

IN THE SUPREME COURT OF THE STATE OF NEVADA

RENAE SMALLEY,

Appellant,

vs.

JIM SMALLEY,

Respondent.

No. 36538

**FILED**

NOV 15 2000

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

ORDER AFFIRMING IN PART,

REVERSING IN PART AND REMANDING

This is a proper person appeal from an order of the district court modifying child custody and child support.

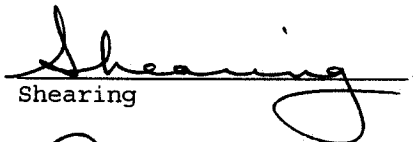
The trial court enjoys broad discretionary powers in determining child custody issues, and this court will not disturb the district court's judgment absent a clear abuse of discretion. See *Sims v. Sims*, 109 Nev. 1146, 865 P.2d 328 (1993). "A change of custody is warranted only when: (1) the circumstances of the parents have been materially altered; and (2) the child's welfare would be substantially enhanced by the change." *Murphy v. Murphy*, 84 Nev. 710, 711, 447 P.2d 664, 665 (1968). The moving party in a custody proceeding must show that circumstances have substantially changed since the most recent custodial order. See *McMonigle v. McMonigle*, 110 Nev. 1407, 1408, 887 P.2d 742, 743 (1994). Having reviewed the documents before this court on appeal, we conclude that the district court did not abuse its discretion when it ordered the change of custody as to the youngest child.

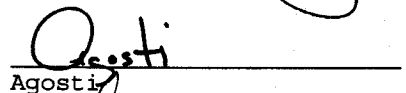
We further conclude that the district court properly exercised its discretion with respect to the obligations for child support as to both children. See *Wallace v. Wallace*, 112 Nev. 1015, 922 P.2d 541 (1996) (holding that child support is within district court's discretion); NRS 125B.070; NRS

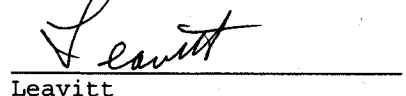
125B.080. Accordingly, we affirm that portion of the district court's order pertaining to the change in the child support obligation as to the youngest child, and that portion of the district court's order regarding child support as to the oldest child.

With regard to the child support arrears, we conclude that the district court abused its discretion (1) when it ordered that respondent was relieved of the child support obligation for the two children during the period in which the children resided exclusively with respondent, and (2) when it concluded that respondent was entitled to credit as to child support for the period in which the children resided with him. See *Khaldy v. Khaldy*, 111 Nev. 374, 377, 892 P.2d 584, 586 (1995) (concluding that once accrued, payments for child support "become vested rights and cannot thereafter be modified or voided"). Accordingly, we reverse that portion of the district court's order that relieved respondent of his child support obligation during the period in which the children resided with him and that portion of the order that gives respondent credit as to child support, and we remand this matter to the district court for further proceedings regarding determination of child support arrears.

It is so ORDERED.

  
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Shearing J.

  
\_\_\_\_\_  
Agosti J.

  
\_\_\_\_\_  
Leavitt J.

cc: Hon. Deborah Schumacher, District Judge,  
Family Court Division  
Jeffrey Friedman  
Renaë La Lyn Smalley  
Washoe County Clerk