


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VICTOR UGOCHUKWU EMENIKE  
GOLD,  
Appellant,  
vs.  
JUDITH SAPPHIRE EMENIKE GOLD,  
Respondent.

No. 83733-COA

**FILED**

DEC 09 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

Victor Ugochukwu Emenike Gold appeals from a district court order denying a motion to set aside a decree of divorce and post-divorce decree order. Eighth Judicial District Court, Clark County; Mathew Harter, Judge.

In the proceedings below, Victor and respondent Judith Sapphire Emenike Gold were divorced by way of a stipulated decree of divorce. Although the decree awarded the parties joint physical custody of their three minor children, it provided for a timeshare in which Victor would have the children from Monday at 11:00 a.m. until Wednesday at 11:00 a.m., and Judith would have the children the remainder of the time each week.

Following the decree's entry, various custody disputes arose between the parties, which culminated in Victor seeking to modify the parties' timeshare to a week on/week off schedule. The district court denied that request, but ordered that the parties' custodial designation would be

modified to give Judith primary physical custody, concluding that the joint physical custody designation in the decree was a mistake because the parties' timeshare did not constitute joint physical custody. Victor appealed the district court's resolution of this dispute, and this court reversed and remanded for further proceedings, concluding that the district court failed to consider any evidence of the parties' actual timeshare, to evaluate whether modifying the custodial designation was in the children's best interest, and to make any findings as to the same. *See Gold v. Gold*, No. 83078-COA, 2022 WL 2387037, at \*2 (Nev. Ct. App. June 30, 2022) (Order Dismissing in Part, Affirming in Part, Reversing in Part and Remanding).

While Victor's appeal in Docket No. 83078-COA was pending, Victor filed a motion in district court, seeking to restore the parties' custodial designation to joint physical custody, either by setting aside the order modifying the designation pursuant to NRCP 60(b) or setting aside both the order and the provision in the divorce decree establishing the parties' timeshare based on the doctrine of mutual mistake so that a timeshare consistent with joint physical custody could be established. For support, Victor argued, among other things, that the parties' timeshare could qualify as a joint physical custody arrangement, and that, if this were not so, then the parties made a mutual mistake when they stipulated to the terms of the decree since they believed that they were agreeing to exercise joint physical custody. Moreover, because his appeal in Docket No. 83078-COA divested the district court of jurisdiction to hear issues pending on appeal, Victor requested that the district court certify its intent to grant the above relief so that he could obtain a limited remand in accordance with the

procedure enunciated in *Huneycutt v. Huneycutt*, 94 Nev. 79, 80-81, 575 P.2d 585, 585-86 (1978) and *Foster v. Dingwall*, 126 Nev. 49, 52-53, 228 P.3d 453, 454-56 (2010). However, the district court denied Victor's motion, concluding that it was obligated to designate the parties' custodial arrangement as primary physical custody for Judith based on their timeshare. This appeal followed.

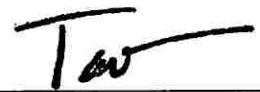
On appeal, Victor reiterates the arguments that he presented below in seeking to restore the parties' custodial designation to joint physical custody. However, as discussed above, this court reversed the district court's order modifying the parties' custodial designation in Docket No. 83078-COA. Given that the order modifying the parties' custodial designation was reversed during the present appeal's pendency, the appeal is now moot to the extent Victor seeks to demonstrate that the order should be set aside pursuant to NRCP 60(b). *See Personhood Nev. v. Bristol*, 126 Nev. 599, 574, 245 P.3d 572, 602 (2010) (explaining that a controversy must be present throughout the proceedings and that, "even though a case may present a live controversy at its beginning, subsequent events may render the case moot"); *NCAA v. Univ. of Nev., Reno*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981) (explaining that "[a] moot case is one which seeks to determine an abstract question which does not rest upon existing facts or rights"). And while Victor also challenges the district court's decision to deny his request to set aside the provision in the divorce decree establishing the parties' custodial timeshare, his appellate challenge to that decision is likewise moot given that his request was premised on the district court's prior modification of the parties' custodial designation. *See Personhood Nev.*, 126

Nev. at 574, 245 P.3d at 602; NCAA, 97 Nev. at 58, 624 P.2d at 11.

Accordingly, we

ORDER this appeal DISMISSED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Chief Judge, Eighth Judicial District Court  
Presiding Judge, Eighth Judicial District Court, Family Division  
Eighth Judicial District Court, Family Division, Dept. N  
Victor Ugochukwu Emenike Gold  
Judith Sapphire Emenike Gold  
Eighth District Court Clerk