

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **JOHN GLENN FORSYTHE,**

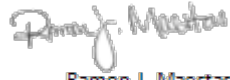
3 Petitioner-Appellant,

4 v.

5 **CHRISTINA BAILEY FORSYTHE,**

6 Respondent-Appellee.

Court of Appeals of New Mexico
Filed 2/25/2025 7:47 AM


Ramon J. Maestas
Chief Clerk

No. A-1-CA-40916

7 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

8 **Debra Ramirez, District Court Judge**

9 John Glenn Forsythe
10 Albuquerque, NM

11 Pro Se Appellant

12 Christina Bailey Forsythe
13 Krum, TX

14 Pro Se Appellee

15 **DECISION**

16 **IVES, Judge.**

17 {1} Petitioner John Glenn Forsythe appeals an order by the district court, which
18 adopted a hearing officer's report requiring Petitioner to pay Respondent Christina
19 Bailey Forsythe unpaid spousal support in the amount of \$1,582.82. Petitioner
20 argues that this amount was erroneously calculated—specifically, that the district
21 court should have found that he made two payments in November 2020, totaling
22 \$1,515.00. We affirm.

1 {2} “The appellate court presumes that the district court is correct, and the burden
2 is on the appellant to clearly demonstrate that the district court erred.” *Corona v.*
3 *Corona*, 2014-NMCA-071, ¶ 26, 329 P.3d 701. Relatedly—and critically here—the
4 appellant, whether self-represented or represented by counsel, “must ensure that the
5 necessary record is placed before an appellate court.” *Padilla v. Torres*, 2024-
6 NMSC-007, ¶ 32, 548 P.3d 31. “And where the record on appeal is incomplete, the
7 ruling of the trial court is presumed to be supported by the evidence.” *Id.* ¶ 33 (text
8 only) (citation omitted).

9 {3} Petitioner challenges a finding which the hearing officer expressly stated was
10 “[b]ased on the parties’ [e]xhibits,” but the exhibits are not in the record. Petitioner
11 did not designate the exhibits from the district court to this Court, as directed by this
12 Court’s general calendar notice and required by our rules. *See* Rule 12-212(A)
13 NMRA. Instead, contrary to our rules, Petitioner attached what purport to be
14 excerpts of two bank statements from 2020—one statement from his bank account
15 and the other from Respondent’s—to his brief in chief. *See* 12-318(F)(4) NMRA
16 (prohibiting the attachment of documents to briefs). Petitioner relies on the bank
17 statements to establish that he transferred funds from his bank account to
18 Respondent’s bank account twice in November 2020, and that the total amount of
19 those transfers was \$1,515.00.

1 {4} We are unable to adequately perform our review of the district court’s factual
2 determination without access to the actual exhibits considered by the district court.
3 The law requires us to review factual determinations for substantial evidence. *See In*
4 *re Yalkut*, 2008-NMSC-009, ¶ 18, 143 N.M. 387, 176 P.3d 1119. “Substantial
5 evidence is *such relevant evidence* that a reasonable mind would find adequate to
6 support a conclusion.” *State ex rel. King v. B & B Inv. Grp., Inc.*, 2014-NMSC-024,
7 ¶ 12, 329 P.3d 658 (emphasis added) (internal quotation marks and citation omitted).
8 The exhibits, expressly relied upon, would be such relevant evidence. And without
9 them, our review is impossible.

10 {5} We have no way of knowing whether the documents attached to Petitioner’s
11 brief were, in fact, presented to the district court, and we have strong reason to doubt
12 one of the documents was presented to the district court. That doubt is based on
13 Petitioner’s docketing statement, to which he attached substantively the same bank
14 statements that he attached to his brief in chief. In his docketing statement, he
15 conceded that one of the two attachments—a document that is purportedly his bank
16 statement showing the outgoing transfers of funds—“[was not] included as an
17 exhibit during the motion hearing due to a long delay in receiving [the] statement.”
18 When determining whether substantial evidence supported the district court’s
19 decision, we cannot consider evidence that was not presented to the district court.
20 *See Flowers v. White’s City, Inc.*, 1992-NMCA-062, ¶ 10, 114 N.M. 73, 834 P.2d

1 950; *see also Kepler v. Slade*, 1995-NMSC-035, ¶ 13, 119 N.M. 802, 896 P.2d 482
2 (“Matters outside the record present no issue for review.” (text only) (citation
3 omitted)); *Jemko, Inc. v. Liaghat*, 1987-NMCA-069, ¶ 22, 106 N.M. 50, 738 P.2d
4 922 (“It is improper to attach to a brief documents which are not part of the record
5 on appeal.”). Our role is not to redo the proceedings that occurred in the district court
6 by taking new evidence. We must “review[] the case litigated below, not the case
7 that is fleshed out for the first time on appeal.” *See Campos Enters., Inc. v. Edwin*
8 *K. Williams & Co.*, 1998-NMCA-131, ¶ 12, 125 N.M. 691, 964 P.2d 855 (internal
9 quotation marks and citation omitted).

10 {6} Finally—even if both of the documents attached to Petitioner’s brief in chief
11 were admitted as exhibits in the district court and even if Petitioner had made those
12 exhibits part of the record on appeal—the record would still be inadequate. The
13 exhibit log does not list just two exhibits; it lists twelve. To review the allocation of
14 payments, we must have a complete record of all payments considered by the district
15 court in calculating the amount owed. Petitioner instead asks this Court to conclude
16 that the district court improperly disregarded payments in November 2020 without
17 the context of all of the evidence supporting payments made and received between
18 the parties.

19 {7} When, as in this case, the record is incomplete, “every presumption is
20 indulged in favor of the correctness and regularity of the [district] court’s decision,

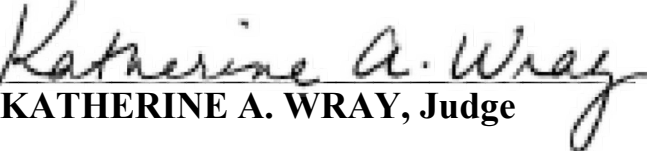
1 and the appellate court will indulge in reasonable presumptions in support of the
2 order entered.” *See Reeves v. Wimberly*, 1988-NMCA-038, ¶ 21, 107 N.M. 231, 755
3 P.2d 75. We therefore presume that the evidence adequately supports the district
4 court’s refusal to find that Petitioner made the two payments in November 2020. *See*
5 *Padilla*, 2024-NMSC-007, ¶ 33. Because Petitioner failed to carry his burden of
6 establishing that the district court erred, *see Corona*, 2014-NMCA-071, ¶ 26, we
7 affirm.

8 {8} **IT IS SO ORDERED.**

9
10 
ZACHARY A. IVES, Judge

11 **WE CONCUR:**

12 
13 **JENNIFER L. ATTREP, Chief Judge**

14 
15 **KATHERINE A. WRAY, Judge**