

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLESLIE WAYNE EDWARDS,
Appellant,
vs.
BENITO SANTOYO,
Respondent.

No. 88329-COA

FILED

AUG 16 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Charleslie Wayne Edwards appeals from a district court order dismissing a family law action. First Judicial District Court, Carson City; Kristin Luis, Judge.

Edwards and respondent Benito Santoyo were married in Colorado and share one minor child in common. The parties and the child resided in Colorado for the majority of their marriage. However, Edwards filed a complaint for divorce and a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) declaration in Nevada on December 8, 2023. In her complaint, Edwards asserted that she and the child had resided in Nevada for the prior six months and that Nevada was therefore the appropriate jurisdiction for the divorce and child custody proceedings. Edwards also sought sole legal and primary physical custody of the child.

Santoyo thereafter filed a motion to dismiss the divorce and custody proceedings based on a lack of jurisdiction. Santoyo stated that he initiated divorce proceedings in Colorado on December 1, 2023. Santoyo also contended that Edwards and the child had been in Nevada for only a short time before she filed the complaint for divorce, and that Edwards had taken the child to Nevada without the knowledge or consent of Santoyo.

Santoyo therefore asserted that dismissal of the divorce action was warranted pursuant to NRS 125.020(2) because neither party had resided in Nevada for the six weeks preceding the commencement of that action. Moreover, Santoyo argued that dismissal was warranted pursuant to NRS 125A.305(1) because Nevada was not the child's home state and the Colorado courts already have jurisdiction over the parties' divorce and custody matters.

Edwards opposed the motion, asserting that the Nevada courts had jurisdiction over this matter as she and the child established residency in Nevada on or about April 1, 2023. Edwards also filed two affidavits in which the affiants attested that Edwards had resided in Nevada since April 2023.

The district court conducted an evidentiary hearing to ascertain whether it had jurisdiction over this matter. Edwards testified at the hearing and stated that she and the child have resided in Nevada since April 2023. However, Edwards did not produce any documentary proof of her residency. Santoyo testified that Edwards resided with him in Colorado until November 2023. Santoyo called Jesse Leszko to testify at the hearing. Leszko testified that he was very good friends with Edwards and that Edwards and the child were at his Colorado residence on December 1, 2023. Leszko further testified that Edwards told him that she resided in Colorado at that time.

The district court ultimately entered an order granting Santoyo's motion to dismiss as it concluded it lacked subject matter jurisdiction over this matter. The court found that the testimony presented at the evidentiary hearing demonstrated that Edwards had only resided in Nevada since approximately December 1, 2023. The court further noted

that Edwards had failed to provide documents “such as employment verification, utilities statements in her name, or a rental agreement” to support her claim that she lived in Nevada since April 2023. The court thus concluded that Edwards failed to meet the six-week residency requirement under NRS 125.020(2). The court also concluded that Edwards failed to demonstrate that Nevada was the home state of the child because the child had not lived with a parent in Nevada for at least six consecutive months. *See* NRS 125A.085(1) (defining home state under the UCCJEA as “[t]he state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding”). Accordingly, the district court concluded that it lacked subject matter jurisdiction over this matter pursuant to NRS 125.020(2) and NRS 125A.305(1) and that Colorado was the more appropriate forum for the divorce and custody proceedings. This appeal followed.

Edwards challenges the district court’s finding that she and the child did not reside in Nevada for the six-month period prior to the filing of the complaint. We review the district court’s decision to dismiss a complaint for lack of subject matter jurisdiction *de novo*. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009). Nevertheless, the district court’s factual findings are entitled to deference and “will be upheld if not clearly erroneous and if supported by substantial evidence.” *Id.* at 668, 221 P.3d at 704. Substantial evidence 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).

Under NRS 125.020(2), the district court lacks subject matter jurisdiction to grant a divorce unless either the plaintiff or defendant

resided in Nevada “for a period of not less than 6 weeks preceding the commencement of the action.” *See Vaile v. Eighth Jud. Dist. Ct.*, 118 Nev. 262, 268-69, 44 P.3d 506, 511 (2002) (analyzing NRS 125.020(2) in considering whether the district court lacked jurisdiction to enter a divorce decree), *abrogated on other grounds by Senjab v. Alhulaibi*, 137 Nev. 632, 634, 497 P.3d 618, 620 (2021).

The UCCJEA, which Nevada has codified as NRS Chapter 125A, exclusively governs subject matter jurisdiction over child custody issues. NRS 125A.305(2); *Friedman v. Eighth Jud. Dist. Ct.*, 127 Nev. 842, 847, 264 P.3d 1161, 1165 (2011). Pursuant to NRS 125A.305(1)(a), Nevada courts have jurisdiction over a child custody determination if Nevada was the child’s home state when the action was commenced or if Nevada “was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State.”

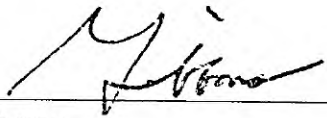
The question of subject matter jurisdiction over the divorce and child custody proceedings thus turns on whether Edwards and the child lived in Nevada for the required time periods under NRS 125.020(2) and NRS 125A.305(1). The time period in which Edwards and the child lived in Nevada was a question of fact to be resolved by the district court. *See Vaile*, 118 Nev. at 271, 44 P.3d at 512 (“Residency is a question of fact to be determined by the district court.”).


As explained previously, Santoyo and Leszko both testified that Edwards resided in Colorado for the vast majority of the six-month time period prior to the filing of the divorce complaint. In light of that testimony, the district court found that Edwards and the child had only lived in Nevada

since approximately December 1, 2023, which was only seven days before Edwards commenced the underlying proceeding.

The district court's factual findings concerning this issue are supported by substantial evidence. *See Ogawa*, 125 Nev. at 668, 221 P.3d at 704. While Edwards asserts she produced evidence showing that she met the residency requirements, this court is not at liberty to reweigh the evidence or the district court's credibility determinations on appeal. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). In light of the foregoing, we conclude that the district court did not err by concluding that it lacked subject matter jurisdiction concerning the parties' divorce matters or child custody issues. *See* NRS 125.020(2); NRS 125A.305(1)(a); *Ogawa*, 125 Nev. at 667, 221 P.3d at 704. Accordingly, we affirm the district court's decision to grant Santoyo's motion to dismiss.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Kristin Luis, District Judge
Charleslie Wayne Edwards
M.J. Caffaratti Law, LLC
Carson City Clerk