

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA GOODRICH,  
Appellant,  
vs.  
LAURA GOODRICH, A/K/A LAURA  
MARLER, N/K/A LAURA  
JOHNANKNECHT,  
Respondent.

No. 47961

**FILED**

SEP 10 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY A. Alvarado  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a post-decree district court order changing the child custody arrangement. Eighth Judicial District Court, Family Court Division, Clark County; Lisa M. Kent, Judge.

In 2003, appellant Joshua Goodrich and respondent Laura Goodrich were divorced in Las Vegas. Joshua lives in Nebraska and Laura lives in Las Vegas. As part of the divorce decree, the parties were awarded joint legal and physical custody of their minor child, who is currently approximately six years old. Under the decree, the child lived one half of each year with Joshua in Nebraska and the other half of the year with Laura in Las Vegas. Also under the decree, Laura was ordered to pay Joshua child support.

As the child approached school age, Laura moved the district court for primary physical custody of the child. Joshua opposed the motion. A hearing was conducted, during which Joshua and Laura, as well as other witnesses, testified, and thereafter, the district court entered an order granting Laura's motion to modify the custody arrangement and awarding Joshua visitation.

In its order, the district court stated that both parties are “good parents,” but recognized that the child custody arrangement under the divorce decree was problematic as the child prepared to enter school. The court further determined that since the parties are equally good parents, their respective communities should be examined to determine what custody arrangement was in the child’s best interest. Ultimately, the court concluded that the child’s best interest is served by living in Las Vegas with Laura and her new family, which includes a step-sibling and a half-sibling. Joshua has appealed from the modification order.

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> The district court may grant a motion to modify a joint physical child custody arrangement if it is established that such a change will serve the child’s best interest.<sup>3</sup> Further, this court will not substitute its own judgment “for that of the district court, absent an abuse of discretion, [as] the district court has a better opportunity to observe parties and evaluate the situation.”<sup>4</sup>

On appeal, Joshua contends that the district court abused its discretion by awarding Laura primary physical custody of the child

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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 125.510(2); see also Truax v. Truax, 110 Nev. 437, 874 P.2d 10 (1994) (concluding that only the child’s best interest need be considered by the district court in situations involving joint physical custody).

<sup>4</sup>Wolff v. Wolff, 112 Nev. 1355, 1359, 929 P.2d 916, 919 (1996) (citing Winn v. Winn, 86 Nev. 18, 20, 467 P.2d 601, 602 (1970)).

because Joshua does not work, due to a work-related disability, and thus, he is able to spend more time with the child, while Laura and her new husband both work full-time, resulting in the child attending after-school day care. Moreover, Joshua contends that his parents, who also live in Nebraska, are available to play an active role in the child's upbringing. Joshua insists that the district court overlooked these considerations when making its custody determination.<sup>5</sup> Joshua also contends that since Laura was in arrears for child support, she necessarily is not a "responsible" parent and should not have been awarded primary physical custody.<sup>6</sup>

Here, the district court concluded that both parents were capable of providing proper care for the child and that the parents' communities were both suitable for raising the child. And while the district court was aware of Joshua's ability to care for the child full-time, in addition to his parents' interest in caring for the child, the district court concluded that it was in the child's best interest to live with Laura and her

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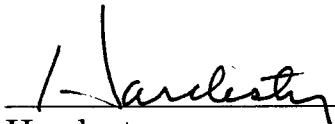
<sup>5</sup>Williams v. Williams, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (recognizing that it is the role of the fact finder to determine the credibility of witnesses and weigh the evidence); DeLee v. Roggen, 111 Nev. 1453, 907 P.2d 168 (1995) (noting that a district court's findings will not be disturbed unless they are clearly erroneous and not based on substantial evidence); Kobinski v. State, 103 Nev. 293, 738 P.2d 895 (1987) (providing that this court will not substitute its own evaluation of the evidence for that of the district court when the district court had an opportunity to hear the witnesses and judge their demeanor).

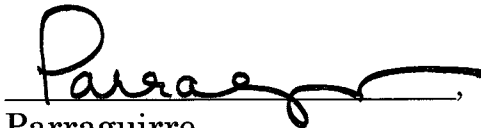
<sup>6</sup>Joshua also contends that the district court abused its discretion when it declined to enter a judgment against Laura for child support arrears. On October 5, 2006, however, the district court entered an order crediting Joshua's child support obligation, under the modified custody arrangement, with the child support arrears owed to Joshua by Laura.

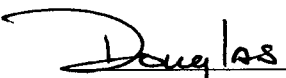
husband, and the child's step- and half- siblings. The record shows that in the underlying matter, the district court evaluated the circumstances and observed the parties, and we perceive no abuse of discretion.

Having reviewed the fast track statement, response, and reply, and the appellate record, we conclude that the district court did not abuse its discretion when it modified the custody arrangement and, thus, we affirm the district court's modification order.

It is so ORDERED.<sup>7</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Lisa M. Kent, District Judge, Family Court Division  
Carolyn Worrell, Settlement Judge  
Michael J. Warhola, LLC  
Frances-Ann Fine  
Eighth District Court Clerk

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<sup>7</sup>Under NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.