

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHANIE BECKFORD,
Appellant,
vs.
NORMAN BECKFORD,
Respondent.

No. 46512

FILED

JAN 11 2007

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order awarding child custody under a divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Steven E. Jones, Judge.

The parties were married in 1996. They have one minor child from the marriage. Respondent has primary physical custody of two minor children from a prior marriage.

In January 2004, appellant filed a complaint for divorce. In the divorce complaint, appellant sought, among other things, primary physical custody of the parties' child. Respondent opposed appellant's custody request and filed a counter-motion for custody and permission to relocate with the child to Utah. Following a hearing, the district court granted the parties a divorce. Under the divorce decree, the parties were awarded joint legal custody of the child, with respondent having primary physical custody and permission to relocate with the child to Utah. Appellant was awarded visitation and has appealed.

On appeal, appellant only challenges the district court's child custody award.¹ According to appellant, the district court abused its discretion when it determined custody based solely on the fact that it is in the child's best interest to live with his half-siblings, without considering the fact that appellant has been the child's "historical primary caretaker."²

Matters of custody, including visitation, rest in the district court's sound discretion.³ This court will not disturb the district court's custody decision absent a clear abuse of discretion.⁴ In determining child custody, the court's sole consideration is the child's best interest.⁵

In this case, the district court rendered its decision after a hearing, during which both appellant and respondent testified. In the divorce decree, the court stated that it was in the child's best interest for the parties to share joint legal custody, with respondent having primary

¹Appellant's fast track statement does not challenge the portion of the divorce decree that granted respondent permission to relocate with the child to Utah. Accordingly, we do not discuss that issue in this order.

²Although appellant devotes approximately three pages of her fast track statement to the factors set forth under NRS 125.480(4)(a)-(k), she acknowledges that the majority of this subsection was not added to this statutory provision until 2005, after the district court considered the child custody issue. Accordingly, as the application of this provision was not raised in the district court, we need not consider it in this appeal. See Old Aztec Mine, Inc. v. Brown, 97 Nev. 49, 52-53, 623 P.2d 981, 983-84 (1981) (recognizing that issues not raised in the district court are waived on appeal).

³Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

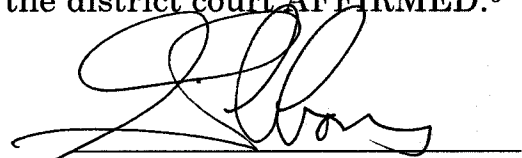
⁴Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993).

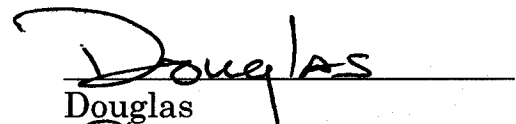
⁵NRS 125.480(1).

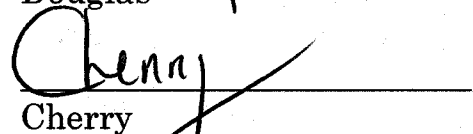
physical custody and appellant having visitation. As for visitation, the district court awarded appellant visitation with the child during summer vacation, spring break, and every other Thanksgiving and half of every Christmas break; the court also provided that appellant have reasonable telephonic and electronic communication with the child.

Having reviewed appellant's fast track statement, respondent's fast track response and the record, we conclude that the district court did not abuse its discretion when it awarded respondent primary physical custody of the child, with appellant having visitation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁶


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Steven E. Jones, District Judge, Family Court Division
Susan Holland Johnson, Settlement Judge
Gayle F. Nathan
Norman Beckford
Clark County Clerk

⁶Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.