

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP ANTHONY GARLAND,  
Appellant,  
vs.  
JENNIFER COLEMAN-TEAGUE, F/K/A  
JENNIFER DIANE GARLAND,  
Respondent.

No. 45705

**FILED**

**OCT 18 2006**

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order concerning appellant's visitation with the parties' minor child. Eighth Judicial District Court, Family Court Division, Clark County; Sandra Pomrenze, Judge.

The record shows that respondent filed a motion in the district court asking the court to set aside its order concerning appellant's visitation with the parties' child. According to respondent, appellant was allegedly drinking alcohol and/or taking drugs during his visitations with the child. Respondent expressed concern for the child's safety. The district court ordered both parties to submit to drug testing, and warned that it would modify or change custody based on the test results. The

court informed appellant that he could contact the court for the test results in 48 hours. The test results show that appellant tested positive for THC Metabolite.

After the test results were in, a subsequent hearing was conducted, during which respondent asked the district court to require appellant to go on a "patch" program when he has an extended visitation period with the child. Appellant adamantly refused. Thereafter, the district court ordered that appellant's visitation be suspended until he agrees to go on the patch program.

Matters of custody, including visitation, rest in the district court's sound discretion.<sup>1</sup> This court will not disturb the district court's custody decision absent a clear abuse of discretion.<sup>2</sup> In determining child custody, the court's sole consideration is the child's best interest.<sup>3</sup>

Having reviewed the record and appellant's proper person appeal statement, we conclude that the district court did not abuse its discretion when it suspended appellant's visitation pending his compliance with the district court's directive that he go on the patch program. The district court's decision is in the child's best interest. Accordingly, we


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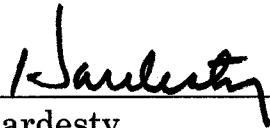
<sup>1</sup>Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

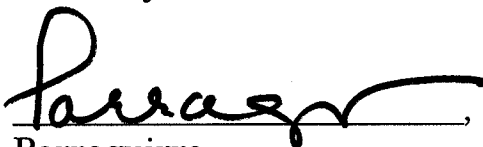
<sup>2</sup>Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993).

<sup>3</sup>NRS 125.480(1)

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

  
Becker, J.

  
Hardesty, J.

  
Parraguirre, J.

cc: Hon. Sandra Pomrenze, District Judge, Family Court Division  
Philip Anthony Garland  
Dan M. Winder  
Clark County Clerk

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<sup>4</sup>Appellant asks this court to reassign the underlying case to another district court judge. A party who seeks to disqualify a judge for bias or prejudice must file an affidavit specifying the basis for disqualification not less than twenty days before the date set for trial or hearing of the case, or not less than three days before the date set for a pretrial hearing. See NRS 1.235(1); see also Towbin Dodge, LLC v. Dist. Ct., 121 Nev. 251, 112 P.3d 1063 (2005) (recognizing that if new grounds for a judge's disqualification are discovered after the time limits have run under NRS 1.235(1), a party may file a motion to disqualify a judge under the Nevada Code of Judicial Conduct). Judge Pomrenze has presided over the proceedings for approximately two years, and we decline appellant's request.