

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL CHAPA,
Appellant,
vs.
LETA V. ADAMS-CHAPA,
Respondent.

No. 57131

FILED

SEP 15 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Maline
DEPUTY CLERK

ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING

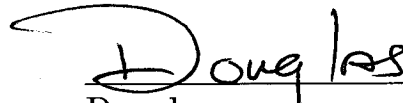
This is a proper person appeal from district court post-divorce decree orders denying appellant's motion to modify custody and granting respondent's motion to relocate with the parties' minor child. Eighth Judicial District Court, Family Court Division, Clark County; Robert Teuton, Judge.


With regard to the motion to modify custody, the district court did not abuse its discretion by denying appellant's motion on the ground that appellant had failed to establish a substantial change in circumstances necessary to modify custody. See Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (providing that custody matters are within the district court's discretion); Ellis v. Carucci, 123 Nev. 145, 150-51, 161 P.3d 239, 242-43 (2007) (explaining that a party seeking modification of a primary physical custody arrangement must establish "a substantial change in circumstances affecting the welfare of the child," and that "the child's best interest is served by the modification"). Accordingly, we affirm the district court's order denying appellant's motion to modify custody.

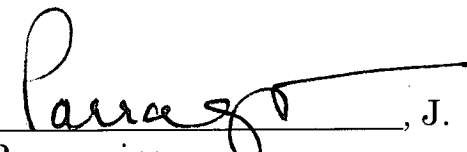
The court did, however, abuse its discretion in granting respondent's motion to relocate with the parties' child to Illinois. In

deciding a custodial parent's motion to relocate, the district court must first determine whether the custodial parent and the child will both realize an actual advantage by relocating. Schwartz v. Schwartz, 107 Nev. 378, 382, 812 P.2d 1268, 1271 (1991). If so, the court must then weigh the relevant factors and subfactors set forth in Schwartz. Id. at 383, 812 P.2d at 1271. Here, the district court authorized respondent's relocation based solely on the conclusion that respondent's motion to relocate was made in good faith given the current economic climate. The court did not make any finding that respondent and the parties' child would realize an actual advantage by relocating to Illinois or weigh the remaining Schwartz factors. Because the court failed to apply the proper standard in ruling on respondent's motion, we reverse the district court's order granting relocation and remand this matter to the district court for further proceedings consistent with this order.¹

It is so ORDERED.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Hon. Robert Teuton, District Judge, Family Court Division
Michael Chapa
Leta V. Adams-Chapa
Eighth District Court Clerk

¹In reversing the district court's order, we express no opinion on the merits of respondent's motion to relocate.