

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL PERRY,  
Appellant,  
vs.  
LINDA PERRY,  
Respondent.

No. 69754

**FILED**

OCT 26 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.

After separating, appellant filed a complaint for divorce and seeking a custody determination regarding the parties' minor twin children. The parties conducted discovery and obtained expert reports regarding the children, and ultimately proceeded to trial. After the trial, the district court entered detailed findings of fact and conclusions of law, as is pertinent here, granting the divorce, awarding primary physical custody to respondent, and awarding respondent child support. This appeal followed.

On appeal, appellant first argues that the district court abused its discretion in awarding primary physical custody to respondent. The sole consideration in awarding custody is the best interest of the

child,<sup>1</sup> and we review such an award for an abuse of discretion. *Rivero v. Rivero*, 125 Nev. 410, 423, 428, 216 P.3d 213, 223, 226 (2009). Having reviewed the record on appeal, we conclude the district court did not abuse its discretion. The district court's findings of fact are supported by substantial evidence in the record, namely respondent's testimony. *See id.* at 428, 216 P.3d at 226 (providing that a district court's custody decision must be supported by substantial evidence, which is evidence a reasonable person would accept as adequate to support a decision); *see also Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007) (refusing to reweigh determinations of witness credibility on appeal). Furthermore, the district court thoroughly addressed all of NRS 125C.0035(4)'s best interest factors in awarding respondent custody and provided "an adequate explanation of the reasons for the custody determination" by tying its findings to its decision to award respondent primary custody. *Lewis v. Lewis*, 132 Nev. \_\_\_, \_\_\_, 373 P.3d 878, 882 (2016) (internal quotation marks omitted) (requiring district courts to set forth specific findings regarding all of the best interest factors when making custody awards); *see also Davis v. Ewalefo*, 131 Nev. \_\_\_, \_\_\_, 352 P.3d 1139, 1143 (2015) ("Nevada law . . . requires express findings as to the best interest of the child in custody and visitation matters," and the "order must tie the child's best

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<sup>1</sup>Appellant also asserts that the district court failed to apply a preference for joint physical custody, but such a preference only applies if the parties agree, or under other circumstances not present in this case. *See* NRS 125C.0025.

interest, as informed by specific, relevant findings respecting the [statutory best interest factors] and any other relevant factors, to the custody determination made.”). Accordingly, we affirm the district court’s award of primary physical custody to respondent.<sup>2</sup>

Appellant next asserts that the district court improperly increased his child support obligation in the final order because his income did not change. The record demonstrates, however, that appellant’s gross monthly income did slightly increase as reflected in his November 11, 2015, financial disclosure form. Furthermore, the support obligation ordered by the district court complies with NRS 125B.070 and 125B.080(9). Because we perceive no abuse of discretion, we affirm the district court’s award of child support. *See Love v. Love*, 114 Nev. 572, 579, 959 P.2d 523, 528 (1998) (explaining that a court only has “limited discretion to deviate” from NRS 125B.070’s support obligation calculations and that any such deviation must be based on the factors listed in NRS 125B.080(9)).


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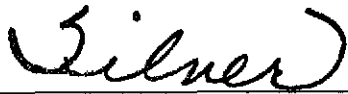
<sup>2</sup>Appellant also argues that the district court abused its discretion in allowing respondent some final say as to decisions affecting the parties’ children because that contradicted the award of joint legal custody. The Nevada Supreme Court has already determined, however, that “the parents need not have equal decision-making power in a joint legal custody situation.” *Rivero*, 125 Nev. at 421, 216 P.3d at 221. Additionally, the district court specifically gave appellant the right to seek court intervention if he disagreed with a decision made by respondent. *See id.* at 421, 216 P.3d at 221-22 (providing that if parties that have joint legal custody reach an impasse as to a decision regarding their child, they may seek court intervention).

Based on the foregoing,<sup>3</sup> we

ORDER the judgment of the district court AFFIRMED.<sup>4</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

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<sup>3</sup>Appellant also asserts that the district court did not properly divide the parties' assets and debts, improperly imposed a time limit on his ability to present his case, and did not address community waste or contempt issues. But, because he fails to present cogent arguments as to these points, we need not address them. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not address issues that lack cogent argument).

<sup>4</sup>Based on our review of the record, we conclude that appellant's argument that the district court was biased against him is without merit. Indeed, the court's ultimate decision was unbiased, well-reasoned, and thorough; thus, appellant has failed to demonstrate any bias or impropriety on the part of the district court that would warrant the reversal of the court's decision.

cc: Hon. William S. Potter, District Judge, Family Court Division  
Robert E. Gaston, Settlement Judge  
Michael Perry  
Kainen Law Group  
Eighth District Court Clerk