IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JAMES WILLIAM MCRAE,
Appellant,
vs.
BIANCA LYNETTE MOSLEY,
Respondent.

No. 80383-COA

FILED

SEP 18 2020

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

ORDER OF AFFIRMANCE

James William McRae appeals from a district court order of dismissal in a child custody matter. Third Judicial District Court, Lyon County; John Schlegelmilch, Judge.

The parties were never married, but have one minor child in common. In April 2019, McRae initiated the proceedings below, seeking to establish a child custody order. Respondent Bianca Mosley filed a motion to dismiss the proceedings, asserting that Nevada lacked jurisdiction over child custody pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) because she and the minor child had been residing in California since April 2018. At the hearing on the motion, the district court heard testimony from both parties and reviewed evidence submitted by both parties. Based on the evidence before it, the court found that Mosley and the child had been living in California since April 2018, that a document titled "Passport to Services" that Mosley filed as an exhibit indicated that the child had received support services in California since at least October 2018, and that no evidence was provided negating the fact

that California had jurisdiction over child custody. Accordingly, the district court concluded that Nevada did not have jurisdiction over child custody in this matter and dismissed the proceedings. This appeal followed.

On appeal, McRae challenges the district court's dismissal based on lack of jurisdiction. This court reviews legal questions concerning subject matter jurisdiction under the UCCJEA de novo. *Friedman v. Eighth Judicial Dist. Court*, 127 Nev. 842, 847, 264 P.3d 1161, 1165 (2011). But this court gives deference to and will uphold the district court's factual findings if they are supported by substantial evidence and are not clearly erroneous. *Ogawa v. Ogawa*, 125 Nev. 660, 667-68, 21 P.3d 699, 704 (2009).

NRS Chapter 125A governs jurisdiction in child custody matters. *See* NRS 125A.305(2). As relevant here, NRS 125A.305 provides that the district court has jurisdiction to enter an initial child custody order if (1) Nevada is the child's home state on the date the action is commenced, meaning the child has resided in Nevada for at least six consecutive months immediately prior to the commencement of the child custody proceeding, or (2) Nevada was the home state within six months before the commencement of the proceeding and, although the child is no longer in Nevada, a parent continues to live in Nevada. *See* NRS 125A.305(1)(a); *see also* NRS 125A.085(1).

Here, McRae asserts that the Passport to Services document was specifically relied upon by the district court, but was never filed with the district court such that the district court's decision is not supported by substantial evidence. It is not clear from McRae's appendix on appeal whether this document was filed with the court. Although McRae alleges

the document was not filed, and it is not attached as an exhibit to any filed document in the appendix, the transcript from the proceedings indicates that the district court determined it had been filed. And McRae did not object to the court's reference to or reliance on the document at the hearing on the motion to dismiss. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

Regardless, the district court did not rely solely on the Passport to Services document. Rather, the district court heard testimony from both parties, including testimony from Mosley that she relocated to California with the minor child in April 2018. Indeed, the district court specifically found that Mosley and the child had been living in California since April 2018 and only additionally noted that the Passport to Services document indicated the child was receiving benefits in California since at least October 2018. And this court will not reweigh witness credibility or the weight of the evidence on appeal. *See Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007) (refusing to make credibility determinations on appeal); *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (refusing to reweigh evidence on appeal). Based on these facts, we cannot conclude that the district court abused its discretion in finding that Mosley and the child were not living in Nevada for the six months immediately preceding the commencement of the action. *See* NRS 125A.305(1)(a); *Ogawa*, 125 Nev. at 667-68, 21 P.3d at 704. And we therefore discern no error in the district court's dismissal of the action on

the grounds that Nevada did not have home state jurisdiction pursuant to NRS 125A.305(1)(a). *See Friedman*, 127 Nev. at 847, 264 P.3d at 1165.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[1]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. John Schlegelmilch, District Judge
Allison W. Joffee
Bianca Lynette Mosley
Third District Court Clerk

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[1]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.