IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TERRA ARMIJO,
Appellant,
vs.
AARON N. URBINA,
Respondent.

No. 80729-COA

ORDER OF REVERSAL AND REMAND

Terra Armijo appeals from a post-decree order in a family matter. Eighth Judicial District Court, Family Court Division, Clark County; T. Arthur Ritchie, Jr., Judge.

The parties were divorced by way of a decree of divorce entered in 2013. Pursuant to the decree, the parties shared joint legal custody of their two minor children and Terra was awarded primary physical custody, subject to respondent Aaron Urbina's parenting time from Sunday afternoon until Tuesday evening each week. Additionally, Aaron was ordered to pay $1,300 per month in child support. Aaron later moved to modify custody, asserting that he frequently had the children until Wednesday, rather than Tuesday, such that the parties were sharing a joint physical custody arrangement. He likewise sought review of the child support order. Terra opposed, arguing that although she occasionally allowed Aaron to keep the children until Wednesday in an effort to co-parent, this was not the norm and the parties did not change their custodial arrangement. And because there was no change in circumstances, modification of child support was unnecessary.

After a hearing, the district court found that Aaron failed to present sufficient evidence to demonstrate a substantial change in circumstances affecting the welfare of the children and concluded that a

custodial modification was not warranted. Therefore, the court maintained the parties' joint legal custody and Terra's primary physical custody award. Regarding child support, the district court determined that both parties were making more than they had at the time the decree was entered, but that the parties now had very similar incomes. And based on the amount of time Aaron had with the children, the parties' custodial timeshare was nearing a joint physical custody arrangement. In light of these facts, the district court concluded that Aaron was entitled to a downward deviation from his statutory child support obligation, pursuant to then-in-effect NRS 125B.080(9),[1] and modified Aaron's child support obligation from $1,300 per month to $650 per month.

Although the court concluded that Aaron's child support obligation should be modified downward to $650, the court's subsequent written order indicated that Aaron's child support was modified from $1,300 per month to $1,500 per month. In light of this, Aaron moved to amend the written order asserting that the $1,500 was a clerical error as the court had ordered Aaron's child support obligation modified to $650 per month. The district court held a hearing and, after a review of the record, agreed that it was clear that the court modified Aaron's obligation from $1,300 per month to $650 per month, at no time did it order Aaron to pay $1,500 per month, and the $1,500 figure in the written order was the result of a clerical error. Accordingly, the district court granted Aaron's motion and clarified that $650 was the appropriate amount of child support. This appeal followed.

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[1]NRS 125B.080 was amended in 2017, effective February 1, 2020. *See* 2017 Nev. Stat., ch. 371, § 2, at 2284-85; Approved Regulation of the Adm'r of the Div. of Welfare & Supportive Servs. of the Dep't of Health & Human Servs., LCB File No. R183-18 (2019) (amending NAC Chapter 425 and making the amendments to NRS 125B.080 effective). Because this decision was made before the amendments became effective, we cite to the prior version of the statute.

As an initial matter, we note that Terra has failed to raise any arguments challenging the district court's decision to correct the prior order based on the clerical error it contained—modifying Aaron's child support obligation to $1,500 instead of $650 as ordered at the hearing. Instead, she asserts that the district court abused its discretion in deviating from the statutory child support amount and modifying child support down to $650. With regard to the district court's correction of the clerical error, NRCP 60(a) allows the district court to "correct a clerical mistake or a mistake arising from oversight or omission" in judgments, orders, or other parts of the record. And given that Terra does not challenge the correction of this clerical error on appeal, we necessarily conclude the district court did not abuse its discretion in correcting the written order that incorrectly modified child support to $1,500 to ensure that it accurately reflected the court's determination. *See Mack v. Estate of Mack*, 125 Nev. 80, 92-93, 206 P.3d 98, 106-07 (2009) (explaining that this court reviews the district court's decision on a motion to correct an error pursuant to NRCP 60(a) for an abuse of discretion).

As to Terra's argument that the district court abused its discretion in its overall decision to modify child support down to $650, we review the district court's determinations regarding child support for an abuse of discretion. *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018). Here, although the district court indicated its basis for deviating from the statutory formula at the hearing, because the district court failed to make written findings to support its decision to modify child support, we necessarily must reverse and remand for additional findings. *See Rivero v. Rivero*, 125 Nev. 410, 438, 216 P.3d 213, 232 (2009) (explaining that even if the record demonstrates the reasoning for the district court's decision to deviate from the statutory child support formula, the court "must expressly set forth its findings of fact to support its decision"); *Anastassatos v.*

Anastassatos, 112 Nev. 317, 320, 913 P.2d 652, 654 (1996) (explaining that when the court deviates from the statutory child support formula, the basis for the deviation "must be specified in written findings of fact"). Additionally, because it is unclear from the record whether the district court considered the best interest of the children, on remand, the district court should likewise clarify whether the child support modification is in the children's best interest. *See Rivero*, 125 Nev. at 431, 216 P.3d at 228 (holding "that the district court only has authority to modify a child support order upon finding that there has been a change in circumstances since the entry of the order and the modification is in the best interest of the child").

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.[2]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. T. Arthur Ritchie, Jr., District Judge, Family Court Division
Steinberg Law Group
Aaron N. Urbina
Eighth District Court Clerk

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[2]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.