

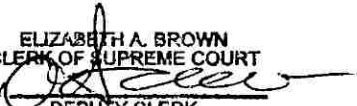
IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL ROBERT MARTIN,
Appellant,
vs.
DANIELLE DENISE MARTIN, N/K/A
DANIELLE PALMER,
Respondent.

No. 85323

FILED

APR 21 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER AFFIRMING IN PART AND DISMISSING APPEAL IN PART

This is an appeal from a post-divorce decree order denying appellant's motion to remove the parties' children from his insurance and granting respondent's countermotion for the appointment of a parenting coordinator. Eighth Judicial District Court, Family Court Division, Clark County; Heidi Almase, Judge.¹

Appellant Michael Martin and respondent Danielle Martin divorced in 2017. Pursuant to the divorce decree, Michael was to provide health insurance coverage for the parties' three minor children.² After their divorce, the parties litigated issues relating to custody, child support obligations, as well as other healthcare and financial decisions relating to the children. By 2020, Danielle had primary physical custody of all the children and primary legal custody for purposes of healthcare decisions; she also added the children to her husband's health insurance policy. Michael moved to modify the divorce decree to allow him to remove the children from

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted. Given our disposition, we deny appellant's motion to stay the district court's order appointing a parenting coordinator as moot.

²During the proceedings below, one of the children reached the age of majority.

his health insurance. Danielle opposed and requested that the court appoint a parenting coordinator to help the parties resolve their ongoing disputes. The district court denied Michael's motion and granted Danielle's countermotion, ordering the parties to submit an order appointing a parenting coordinator. The district court also denied Michael's fee request and granted Danielle's request for an award of attorney fees, ordering Danielle to submit a memorandum of fees and costs supporting her request. Michael now appeals those decisions and seeks an order reassigning the matter to a different judicial department upon remand.

As a preliminary matter, we conclude that we have jurisdiction over the district court's order as a special order after final judgment because Michael's underlying motion sought to modify the divorce decree based on the changed factual circumstances of the parties after the divorce decree was entered. *See Burton v. Burton*, 99 Nev. 698, 700-01, 669 P.2d 703, 705 (1983) (providing that this court will "review[] the merits of orders denying motions to modify divorce decrees" where the underlying motion "[wa]s based upon changed factual or legal circumstances and the moving party is not attacking the original judgment"); *see also* NRAP 3A(b)(8) (providing for appellate jurisdiction over a special order entered after a final judgment). However, while an order awarding attorney fees is generally appealable as a special order after final judgment, *see Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000), the district court's order granting Danielle's request for attorney fees did not award any amount of attorney fees. Instead, it directed the parties to file supplemental documents and records, and the district court entered a separate order awarding attorney fees *after* Michael filed the instant appeal. Because the portion of the district court's order concerning attorney fees did not resolve the attorney fee issue with

finality, we lack jurisdiction over that portion of the appeal and order the appeal dismissed in part. *Cf. Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 346-47, 301 P.3d 850, 852-53 (2013) (explaining that only an order “finally and completely” resolving a claim is appealable).

Turning to the merits of the district court’s order, we affirm its denial of the motion to modify the divorce decree. As the district court correctly observed, Michael neither cited any legal authority in his briefing below which would relieve him of his obligation to provide for the children’s health insurance, nor has he cited any such authority on appeal. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that a party is responsible for supporting his arguments with salient authority); *see also Kramer v. Kramer*, 96 Nev. 759, 761, 616 P.2d 395, 397 (1980) (“A decree of divorce cannot be modified . . . except as provided by rule or statute.”). Because Michael provided no authority requiring the district court to modify the divorce decree, the district court did not abuse its discretion in denying his request, *see Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (providing that “[t]his court reviews district court decisions concerning divorce proceedings for an abuse of discretion.” (quoting *Shydler v. Shydler*, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998))). And because we conclude that the district court did not abuse its discretion in denying Michael’s requested relief, we further conclude that it did not abuse its discretion in declining to award him attorney fees and costs. *See Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951, 967, 194 P.3d 96, 106 (2008) (reviewing a district court order “refusing to award attorney fees for an abuse of discretion”).

Michael also argues that the district court abused its discretion in granting Danielle’s request for a parenting coordinator because it did not

cite to *Harrison v. Harrison*, 132 Nev. 564, 376 P.3d 173 (2016), or any other controlling authority allowing it to grant Danielle’s request. Michael waived this argument by failing to raise it below. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (providing that an argument not raised in the district court is “waived and will not be considered on appeal”). Regardless, we discern no abuse of discretion in the district court’s decision.³ *See Harrison*, 132 Nev. at 572, 376 P.3d at 178 (reviewing a district court’s decision appointing a parenting coordinator for an abuse of discretion). Indeed, the record demonstrates that the parties are unable to communicate and make parenting decisions amicably such that a parenting coordinator could facilitate resolving future disputes. *See id.* at 571-72, 376 P.3d at 178 (acknowledging the benefit of appointing parenting coordinators “in particularly contentious cases”). We further note that, rather than challenging the district court’s decision to appoint a parenting coordinator, Michael’s arguments appear to challenge unknown actions the parenting coordinator may take in the future once one is appointed. *See Bautista v. Picone*, 134 Nev. 334, 337, 419 P.3d 157, 159 (2018) (explaining that, while “a parenting coordinator’s decision-making authority must be limited,” “[t]he district court does not improperly delegate its decision-making authority by simply appointing a parenting coordinator”).


³We also reject Michael’s argument that the district court deprived him of due process, given that he had notice and a meaningful opportunity to oppose Danielle’s request. *See J.D. Constr., Inc. v. IBEX Int’l Grp., LLC*, 126 Nev. 366, 377-78, 240 P.3d 1033, 1041 (2010) (explaining that due process is satisfied when the parties “are provided a meaningful opportunity to present their case” (internal quotation marks omitted)).

Lastly, we decline Michael's request to reassign this case to a different district court judge on remand. Michael has neither demonstrated that Judge Almase "cannot fairly deal with the matters involved" in the parties' case, *Wickliffe v. Sunrise Hosp., Inc.*, 104 Nev. 777, 783, 766 P.2d 1322, 1326-27 (1988) (directing a case to "be assigned to a different district court judge" on remand), nor that Judge Almase "entertains actual bias or prejudice for or against" him or Danielle. NRS 1.230 (listing grounds for disqualifying a district court judge). Based on the foregoing we affirm the district court's order in part and dismiss the appeal in part as to the portion of the district court's order granting Danielle's request for attorney fees.

It is so ORDERED.


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

cc: Hon. Heidi Almase, District Judge, Family Court Division
Law Offices of F. Peter James, Esq.
Nevada Family Law Group
Eighth District Court Clerk