

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBYN DAWN ELDRIDGE,
Appellant,
vs.
JEREMY A. ELDRIDGE,
Respondent.

No. 59320

FILED

NOV 14 2013

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

ORDER OF REVERSAL AND REMAND

This is an appeal from a post-divorce decree district court order modifying a child support obligation. Third Judicial District Court, Lyon County; William Rogers, Judge.

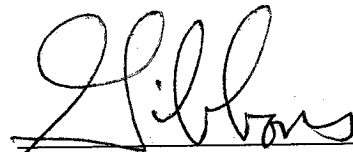
Appellant filed a motion to modify respondent's child support obligation for the parties' three minor children. At a hearing before the child support master, the parties testified that although appellant had primary physical custody of the children, the children had been staying with respondent three days each week. The master concluded that a downward deviation from the statutory amount of child support established in NRS 125B.070 was appropriate based on the value of services respondent provided for the children and based on the amount of time respondent spent with the children. Appellant filed an objection to the master's recommendation. At a hearing before the district court, the parties advised the court that appellant had relocated after the master's hearing, which significantly diminished the amount of time respondent spent with the children. The district court confirmed the master's recommendation, only amending it to address the increase in respondent's monthly income that he had earned since the master's hearing.

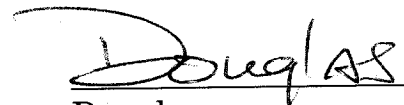
Having considered the parties' briefs and the record on appeal, we conclude that the district court abused its discretion by confirming the master's recommendation, which deviated from the statutory child support amount. *See Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (providing that this court reviews a district court's child support decision for an abuse of discretion). In its order, the district court failed to identify the amount of support established under the statutory formula, as required by NRS 125B.080(6)(b). *See id.* Additionally, the evidence included in the record on appeal does not support the rationale for the deviation, considering that the parties advised the district court that respondent no longer spends as much time with the children as he did when he testified before the master. *See Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (providing that in determining whether a district court abused its discretion, this court will consider if the district court's factual determinations are supported by substantial evidence, which is defined as evidence that "a sensible person may accept as adequate to sustain a judgment").


Further, aside from the time share, which had changed by the time the matter reached the district court for review of the master's decision, and the services provided by respondent, the district court did not set forth any additional findings to support the downward deviation, such as the standard of living and financial condition of the parties. *See Love v. Love*, 114 Nev. 572, 579, 959 P.2d 523, 528 (1998) (explaining that "[a] district court has limited discretion to deviate from child support guidelines set forth in NRS 125B.070"); *see also* NRS 125B.080(9) (outlining factors a court should consider when adjusting a child support amount); *Barbagallo v. Barbagallo*, 105 Nev. 546, 551, 779 P.2d 532, 536

(1989) (providing that the most important statutory factors to be weighed when deviating from the statutory formula for child support are the standard of living and financial condition of the parties), *overruled on other grounds by Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009). Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. William Rogers, District Judge
Carolyn Worrell, Settlement Judge
Bruce Law Group
Bonnie G. Mahan
Lyon County Clerk