

IN THE SUPREME COURT OF THE STATE OF NEVADA

DWAIN SEPPALA,
Appellant,
vs.
LISA MUELLER,
Respondent.

No. 61427

FILED

NOV 14 2013

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court post-divorce decree order concerning visitation and child support. Eighth Judicial District Court, Family Court Division, Clark County; William B. Gonzalez, Judge.

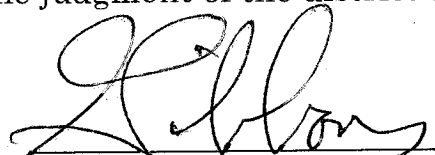
On appeal, appellant challenges the district court's ruling that appellant's visitation with the parties' youngest teenage child was within the child's discretion and that appellant would be financially responsible for any counseling services. Appellant also challenges the district court's finding that appellant was willfully underemployed and the judgment for child support arrears. Appellant argues that he has been unable to find adequate employment within his field and that passport restrictions have prevented him from accepting employment that would require international travel.

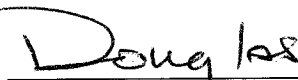
Having reviewed the record, we conclude that appellant's contentions are without merit. Decisions regarding child custody, visitation, and support rest in the district court's sound discretion, *Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996), and this court will not disturb the decision absent an abuse of that discretion. *Sims v. Sims*, 109 Nev. 1146, 1148, 865 P.2d 328, 330 (1993). Here, the district court interviewed the parties' youngest teenage son and determined that visitation with appellant was within the child's discretion. The district

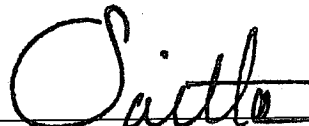
court's decision was not an abuse of discretion. *See Wallace*, 112 Nev. at 1019, 922 P.2d at 543.

As for child support, the district court found that appellant was willfully underemployed and imputed an annual income to him of \$30,000 in calculating child support. If a parent "is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity." NRS 125B.080(8); *see also Minnear v. Minnear*, 107 Nev. 495, 498, 814 P.2d 85, 86-87 (1991). Given appellant's level of education and historical income, we conclude that the district court did not abuse its discretion with regard to calculating the child support. *See Wallace*, 112 Nev. at 1019, 922 P.2d at 543. Finally, appellant argues that his child support arrears should be eliminated. This contention is without merit, as child support payments cannot be modified once they have accrued. *See Khaldy v. Khaldy*, 111 Nev. 374, 377, 892 P.2d 584, 586 (1995). Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


Gibbons, J.
Gibbons


Douglas, J.
Douglas


Saitta, J.
Saitta

¹We have considered appellant's transcript request, and we conclude that the preparation of transcripts are not necessary for an adequate review of this appeal.

cc: Hon. William B. Gonzalez, District Judge, Family Court Division
Dwain Seppala
Lisa Mueller
Eighth District Court Clerk