

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE PETITION FOR
CUSTODY AS TO C.D.

No. 58332

CURTIS L.D.,
Appellant,
vs.
GLENN G.; PENNY G.; AND SHANDA H.,
Respondents.

FILED

SEP 13 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order regarding child custody. Eighth Judicial District Court, Clark County; Cynthia N. Giuliani, Judge.

Respondents Glenn G. and Penny G. instituted the underlying action seeking physical custody, or in the alternative, visitation with appellant Curtis L.D.'s and respondent Shanda H.'s minor child.¹ Curtis, proceeding in proper person, filed an answer to the petition and a countermotion for primary physical custody. Thereafter, during a May 2010 hearing, the district court scheduled the disputed matter for an evidentiary hearing in August 2010. Curtis failed to appear for the August 2010 evidentiary hearing. During that hearing, however, the matter was continued until November 2010. All parties appeared at the November hearing except for Curtis. At that hearing, Glenn, Penny, and

¹The child's mother, Shanda H., was a party to the proceedings below, but was not identified as a respondent in this matter. Thus, we direct the clerk of this court to amend this court's docket to conform to the caption on this order.

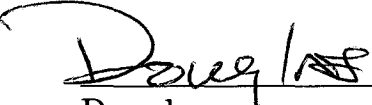
Shanda settled their dispute regarding child custody and visitation. Thereafter, the district court entered an order approving the settlement, which awarded visitation to Glenn and Penny, without addressing Curtis's counter-motion for primary physical custody or ordering a specific visitation schedule for Curtis and the child. This appeal followed. As directed, Glenn and Penny have filed a response.


Due process requires that a party receive notice of a proceeding and an opportunity to be heard. See generally Brown v. Brown, 96 Nev. 713, 715-16, 615 P.2d 962, 964 (1980). The reasonableness of the notice required to be given depends on the particular circumstances. Browning v. Dixon, 114 Nev. 213, 217, 954 P.2d 741, 743 (1998). Parents have a fundamental liberty interest in the care and custody of their children, which entitles them to due process protections. Santosky v. Kramer, 455 U.S. 745, 753-54 (1982). Therefore, Curtis was entitled to notice of the November hearing before the district court resolved the custody issues.

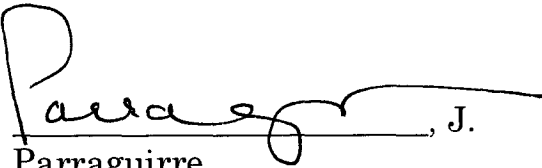
Glenn and Penny contend that Shanda orally informed Curtis of the November 2010 hearing date, but Curtis disputes this fact and the district court record does not support Glenn and Penny's contention. The appellate record does not reflect that Curtis was provided with notice of the hearing. Thus, we conclude that the district court erred in proceeding with the November hearing and approving the stipulation between Glenn, Penny, and Shanda, without Curtis first having been provided with written notice of the date for the evidentiary hearing, with the opportunity to be heard. See generally Dagher v. Dagher, 103 Nev. 26, 731 P.2d 1329 (1987) (holding that the district court erred in modifying child custody without prior specific notice being provided to the nonmoving party);

Matthews v. District Court, 91 Nev. 96, 531 P.2d 852 (1975) (holding that the district court exceeded its jurisdiction in resolving a child custody dispute without notice to the mother). Accordingly, we reverse the district court's order and we remand this matter to the district court to hold an evidentiary hearing, after proper notice is given to all the parties.

It is so ORDERED.²


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Cynthia N. Giuliani, District Judge, Family Court Division
Curtis L.D.
Roberts Stoffel Family Law Group
Shanda H.
Eighth District Court Clerk

²In light of this order, we need not consider the parties' remaining arguments.