sealed status. ARFLP 17(f). Past circumstances are not relevant to their present objection to *The Free Beacon's* request to unseal

GALLEGO/GALLEGO v. WA FREE BEACON  
Decision of the Court

the record. Therefore, the prior 2016 order did not impose a requirement on the court to make findings regarding a change in the status quo. The court did not err by not stating any findings in its order unsealing the record.

**III. The Court Did Not Abuse Its Discretion When It Rejected Certain Redactions Requested by the Gallegos.**

¶15 To begin, the State of Arizona presumes court records are available to the public. Ariz. R. Sup. Ct. 123(c)(1). The burden is on a party opposing a motion to unseal to demonstrate why the records should not be unsealed. *See* ARFLP 17(f). To make that showing, the party opposing the unsealing “must show that overriding circumstances continue to exist or that other grounds provide a sufficient basis for keeping the record sealed.” *Id.* Moreover, “[w]ithout the requirement that the superior court make written findings, our standard of review presumes the superior court found every fact necessary to support its decision.” *Whitt v. Meza*, 257 Ariz. 149, 153 ¶ 8 (App. 2024).

¶16 Here, the Gallegos argue the court erred by rejecting their request to seal the portions of the record “pertaining to their minor child.” Not so.

¶17 The Gallegos had the burden to show continuing or new overriding circumstances to prohibit access to court documents or any portions thereof. *See* ARFLP 17(f). They did not meet that burden. Given the applicable standard of review and the presumption that the court implicitly found all facts necessary to support its decision, we discern no error. *Whitt*, 257 Ariz. at 153 ¶ 8.

¶18 Moreover, the court appropriately accepted certain redactions of the record to protect the best interests of the Gallegos’ minor child, along with some of their financial information. Ariz. R. Sup. Ct. 123(c)(1), (3). Upon review, we hold the court properly exercised its discretion by narrowly tailoring what is to be withheld from public view for those legitimate purposes.

**CONCLUSION**

¶19 We affirm.

