

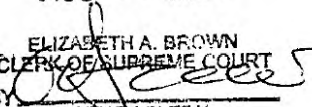
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LINDSAY MARIE CLARK,  
Appellant,  
vs.  
JOHNATHAN MATTHEW HARRIS,  
Respondent.

No. 86954-COA

FILED

AUG 13 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Lindsay Marie Clark appeals from a district court order modifying a child support order. Eighth Judicial District Court, Family Division, Clark County; Regina M. McConnell, Judge.

Clark and respondent Johnathan Matthew Harris share one minor child in common. Harris filed a complaint for custody, and the district court subsequently entered a final custody order awarding the parties joint legal and physical custody. Both parties subsequently filed motions seeking permission to relocate with the child to different states, with Harris seeking to relocate to North Carolina and Clark seeking to relocate to Colorado. The district court conducted a hearing concerning the requests to relocate and ultimately concluded that it was in the child's best interest to reside with Harris in North Carolina. The court accordingly awarded Harris primary physical custody of the child and permitted Harris to relocate with the child to North Carolina. The court also found that Clark's gross monthly income was \$2,166.67 and she would have therefore

been responsible for \$347 per month in child support but noted that Harris agreed to waive an award of child support as he earned a higher income than Clark at that time. The court therefore declined to order Clark to pay child support.

Clark later moved to set aside the district court's order permitting Harris to relocate to North Carolina with the child. Harris opposed that motion and filed a countermotion seeking to modify the child support order. Harris contended that modification of the child support order was appropriate as Clark's income had increased substantially since the district court's previous decision.

The district court subsequently denied Clark's motion to set aside but set a later hearing concerning modification of the child support order. Clark filed an updated financial disclosure form (FDF) and disclosed that her gross monthly income had increased to \$4,290.

The district court conducted a hearing concerning Harris' request to modify child support and later entered a written order granting Harris' request to modify the child support award. The district court noted that Harris had previously declined to receive child support from Clark. However, the court found that Clark's current gross monthly income was now \$4,290, and that her income had therefore increased by more than 20 percent over what she was earning when the prior support award was entered. As a result, the court found that modification of the child support order was warranted. *See* NRS 125B.145(4). The court accordingly found

that Harris was entitled to child support as the party with primary physical custody of the child. *See* NAC 425.115(2).

The court determined that, based on her gross monthly income, Clark's monthly child support obligation would be \$686.40 when utilizing the standard calculation. *See* NAC 425.140(1)(a). However, the district court found that several factors favored a downward adjustment to the set amount of child support. *See* NAC 425.150(1). The court found that Clark was entitled to a downward adjustment in the amount of \$117 per month based on her expenses related to the child's travel between the parties' residences. The court also found that Clark was financially responsible for another minor child and that she was therefore entitled to an additional downward adjustment in the amount of \$100 per month based on that obligation. Finally, the court found that the child resided with Clark for two months every year, that she was financially responsible for the child during that time, and that she therefore should only make child support payments for the ten months of the year when the child resided with Harris. The court accordingly adjusted Clark's monthly child support obligation downward and awarded Harris \$469.40 in monthly child support for ten months of the year. This appeal followed.

First, Clark argues that the district court abused its discretion by modifying the child support award after Harris previously waived child support. "We review decisions regarding child support for an abuse of discretion." *Romano v. Romano*, 138 Nev. 1, 7, 501 P.3d 980, 985 (2022),

*abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). A district court abuses its discretion when its findings are not supported by substantial evidence, *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018), which is evidence that a reasonable person may accept as adequate to sustain a judgment, *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

“A district court may modify a child-support order if there has been a change in circumstances and the modification is in the child’s best interest.” *Romano*, 138 Nev. at 7, 501 P.3d at 985. Moreover, a change of 20 percent or more in gross monthly income “shall be deemed to constitute changed circumstances requiring a review.” NRS 125B.145(4). Although parents can stipulate to an appropriate child support order, child support involves considerations of public policy and the child’s best interest and, provided that the applicable criteria are satisfied, the district court “always has the power to modify an existing child support order, either upward or downward, notwithstanding the parties’ agreement to the contrary.” *Fernandez v. Fernandez*, 126 Nev. 28, 34, 222 P.3d 1031, 1035 (2010) (internal quotation marks omitted).

Clark has “a duty to provide the child necessary maintenance, health care, education and support.” NRS 125B.020(1). As her gross monthly income increased by more than 20 percent, the district court appropriately reviewed Harris’ request to modify the child support order. *See* NRS 125B.145(4). Contrary to Clark’s assertion, the district court had

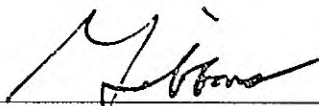
the authority to modify the child support order based upon Clark's changed circumstances despite Harris' prior waiver of a child support award. See *Fernandez*, 126 Nev. at 34, 222 P.3d at 1035. In addition, the district court's findings as to its child support award determination are supported by substantial evidence. Accordingly, Clark's argument regarding the prior waiver of child support does not provide a basis for relief or otherwise demonstrate that the district court abused its discretion by modifying the child support award. See *Romano*, 138 Nev. at 7, 501 P.3d at 985.

Second, Clark argues that the district court judge was biased against her. We conclude that relief is unwarranted on this point because Clark has not demonstrated that the court's decisions in the underlying case were based on knowledge acquired outside of the proceedings and the court's decision does not otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); see *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally "do not establish legally cognizable grounds for disqualification"); see also

*Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano*, 138 Nev. at 6, 501 P.3d at 984.

Based on the foregoing, we conclude that the district court did not abuse its discretion in modifying the child support award. *See Romano*, 138 Nev. at 7, 501 P.3d at 985. We therefore,

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Regina M. McConnell, District Judge, Family Division  
Lindsay Marie Clark  
Leavitt Law Firm  
Eighth District Court Clerk

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<sup>1</sup>Insofar as Clark raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.