

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVE BUFFONE AND CATHY
BUFFONE,
Appellants,
vs.
NORA BUFFONE AND STEVEN
BUFFONE, JR.,
Respondents.

No. 44292

FILED

NOV 16 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Ruben*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order awarding visitation to the children's mother. Eighth Judicial District Court, Family Court Division, Clark County; N. Anthony Del Vecchio, Judge.

Steve Buffone and Cathy Buffone, grandparents and primary physical custodians of the minor children, appeal from an order granting visitation rights to Nora Buffone, the children's mother. The parties are familiar with the facts, and we do not recount them in the order except as is necessary for our disposition.

Steve and Cathy assert that the district court abused its discretion in granting Nora substantial visitation rights because doing so conflicts with the court's findings in its October 2004 order. The district court has broad discretion to determine matters of custody, and we will not disturb the lower court's determination absent a clear abuse of discretion.¹ Visitation rights are matters of custody.² The district court's

¹Martin v. Martin, 120 Nev. 342, 344, 90 P.3d 981, 983 (2004).

²Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996).


sole consideration is whether visitation is in the children's best interest.³ We conclude that the district court's findings do not conflict with the ordered visitation schedule. The schedule adequately balances the district court's concern for the children's scholastic achievement while giving the children the opportunity to maintain a relationship with their mother. We conclude that the district court did not abuse its discretion by striking that balance in the children's best interest. The district court also ordered appropriate safeguards to ensure that Nora completes her parenting responsibilities while the children are in her care.

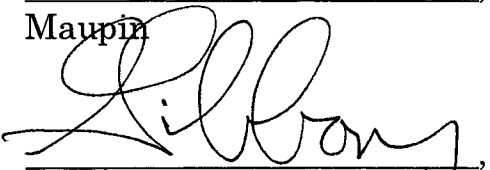
In her answering brief, Nora argues that the district court abused its discretion by awarding physical custody to Steve and Cathy. We conclude that we lack jurisdiction to consider the argument. Where a respondent seeks to alter the rights of the parties under a judgment, the respondent must file an appropriate notice of appeal.⁴ Steve and Cathy did not raise the issue of physical custody in their appeal, and Nora did not file a notice of appeal from the order awarding Steve and Cathy physical custody of the children.

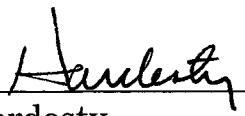
³See id.; NRS 125.480.

⁴Ford v. Showboat Operating Co., 110 Nev. 752, 755, 877 P.2d 546, 548 (1994).

Accordingly, we ORDER the judgment of the district court
AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. N. Anthony Del Vecchio, District Judge, Family Court Division
Hoskin Law Office
Steven Buffone, Jr.
Donn W. Prokopius, Chtd.
Clark County Clerk