

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN LA-SKY,
Appellant,
vs.
JANINA GEI,
Respondent.

No. 54211

FILED

MAY 12 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING

This is a proper person appeal from a district court order denying appellant's motion to modify child support and child custody and awarding attorney fees. Eighth Judicial District Court, Clark County; Mathew Harter, Judge.

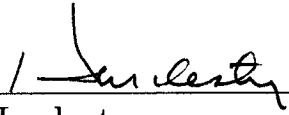
This court will not disturb the district court's custody decision absent a clear abuse of discretion, and child support order absent an abuse of discretion. Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996); Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993). Having reviewed the appellate record, appellant's proper person civil appeal statement, and respondent's response, we conclude that the district court did not abuse its discretion when it denied appellant's motion to modify child custody. Specifically, the district court's prior order required (1) each party to "make good faith efforts to resolve their differences" twice through mediation before raising any child-related issues in a district court proceeding, and (2) the party filing a court motion on any child-related


issues to provide proof that mediation was twice attempted. Prior to initiating the underlying child custody related proceeding, appellant failed to raise his child custody differences with respondent through mediation. As such, the district court did not abuse its discretion in refusing to modify the parties' child custody arrangement, and we affirm this portion of the district court's order.

Nonetheless, during the proceeding below, appellant also requested a modification of his child support obligation, based on his claim of at least a 20-percent change in income. The district court determined that appellant was procedurally barred from moving to modify the child support award in the district court because of the prior court order requiring appellant to twice raise child-related issues in mediation before raising them in district court and appellant failed to provide proof that he had attended mediation. But NRS 125B.145(4) provides that a 20-percent change in gross monthly income "shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child." (Emphasis added.). Although the Eighth District Court Rule 5.70 outlines a mandatory mediation program, that rule extends, in relevant part, to child custody matters, not child support issues. As such, given the mandatory language in NRS 125B.145(4), we reverse the portion of the district court order refusing to at least consider appellant's motion to modify child support. Additionally, given this conclusion, we also reverse the district court's award of attorney fees and

costs. We remand this matter to the district court for further proceedings consistent with this order.

It is so ORDERED.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Mathew Harter, District Judge
Steven La-Sky
Ecker & Kainen, Chtd.
Lemons, Grundy & Eisenberg
Eighth District Court Clerk

¹We find appellant's remaining claims to lack merit.