

IN THE SUPREME COURT OF THE STATE OF NEVADA

HADLEY T. JAMES,
Appellant,
vs.
EMILY JAMES,
Respondent.

No. 54998

FILED

JAN 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

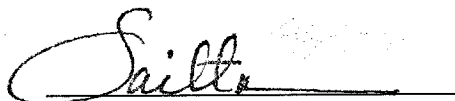
ORDER OF AFFIRMANCE

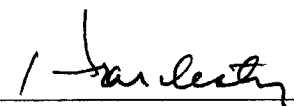
This is a proper person appeal from a district court post-decree order modifying child custody and an order awarding attorney fees and costs. Eighth Judicial District Court, Family Court Division, Clark County; William B. Gonzalez, Judge.

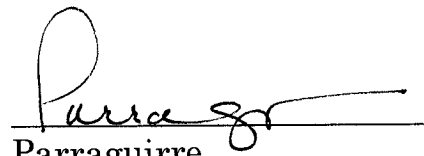
Having considered the parties' appellate arguments and the record on appeal, we affirm the district court's orders regarding custody and attorney fees. We conclude that the district court did not abuse its discretion in modifying child custody and limiting appellant's visitation, as there was a substantial change in circumstances and it was in the child's best interest to modify custody and limit appellant's visitation. See Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996) (providing that a district court's child custody decision will not be overturned absent an abuse of discretion); Ellis v. Carucci, 123 Nev. 145, 161 P.3d 239 (2007) (providing that custody may be modified if the moving party demonstrates a substantial change in circumstances that affects the child's welfare and the child's best interest is served by the modification); NRS 125.480(1) ("[T]he sole consideration of the court [in child custody matters] is the best interest of the child."); NRS 125C.010(1)(a) (providing, in relevant part, that a party's right of visitation must ensure that the child's best interest is achieved).

Concerning the district court's award of attorney fees and costs, we conclude that appellant is precluded from challenging the district court's order awarding attorney fees and costs. See Diamond Enters., Inc. v. Lau, 113 Nev. 1376, 1378, 951 P.2d 73, 74 (1997) (stating that an argument made for the first time on appeal is waived). Respondent properly served her post-trial motion regarding attorney fees and costs on appellant's then-attorney. Appellant's attorney, however, failed to file a written opposition to respondent's post-trial motion. Because appellant failed to timely oppose respondent's motion for attorney fees and costs, appellant has waived his right to appeal that issue. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


Saitta, J.


Hardesty, J.


Parraguirre, J.

cc: Hon. William B. Gonzalez, District Judge, Family Court Division
Hadley T. James
Ecker & Kainen, Chtd.
Lemons, Grundy & Eisenberg
Eighth District Court Clerk

¹On July 9, 2010, appellant submitted a letter to this court regarding this case. Communication by letter to this court, however, is an inappropriate way of providing this court with information. Thus, we direct the clerk of this court to return, unfiled, appellant's July 9 letter. We did not consider the July 9 letter in resolving this appeal. Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981) (recognizing that this court will not consider any documentation not properly appearing in the district court record).