

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA MARIE GATZ, N/K/A LISA MARIE  
SORIANO,

Appellant,

vs.

TIMOTHY R. GATZ,

Respondent.

No. 35265

**FILED**

**MAR 06 2001**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order granting a motion to modify child custody, granting primary physical custody to respondent, Timothy Gatz. After conducting an evidentiary hearing, the district court concluded that material changes in circumstances had occurred since the divorce decree and that the child's welfare would be substantially enhanced by the change in custody.

On appeal, appellant, Lisa Soriano, argues that the district court abused its discretion by granting the motion to modify custody, because the record contains no substantial evidence of a material change in circumstances or of a substantial enhancement of the child's welfare warranting the change of custody. We conclude that these arguments lack merit; therefore, we affirm the district court's order modifying child custody.

Soriano argues that uprooting the child from her siblings and the mother who cared for her since birth should only be ordered under compelling proof that a change in custody is required. Soriano contends that no such proof was offered here.

We grant broad discretion to trial courts in determining matters of child custody.<sup>1</sup> Absent an abuse of discretion, we will not disturb the trial court's determination.<sup>2</sup> But we must be satisfied that the trial court's determination was made for the appropriate reasons.<sup>3</sup> A change of primary physical custody is warranted only when: "(1) the circumstances of the parents have been materially altered; and (2) the child's welfare would be substantially enhanced by the change."<sup>4</sup>

Regarding material change of circumstances, the district court noted material changes in the stability of the minor child's home environment, including multiple remarriages and job changes, and evening work that restricted Soriano's ability to assist the child with schoolwork, and the occurrence of learning disabilities, which possibly resulted from the child's hearing and/or speech difficulties. Regarding how the child's welfare would be substantially enhanced by the change in primary physical custody, the district court noted potential benefits the child would gain from attending a year-round school in Nevada that attempts to mainstream special education students into some regular classes instead of tracking them solely into special education classes. In addition, the district court noted that the Churchill County School District diagnosed a hearing

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<sup>1</sup>Primm v. Lopes, 109 Nev. 502, 504, 853 P.2d 103, 104 (1993).

<sup>2</sup>Id.

<sup>3</sup>Sims v. Sims, 109 Nev. 1146, 1148, 865 P.2d 328, 330 (1993).

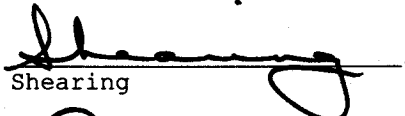
<sup>4</sup>Wiese v. Granata, 110 Nev. 1410, 1413, 887 P.2d 744, 746 (1994) (quoting Murphy v. Murphy, 84 Nev. 710, 711, 447 P.2d 664, 665 (1968)) (emphasis omitted).

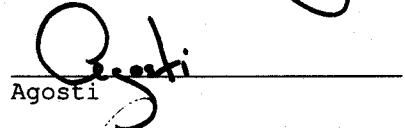
deficiency in the minor child, which it would address along with the minor child's attendant speech problems. And finally, the district court noted that Gatz could provide the child with a more stable home environment because of his steady daytime employment and stable remarriage.

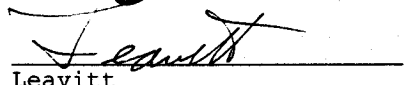
Considering these material changes of circumstances and the substantial enhancements the minor child would gain from a change in primary physical custody, we conclude that substantial evidence in the record supports the district court findings that it is in the best interest of the minor child to be placed in the primary physical custody of Gatz. Accordingly, we conclude that the district court did not abuse its discretion.

Having considered Soriano's contentions on appeal and concluded they lack merit, we

ORDER the judgment of the district court AFFIRMED.

  
Shearing J.

  
Agosti J.

  
Leavitt J.

cc: Hon. David A. Huff, District Judge  
Scott W. Edwards  
Sharon L. McDonald  
Churchill County Clerk