IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CYNTHIA HJELSTROM, N/K/A CYNTHIA ANDERSON,
Appellant,
vs.
GREGORY HJELSTROM,
Respondent.

No. 72536

FILED

DEC 29 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Cynthia Hjelstrom appeals a denial of child support arrearage. Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.

Cynthia and Gregory Hjelstrom divorced in 2013, after which they shared joint custody of their four children.[1] The parties' divorce decree set the terms of child support consistent with NRS 125B.070 and *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998). The decree stated that when the eldest child reached the age of 18 and graduated from high school, support for the younger children would be set "pursuant to the statutory formula then in effect in the State of Nevada."

The eldest child, Brandon, turned 18 in 2015, which triggered recalculation of the support arrangement. In July of that year, rather than moving to formally modify the support agreement, Gregory suggested the parties divide the then-current support payment in fourths, then subtract one fourth from that original payment amount to account for Brandon's emancipation. Gregory offered in the alternative that they compare paystubs and "recompute the formula right away." Cynthia responded to his suggested

[1]We do not recount the facts except as necessary to our disposition.

recalculation, "[3/4] is fine." The result was a decrease in Gregory's monthly child support payment from $1,705 to $1,278.75.[2]

Sometime in November, 2015, the parties recalculated the monthly support amount to represent 29% of their gross monthly incomes, as required by NRS 125B.070. Then in August, 2016, Cynthia moved, in pertinent part, to reduce child support arrears to judgment to reflect the amount Gregory would have owed had the support been correctly calculated. After a hearing held the next month, as to arrearage, the district court ruled for Gregory. The court made no factual findings, concluding in a single sentence "that there are no child support arrearages owed to Plaintiff." Cynthia now appeals that order.

This court reviews matters regarding child support for an abuse of discretion. *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1227 (2004). "Although this court reviews a district court's discretionary determinations deferentially, deference is not owed to legal error . . . or to findings so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. ___, ___ 352 P.3d 1139, 1142 (2015); *Rivero v. Rivero,* 125 Nev. 410, 429, 216 P.3d 213, 226 (2009). Family law does not wholly ignore contract law, and contractual language will generally be enforced in a divorce, custody, or support settlement if the agreement is not contrary to public policy. *Bluestein v. Bluestein*, 131 Nev. ___, ___, 345 P.3d 1044, 1049 (2015). But changes in child support are considered matters of public policy and must be considered

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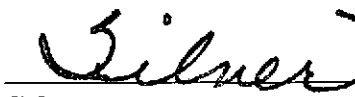
[2]The pre-emancipation support amount, 31% of gross monthly income, was $1,705 before offsets for health insurance premiums or for other shared expenses. After Brandon's emancipation, NRS 125B.070 required a decrease to 29% of gross monthly income, which would have resulted in a pre-offset monthly payment of $1,595. Instead, Gregory paid $1,278, which reflects about 23% of gross monthly income.

with regard to the best interests of the child. *See Fernandez v. Fernandez*, 126 Nev. 28, 33-34, 222 P.3d 1031, 1034-35 (2010); *Rivero*, 125 Nev. at 431, 216 P.3d at 228 (2009). Therefore, even though parties may stipulate to a child support arrangement, on a motion to modify child support, a district court must determine whether modifications are warranted under NRS 125B.070 and NRS 125B.080, and explain any deviations from the statutory formula through detailed findings of fact, even if the record reveals the court's reasoning for the deviation. NRS 125B.080(2); *Rivero*, 125 Nev. at 438, 216 P.3d at 232.

Here, for four months after Brandon's emancipation, Gregory paid significantly less than the 29% required by statute and as contemplated in the divorce decree. When the court later concluded that Gregory owed Cynthia no arrearage despite this discrepancy, it engaged in a de facto deviation from the statutory child support formula. As such, the court was required to provide factual findings to justify that deviation. *Rivero*, 125 Nev. at 438, 216 P.3d at 232 (holding that the district court erred in not making specific findings of fact and not explaining its deviation from the statutory formula). Because the district court failed to provide any findings of fact to support its order, this court is unable to determine whether the court below abused its discretion.

Thus, we remand this matter with instructions to the district court to provide detailed factual findings explaining its deviation from the statutory formula. Accordingly, we

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



_____, C.J.
Silver

_____, J.
Tao

_____, J.
Gibbons

cc: Hon. Vincent Ochoa, District Judge
Lansford W. Levitt, Settlement Judge
Robert W. Lueck, Ltd.
Mills, Mills & Anderson
Eighth District Court Clerk