IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDREW TRAVELLER,
Appellant,
vs.
LAUREN TRAVELLER,
Respondent.

No. 74126-COA

FILED

DEC 10 2018

ORDER OF AFFIRMANCE

Andrew Traveller appeals from a district court decree of divorce. Eighth Judicial District Court, Clark County; Mathew Harter, Judge.

Respondent Lauren Traveller filed a complaint for divorce. The district court deferred jurisdiction to the State of Utah on some property issues and the parties settled other issues, leaving only Andrew's request for nominal alimony for the district court to decide. The district court found that Andrew had not met his burden of proving that his employment with the Las Vegas Metropolitan Police Department (Metro) will be terminated. After conducting an analysis pursuant to NRS 125.150(9), the district court denied Andrew's alimony request. Lauren subsequently moved for attorney fees, and the district court has deferred ruling on that motion until this appeal is resolved.[1]

Andrew presents a two-part argument why the district court abused its discretion by denying his alimony claim. First, Andrew contends that he cannot requalify as a peace officer under Nevada Administrative Code (NAC) Chapter 289 and, therefore, the district court erred by finding he had not proven that his employment with Metro will be terminated.

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

18-907688

Second, Andrew contends that the district court abused its discretion by denying his alimony claim because it improperly weighed the factors enumerated in NRS 125.150(9), including his employment skills, the opportunity to work for his cousin's business, and his future employment at Metro. We disagree.

First, Andrew's reliance on his qualification under NAC Chapter 289 is misplaced. The district court did not make a finding as to whether Andrew would qualify as a peace officer. Rather, the district court found that Andrew had not met his burden of proving that Metro will terminate his employment.

When a trial court acts as the fact finder and makes its decision based on conflicting evidence, this court will not disturb that determination when it is supported by substantial evidence. *Radaker v. Scott*, 109 Nev. 653, 657, 855 P.2d 1037, 1040 (1993). "Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion. Accordingly, a district court's findings will not be set aside unless they are clearly erroneous." *Id.* (internal quotations and citations omitted).

Andrew testified extensively as to his physical limitations and belief that his employment at Metro will be terminated due to his inability to requalify as a peace officer. Given these limitations, it appears Andrew would indeed not be able to requalify as a peace officer. Andrew testified on cross-examination, however, that he had not received any formal notification that his employment is at risk.[2] Further, Andrew testified that he has been performing computer and analytical work for Metro for over a

---

[2]We note that Andrew has been granted a three-year waiver as a peace officer under NAC 289.370. The record does not reveal whether he may receive additional waivers in the future.

year and other Metro employees who are not peace officers perform similar analytical and computer duties. Therefore, we conclude that the district court's finding that Andrew failed to prove that his employment will be terminated is supported by substantial evidence and not clearly erroneous.

We now turn to Andrew's argument that the district court abused its discretion by denying his nominal alimony claim. A district court may award alimony "as appears just and equitable." NRS 125.150(1)(a). This court reviews a district court's decision regarding alimony for an abuse of discretion. *See Fondi v. Fondi*, 106 Nev. 856, 862, 802 P.2d 1264, 1267-68 (1990).

Our review of the record reveals that the district court analyzed the factors enumerated in NRS 125.150(9) and gave significant weight to factors other than Andrew's employability. For example, the district court found that Lauren's student loan debt, which was incurred during marriage but was completely assigned to her, was the "largest consideration" in its determination. Therefore, Andrew's argument that the court gave undue weight to his employability is unpersuasive. Accordingly, we conclude that the district court did not abuse its discretion in denying Andrew's request for nominal alimony.[3]

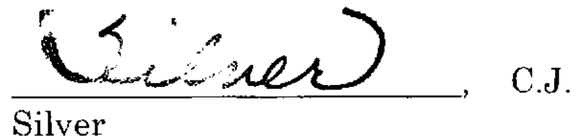
---

[3]Notably, Andrew argued at trial and on appeal that he did not need financial assistance as long as he remained employed with Metro. This further supports the district court's decision to deny Andrew's nominal alimony request. *See Fondi*, 106 Nev. at 865, 802 P.2d at 1270 (holding that when a district court properly denies an alimony award based on facts known to it at the time of trial, a request to retain jurisdiction over alimony is also properly denied).

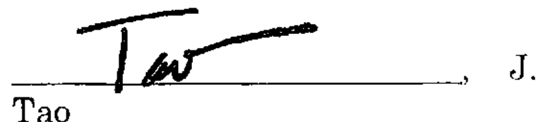
Andrew's reliance on *Bauer v. Bauer*, Docket No. 62469 (Order Affirming in Part, Reversing in Part, and Remanding, Sept. 28, 2015), and *Holstein v. Holstein*, 412 S.E.2d 786 (W. Va. 1991), *overruled on other*

Finally, Andrew asks this court to direct the district court to deny Lauren's motion for attorney fees. We decline to do so. First, because the district court has not ruled on Lauren's motion, there is no attorney fee order currently before this court on appeal. *See* NRAP3(c)(1)(B); NRAP 4(a). Further, either party may file an appeal after the district court has entered an order granting or denying attorney fees. *See* NRAP 3A(b)(8); *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Accordingly, we

ORDER the judgment of the district court AFFIRMED.



______________________, C.J.
Silver



______________________, J.
Tao

______________________, J.
Gibbons

cc: Hon. Mathew Harter, District Judge
Robert E. Gaston, Settlement Judge
Law Office of Michael Rhodes, PLLC
Mario D. Valencia
Eighth District Court Clerk

---

grounds by Banker v. Banker, 474 S.E.2d 465 (W. Va. 1996), is misplaced because both cases are distinguishable from the case at bar and *Bauer* is not properly citable as persuasive authority as that decision predates the change in rules. *See* NRAP 36(c)(3).