

**IN THE MATTER OF THE MARRIAGE OF SAMIA MOHAMED AND RAZEK AHMED.**

No. 14-18-01029-CV.

**Court of Appeals of Texas, Fourteenth District, Houston.**

Memorandum Opinion filed August 17, 2021.

On Appeal from the 300th District Court, Brazoria County, Texas, Trial Court Cause No. 94133-F.

Affirmed.

Panel consists of Justices Bourliot, Hassan, and Poissant.

**MEMORANDUM OPINION**

FRANCES BOURLIOT, Justice.

Samia Mohamed appeals from the trial court's judgment holding that she was not common-law married to Razek Ahmed. In nine issues, Mohamed challenges both the procedure that the trial court used to reach its conclusion and the legal and factual sufficiency of the evidence to support that determination. We affirm.

***Background***

This simple case has a surprisingly complicated procedural history. Mohamed filed for divorce from Ahmed, alleging the two had a common law marriage. Ahmed filed an answer to Mohamed's petition, asserting a general denial against the allegation of a common law marriage. As an alternative pleading, Ahmed also filed a counterpetition for divorce in the event the trial court found a marriage existed between the parties. The trial court decided to bifurcate the issues, first considering the question of the existence of the marriage and reserving issues pertaining to the divorce in the event a valid marriage existed.

At the evidentiary hearing on the existence of a marriage, held on June 13, 2018, Ahmed testified that Mohamed was just a woman who used to live with him. She was lonely and wanted companionship, and he offered to let her live in his apartment, where she could have one bedroom and he another. She lived with him for nearly four years but did not pay any rent. They had sexual intercourse one time.

Ahmed said they met at a mosque and knew each other about two weeks before Mohamed moved in. He denied having a ceremony at the mosque or giving or receiving a ring. He said the event at the mosque a couple of days before she moved in was merely a pizza party, and he did not invite anyone to it. He acknowledged signing a document that day called a "mahr," which is similar to a dowry and is a prerequisite to a marriage in Ahmed's culture. Ahmed said that they had initially wanted to get married but she changed her mind after the pizza party because she did not want to lose her federal disability benefits. Ahmed denied that he and Mohamed introduced themselves as husband and wife or that he introduced her son as his stepson. He further denied celebrating an anniversary with her or filing joint tax returns. Ahmed's tax returns were introduced into evidence supporting his claim.

Ahmed acknowledged that he bought food and medicine for her but also insisted he cooked for himself, washed his own clothes, and cleaned up after himself, and she did the same for herself. He said that people in the community knew he had someone living with him but did not think they were married. Mohamed's name was on Ahmed's safety deposit box, but Ahmed explained that was so that she could use the money in the box to bury him if he died. Mohamed had taken her prior husband's last name; however, she never took Ahmed's last name. They did not have any joint accounts together. They each had their own insurance.

Ahmed Mohamed, Mohamed's son, identified photographs of what he described as a marriage ceremony between Mohamed and Ahmed at the mosque. He said they put rings on each other's hands and that it was not simply an engagement ceremony. He said that Ahmed referred to him as his stepson on multiple occasions and gave one example of when Ahmed introduced him to a banker in this way. Ahmed Mohamed also said that there was an agreement of marriage that was written by Ahmed and the Imam of the mosque. The couple and witnesses signed the agreement. At the mosque, they had cake and an ethnic dessert but no pizza or other meal, which came later. He said that he and his mother believe the two parties are married, and when they are in public, Ahmed introduces Mohamed as his wife. Ahmed Mohamed also said that he told Mohamed that she needed to change her marital status with the Social Security Administration.

Tarek Mousa, Mohamed's brother, testified that he was also at the marriage ceremony between Mohammed and Ahmed. He said that at the ceremony, the two exchanged vows and Mohamed received a ring. He said it was the same process as when he got married and it

was not a pizza party or an engagement party. Mousa stated he saw a marriage license on the day of the ceremony and that the mosque requires a license for a wedding ceremony.

Mohamed testified that she was introduced to Ahmed at the mosque six months before they were married and she moved in with him on the same day as the marriage ceremony. They exchanged rings on the day of the ceremony. She said that they slept in separate rooms because of Ahmed's snoring. When they were out in public, they would refer to each other as husband and wife, and Ahmed often referred to Mohamed's son as his son or stepson. Her friends, his friends, and people at the mosque know they are married. Mohamed explained that "it is important for the Muslim people to get married first in the mosque, then go to the Court," and the Imam told them that they needed a license to be married, but Ahmed kept saying he was too busy when she reminded him they needed to do that. Nevertheless, she believed that they were married.

Mohamed said Ahmed should have included her on income tax returns but she does not know whether he did. They each kept their own bank accounts from before the marriage, but he added her to his auto insurance policy when he bought a car for her to use. They celebrated anniversaries. She did his laundry, cooked for him, and cleaned his bedroom and bathroom. When he was sick, she took care of him. When she needed to go to the doctor, he took her.

Mohamed insisted she thought she only needed to inform her benefits providers if she started working, not if she got married. She denied telling Ahmed she did not want to be married because she did not want to lose her benefits. When presented with paperwork instructing that she was required to notify providers of any changes in her marital status, Mohamed said she did not understand the requirement. Mohamed also said that she believed the document they signed at the mosque was sufficient to create a marriage.

At the conclusion of the hearing, the judge asked the attorneys about their availability on August 20 because the judge wanted information or confirmation regarding Mohamed's prior divorce in Egypt. The judge then recessed the proceedings until August 20.

On June 26, however, the judge sent a short letter to the parties stating: "After considering the evidence, I am of the opinion that a common law marriage exists between the parties of this suit." The court also directed Mohamed's counsel to prepare an interlocutory order, but the court never signed such an order.

On July 9, 2018, Ahmed filed a motion seeking sanctions against Mohamed for discovery abuse for failing to produce correspondence relating to her government disability benefits. Ahmed then filed a motion for reconsideration on July 26, 2018, asking the judge to reconsider his interlocutory ruling of a common law marriage in light of new, relevant evidence that had been produced. Mohamed filed a short response to the motion. The motion was originally set for a hearing on August 20, 2018, but the record does not contain a transcript of any hearing on the motion for reconsideration. In a letter dated August 22, Ahmed's counsel notified Mohamed's counsel of the documents that Ahmed's counsel intended to present to the judge on August 23. In a motion for new trial after the court's final judgment, Mohamed's counsel acknowledged that both sides had presented additional documents to the judge, although the date noted in the motion was August 22.

On September 11, 2018, the trial court sent the parties a letter stating, in its entirety:

Thank you for the opportunity to have reviewed the records submitted after my prior ruling of 6/26/18. As you know, both attorney [sic] provided records to me for review, which are included in the copy of this letter submitted to the District Clerk's office. Those letters provide evidence that Samia Mohamed insisted with the Texas Health and Human Services and federal agencies that she was not married and that the relationship between herself and Respondent was that of landlord/tenant.

I do believe that a marriage ceremony took place, but not under our laws, but under the traditions of Islam. As such, it was incumbent upon Petitioner to establish the common law elements. I believe and now rule, that the stance taken with these agencies estop her from doing so. Accordingly, my prior ruling is reversed. I declare no common law marriage exists.

Respondent to prepare and submit order. I am submitting a copy of this letter and corresponding documents to the clerk.

In its order granting Ahmed's motion to reconsider, the court stated: "After consideration of the motion, the pleadings, the new evidence presented, and the argument of counsel, the Court GRANTS the motion. The Court FINDS that no common law marriage exists between Samia Mohamed and Razek Ahmed." In its findings of fact and conclusions of law, the trial court again noted that the parties had agreed to provide additional documents for the court's review and both sides did so. In its findings of fact, the court stated: (1) the parties did not agree to be married; (2) Ahmed did not hold himself out as married, and Mohamed took the position with government agencies that the parties were not married and the relationship was one of landlord and tenant; (3) "[p]resumably, [Mohamed] did so to obtain governmental benefits"; (4) the parties did not cohabit as husband and wife; and (5) a ceremony took place but was not finalized as a marriage under Texas or Islamic law. In its conclusions of law, the court held: (1) a common law marriage did not and does not exist between the parties; (2) Mohamed "is estopped from claiming the existence of a common law marriage because of the position of the lack of same with governmental entities for her on [sic] benefit"; (3) "[s]uch a position bars the existence of a common law marriage"; and (4) because of the documentation provided, Mohamed's testimony regarding the elements of a common law marriage is not credible.

On April 16, 2019, after this appeal was filed, we issued an abatement order, explained that Ahmed had notified this court that portions of the record had been lost or destroyed, and directed the trial court to conduct a hearing to determine whether the documents submitted by Ahmed were accurate copies of the missing items. We further ordered the court to provide written findings in a supplemental clerk's record, and if the court found the documents to be accurate, we directed the trial court clerk to include a copy of those documents in the supplemental record.

The trial court held a hearing on May 8, 2019, and subsequently made additional findings of fact, including:

- [B]efore an Order was entered concerning the existence of a common law marriage, the attorneys of record appeared in this court's office and by agreement, tendered the court (without objection) the records for the court's review in relation to the Motion for Reconsideration.
- A formal hearing on the Motion for Reconsideration was not had, but rather the attorneys agreed the Court may consider all such records without objection.
- Both sides presented records.
- The major records of concern included records from Social Security and Texas Health and Human Services Commissions, as well as financial records.
- The records contained information that made [Mohamed's] argument of the existence of a common law marriage inconsistent with her testimony at the initial trial.
- The records tendered at this hearing are those records tendered by [Ahmed] for reconsideration.
- At the current hearing, the Court has not received any records tendered by [Mohamed] on the Motion for Reconsideration.
- The records tendered by Appellant for consideration of the Motion for Reconsideration did not overcome the court's findings concerning its ruling that no common law marriage existed.<sup>[1]</sup>

The documents Ahmed presented to the court in conjunction with his motion to reconsider largely included application and related documents for disability benefits during the period in which Mohamed alleged she was married to Ahmed. In 2013, Mohamed informed the Texas Health and Human Services Commission (THHSC) of a change of address and that she was paying \$650 a month in rent. In 2014, she reported another change in address, stated her rent was \$800 a month, and identified Ahmed as her landlord. In 2015, she informed the THHSC that she was paying rent of \$4,500 and Ahmed was her landlord. In 2018, she told them she was living with another person (presumably Ahmed) in their apartment and renting. The documents also include handwritten letters from Ahmed from 2014 and 2015 stating that he was renting two rooms to Mohamed and her granddaughter, the amount of the rent, and that it included utilities. Ahmed also signed a landlord verification form representing he was renting to Mohamed.

## ***Discussion***

As mentioned, Mohamed raises nine issues in her briefing. Many of the issues involve common themes and complaints, so we will group and discuss them accordingly. First, Mohamed makes several complaints regarding the procedure that the trial court used in considering Ahmed's motion for reconsideration and the evidence the court considered in support of the motion. Mohamed asserts the trial court denied her due process and due course of law as guaranteed respectively by the United States and Texas constitutions. She also complains that the court considered unauthenticated records that were not introduced into evidence during a formal hearing after notice to the parties. Second, Mohamed raises challenges to the legal and factual sufficiency of the evidence. She asserts the statements in the benefits documents do not meet the requirements for estoppel, there was no evidence she told the government that she was not married, and there was no evidence that she and Ahmed did not agree to be married, did not cohabit, or that Ahmed did not hold himself out as married.

## ***Procedural Complaints***

As stated, Mohamed first complains that the trial court denied her due process and due course of law and considered unauthenticated records that were not introduced into evidence during a formal hearing after notice to the parties. These complaints are chiefly raised in her first, second, and ninth appellate issues.

The Fourteenth Amendment prohibits a state from "depriv[ing] any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. The Texas Constitution provides that "[n]o citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land." Tex. Const. art. I, § 19. Because Mohamed does not suggest otherwise, we presume the due course of law analysis under the Texas Constitution mirrors the due process

analysis under the United States Constitution. Reynoso v. Dibs US, Inc., 541 S.W.3d 331, 338 (Tex. App.-Houston [14th Dist.] 2017, no pet.). Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. *Id.* at 339 (citing Carey v. Piphus, 435 U.S. 247, 260 (1978)). Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. Univ. of Tex. Med. Sch. at Houston v. Than, 901 S.W.2d 926, 930 (Tex. 1995).

Mohamed contends that her due process rights were violated "because she was denied notice of the hearing of the motion and an opportunity to be heard timely and in a meaningful manner." Certainly, the procedure the trial court used in considering Ahmed's motion for reconsideration was nonstandard. As recounted above and clearly established in the record, the parties agreed to and did present additional documentation to the trial court regarding the existence of a common law marriage and the motion to reconsider the interlocutory ruling. A court reporter was apparently not present to record the proceedings. It is also established and uncontested that neither side objected to the procedure used or the documents thus submitted.<sup>[2]</sup>

Texas Rule of Civil Procedure 270 provides that when "necessary to the due administration of justice, [a] court may permit additional evidence to be offered at any time." Tex. R. Civ. P. 270. Trial courts have broad discretion to permit additional evidence to be offered at any time and should liberally exercise that discretion under Rule 270 to permit both sides to fully develop their cases. Gurka v. Gurka, 402 S.W.3d 341, 349 (Tex. App.-Houston [14th Dist.] 2013, no pet.). Generally, under rule of appellate procedure 13.1, court reporters are expected to attend court sessions and make a full record of the proceedings unless excused by agreement of the parties. Tex. R. App. P. 13.1. The making of a record can be waived by agreement or by failing to object. See, e.g., Johnson v. Freo Tex. LLC, No. 01-15-00398-CV, 2016 WL 2745265, at \*3 (Tex. App.-Houston [1st Dist.] May 10, 2016, no pet.) (mem. op.); Houghtaling v. Houghtaling, No. 01-13-00547-CV, 2014 WL 3928592, at \*4-5 (Tex. App.-Houston [1st Dist.] Aug. 12, 2014, no pet.) (mem. op.); McCarty v. Montgomery, 290 S.W.3d 525, 538 (Tex. App.-Eastland 2009, pet. denied).

Even constitutional complaints, such as due process violations, are generally waived on appeal in the absence of a timely and sufficiently specific motion, objection, or request in the trial court. See Tex. R. App. P. 33.1(a); In re L.M.L., 119 S.W.3d 707, 711 (Tex. 2003); Ospina v. Garcia Florez, No. 01-19-00465-CV, 2021 WL 2149334, at \*5 (Tex. App.-Houston [1st Dist.] May 27, 2021, no pet. h.) (mem. op.); Wichman v. Kelsey-Seybold Med. Grp., PLLC, No. 14-18-00641-CV, 2020 WL 4359734, at \*4 (Tex. App.-Houston [14th Dist.] July 30, 2020, no pet.) (mem. op.). Complaints regarding a lack of proper notice of a hearing or trial setting are generally waived when the complaining party received notice of the proceeding, appeared and participated, and failed to lodge a timely objection or request a continuance. See, e.g., Yarborough v. Vitrola Bar, Inc., No. 14-17-00609-CV, 2019 WL 5157144, at \*3 (Tex. App.-Houston [14th Dist.] Oct. 15, 2019, no pet.) (mem. op.); Henderson v. Masalma, No. 14-15-00193-CV, 2016 WL 3964827, at \*2 (Tex. App.-Houston [14th Dist.] July 21, 2016, no pet.) (mem. op.); Pointer v. State, No. 03-02-00548-CV, 2003 WL 21241261, at \*2 (Tex. App.-Austin May 30, 2003, pet. denied) (mem. op.); Hoog v. State, 87 S.W.3d 740, 745 (Tex. App.-San Antonio 2002, pet. denied). But see In re K.M.L., 443 S.W.3d 101, 120 (Tex. 2014) (holding pro se party in parental termination case did not waive right to notice where circumstances demonstrated any such waiver was not knowing or voluntary).

Here, the record shows that Mohamed received at least some notice of the hearing. The hearing is mentioned in a letter from Ahmed's counsel to Mohamed's counsel the day before the hearing, and Mohamed's counsel appeared at the hearing and presented documents to the judge three days after the date on which the hearing was originally set. Mohamed complains regarding the informal nature of the hearing, which apparently occurred in the judge's chambers and was not transcribed by a court reporter. But the record reflects Mohamed's counsel not only did not object to the proceedings, she agreed to proceeding in that manner. Mohamed does not suggest otherwise on appeal.<sup>[3]</sup> Accordingly, Mohamed waived her complaints of due process and due course of law violations, lack of notice, and the informality of the proceedings. See Tex. R. App. P. 33.1(a); In re L.M.L., 119 S.W.3d at 711; Ospina, 2021 WL 2149334, at \*5; McCarty, 290 S.W.3d at 538; Pointer, 2003 WL 21241261, at \*2.

Mohamed's suggestion that the trial court considered exhibits that were not admitted into evidence is also not supported by the record. As explained, we do not have a reporter's record from the motion to reconsider hearing. In the absence of a record, we presume the underlying proceedings were properly conducted and that sufficient evidence supported the trial court's decision. See, e.g., Sanadco Inc. v. Hegar, No. 03-14-00771-CV, 2015 WL 4072091, at \*2 (Tex. App.-Austin July 3, 2015, no pet.) (mem. op.).

Lastly, under these issues, Mohamed suggests that the additional documents the trial court considered in conjunction with the motion for reconsideration were unauthenticated. Mohamed, however, does not cite any law supporting this assertion or provide any analysis regarding the authenticity of the numerous records. Accordingly, this contention is inadequately briefed. See Tex. R. App. P. 38.1(i) (requiring that appellate briefs "must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record"); see also In re S.A.H., 420 S.W.3d 911, 929 (Tex. App.-Houston [14th Dist.] 2014, no pet.) (declining to craft appellant's argument for him).

Finding no merit in Mohamed's procedural complaints, we overrule issues one, three, and nine.

## ***Sufficiency of the Evidence***

In her remaining issues, three through eight, Mohamed challenges the legal and factual sufficiency of the evidence to support the trial court's findings relating to the existence of a common law marriage. To prove a common law marriage, the proponent of the marriage must establish the parties "agreed to be married and after the agreement they lived together in this state as husband and wife and there represented to others that they were married." Tex. Fam. Code § 2.401(a)(2); *In re Marriage of Farjardo*, No. 14-15-00653-CV, 2016 WL 4206009, at \*2 (Tex. App.-Houston [14th Dist.] Aug. 9, 2016, no pet.) (mem. op.). The existence of a common law marriage is a fact question, and the party seeking to establish existence of the marriage bears the burden of proving the elements by a preponderance of the evidence. *Small v. McMaster*, 352 S.W.3d 280, 283 (Tex. App.-Houston [14th Dist.] 2011, pet. denied). An informal marriage does not exist until the concurrence of all required elements. *Id.*

When reviewing for legal sufficiency, we consider the evidence in the light most favorable to the challenged finding and indulge every reasonable inference that supports the finding. *City of Keller v. Wilson*, 168 S.W.3d 802, 822 (Tex. 2005). We credit favorable evidence if a reasonable factfinder could and disregard contrary evidence unless a reasonable factfinder could not. *Id.* at 827. If there is more than a scintilla of evidence to support the finding, the legal sufficiency challenge fails. *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 795 (Tex. 2002).

In reviewing the factual sufficiency of the evidence, we consider all the evidence and set aside the judgment only if it is so contrary to the overwhelming weight of the evidence that it is clearly wrong and manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986). The factfinder is the sole judge of witness credibility and the weight to be given testimony. *Keller*, 168 S.W.3d at 819.

In its findings of fact, the trial court found that (1) the parties did not agree to be married, (2) Ahmed did not hold himself out as married and Mohamed took the position with government agencies that the parties were not married and the relationship was one of landlord and tenant; (3) "[p]resumably, [Mohamed] did so to obtain governmental benefits"; (4) the parties did not cohabit as husband and wife; and (5) a ceremony took place but was not finalized as a marriage under Texas or Islamic law. In its conclusions of law, the court held: (1) a common law marriage did not and does not exist between the parties; (2) Mohamed "is estopped from claiming the existence of a common law marriage because of the position of the lack of same with governmental entities for her on [sic] benefit"; (3) "[s]uch a position bars the existence of a common law marriage"; and (4) because of the documentation provided, Mohamed's testimony regarding the elements of a common law marriage is not credible.

The trial court's rulings contain several alternative grounds for concluding that there was no common law marriage in this case. The court held that a common law marriage did not and does not exist because the parties did not agree to be married, did not hold themselves out as married, and did not cohabit as husband and wife. The court also held that Mohammed was estopped from claiming a common law marriage existed. We must affirm if the evidence supports any one of these grounds. See, e.g., *Carrington Mortg. Servs., LLC v. Hutto*, No. 14-15-00442-CV, 2017 WL 4679286, at \*4 & n.7 (Tex. App.-Houston [14th Dist.] Oct. 17, 2017, pet. denied) (mem. op.).

We focus our analysis on the trial court's findings regarding the three elements of common law marriage: agreement to be married, living together as husband and wife, and presenting to others. See *Small*, 352 S.W.3d at 283-87. To establish an agreement to be married, the evidence must show the parties intended to have a present, immediate, and permanent marital relationship. *Id.* at 283. An agreement to be married and cohabitation are not enough to prove a common law marriage; the cohabitation must be professedly as husband and wife. *Id.* at 284. Occasional introductions as husband and wife are not sufficient to establish the element of presenting to others; this element turns on whether the couple established a reputation in the community for being married. *Id.* at 285.

Ahmed denied in his testimony that the event at the mosque was a wedding. He described it as a "pizza party." The document that they signed that day was a "mahr," which he described as similar to a dowry agreement and a prerequisite to a marriage in his culture. See generally *Ahmed v. Ahmed*, 261 S.W.3d 190, 193 (Tex. App.-Houston [14th Dist.] 2008, no pet.) (discussing the importance of mahr agreements).<sup>[4]</sup> While the photographs from the event in the record do not show any pizza, they also do not show anything recognizable as a wedding ceremony. In the photographs, people are sitting and standing around a conference table. There are some papers and notebooks on the table, and a small tray of desserts appears in one photograph as does one wrapped gift in another. There are no photos of a ring exchange or other obviously ceremonial moment.

Mohamed's brother explained that the mosque requires a marriage license before conducting a marriage ceremony. Mohamed acknowledged the Imam told them that they needed a license to be married, but she said Ahmed kept saying he was too busy when she reminded him they needed to do that.

Ahmed also testified that they had initially wanted to get married, which would explain the signing of the mahr, but Mohamed changed her mind after the party because she did not want to lose her federal disability benefits. He said he allowed her to live with him for purposes of companionship but not as husband and wife. This testimony is supported by the fact Mohamed never informed the governmental benefits providers about a marriage and she and Ahmed both described him as her landlord to the agencies. Additionally, Ahmed's tax returns for the period Mohamed alleges they were married showed he filed as single.

Ahmed further denied that he and Mohamed introduced themselves as husband and wife, that he introduced her son as his stepson, or that people in the community thought that they were married. Although Mohamed testified to the contrary, the trial judge, as sole judge of the credibility of the witnesses, found her testimony to be not credible due to the inconsistent statements she had made to the benefits

agencies. See *Keller*, 168 S.W.3d at 819. Although Mohamed's son also testified that Ahmed referred to him at times as his stepson and Mohamed as his wife, the trial judge could have discounted this testimony as well, as it was in support of the mother and apparently spoke to limited incidents.

This case largely boiled down to a he-said, she-said dispute. The trial judge initially found Mohamed's testimony credible, but when presented with the additional documentation that contained statements by Mohamed that conflicted with parts of her testimony, the trial judge found Mohamed's testimony not credible. Ahmed's testimony and the additional documentation regarding communications with the benefits agencies was legally and factually sufficient to support the trial court's findings that the parties did not agree to be married (in that they did not intend to have a present, immediate, and permanent marital relationship), did not cohabit as husband and wife, and did not hold themselves out as married. See *Small*, 352 S.W.3d at 283. Accordingly, we need not address Mohamed's arguments regarding the trial court's estoppel holding and we overrule her third through eighth issues.

We affirm the trial court's judgment.

[1] A supplemental reporter's record was also filed from the hearing at which the trial court considered whether the documents submitted by Ahmed were accurate copies of the missing items. Testimony was presented at this hearing, and both sides were able to ask questions and make arguments.

[2] We note that Mohamed's brief was filed before the trial court held a hearing at our direction and made findings relating to the hearing on the motion for reconsideration. Mohamed did not file an amended brief or a reply brief after the supplemental clerk's record and supplemental reporter's record were filed in this court. Therefore, her arguments do not take this additional material and information into account. We also note that Mohamed changed counsel after the trial court entered its final judgment, holding that no common law marriage existed between the parties.

[3] At one point in her briefing, Mohamed cites Rule 11, which provides that generally "no agreement between attorneys or parties touching any suit pending will be enforced unless it be in writing, signed and filed with the papers as part of the record, or unless it be made in open court and entered of record." Tex. R. Civ. P. 11. This appeal, however, is not an action to enforce any agreement between the parties. Rule 11 has no application. Mohamed failed to preserve her complaints by timely raising them in the trial court.

[4] Although the mahr itself appears in our record, it apparently was not admitted into evidence. Accordingly, we will not consider its contents.

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