

IN THE SUPREME COURT OF THE STATE OF NEVADA

KELLY GLADWIN, F/K/A KELLY
GILBERT,
Appellant,
vs.
JOHN S. GILBERT,
Respondent.

No. 37586

FILED

NOV 21 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
DEPT. DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to modify a custody order, thereby changing primary physical custody of the child from appellant Kelly Gladwin, the biological mother, to respondent John Gilbert, the child's adoptive father. Absent a clear abuse of discretion, we will not disturb a district court's determination of child custody.¹ However, a district court may only change primary physical custody when "(1) the circumstances of the parents have been materially altered; and (2) the child's welfare would be substantially enhanced by the change."²

On appeal, Gladwin argues that the district court abused its discretion by ordering the change of custody to punish her, and that the district court's finding of parental alienation does not satisfy the requirements upon which to base a change of custody decision. We conclude that the district court based its decision on appropriate reasons,

¹Truax v. Truax, 110 Nev. 437, 439, 874 P.2d 10, 11 (1994).

²Murphy v. Murphy, 84 Nev. 710, 711, 447 P.2d 664, 665 (1968).

and not on a desire to punish Gladwin.³ Specifically, the district court found that Gladwin's actions after her divorce from Gilbert created a climate of parental alienation, causing a material change in Gilbert's relationship with the child. Gladwin reinstated the biological father's parental rights, without notice to Gilbert. She then introduced the child to his biological father and attempted to set aside Gilbert's adoption of the child. Gilbert testified that his relationship with the child deteriorated soon afterwards. Dr. Gary Lenkeit also testified that the child displayed manifestations of parental alienation syndrome in his relationship with Gilbert.

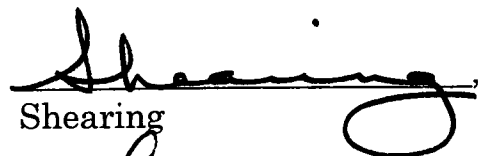
The court also found that granting Gilbert primary physical custody would substantially enhance the child's welfare because he could provide a more stable environment than Gladwin. Subsequent to the divorce, Gladwin remarried twice, lived at four different addresses, and worked for at least four different employers. In contrast, Gilbert never remarried, works for the same employer, and lives at the same address where he resided with Gladwin and the child prior to the divorce. The district court further found that Gilbert is the parent more likely to foster a relationship and continued association with the other parent. Based on this substantial evidence in the record, we conclude that the district court did not abuse its discretion by granting Gilbert's motion for a change of custody.


³See Hopper v. Hopper, 113 Nev. 1138, 1142, 946 P.2d 171, 174 (1997) (noting that this court will uphold a district court's determination of custody as long as it was made for appropriate reasons, and not a clear abuse of discretion).


Gladwin also asserts that the district court findings on parental alienation syndrome were based upon its independent research and were, therefore, error. We conclude that this argument lacks merit because a district court has discretion to conduct independent research on a subject matter relevant to a case.⁴ Accordingly, the district court did not commit reversible error.

Having considered Gladwin's contentions on appeal and concluded they lack merit, we

ORDER the judgment of the district court AFFIRMED.

 J.
Shearing

 J.
Leavitt

 J.
Becker

⁴See Stanfill v. State, 99 Nev. 499, 500-01, 665 P.2d 1146, 1147 (1983) (opinion on rehearing) (noting that this court decided the appeal based in part on independent research it conducted), overruled on other grounds by Sheriff v. Killman, 100 Nev. 619, 621 n.2, 691 P.2d 434, 436 n.2 (1984); Stewart and Horton v. Autrand, 78 Nev. 447, 457, 375 P.2d 750, 755 (1962) (Badt, C.J., concurring) (explaining that the court conducted independent research); Corn v. French, 71 Nev. 280, 291, 289 P.2d 173, 179 (1955) (discussing the court's independent research).

cc: Hon. Robert W. Lueck, District Judge,
Family Court Division
Gayle F. Nathan
Rebecca L. Burton
Clark County Clerk