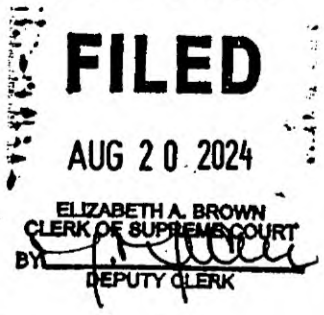
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JILL FRIEDRICH,
Appellant,
vs.
CHRISTOPHER ROUSSET,
Respondent.

No. 86640-COA



ORDER OF AFFIRMANCE

Jill Friedrich appeals from a post-custody decree order granting in part a motion to modify the child's name in a child custody action. Eighth Judicial District Court, Family Division, Clark County; T. Arthur Ritchie, Jr., Judge.

Jill and respondent Christopher Rousset share custody of their minor child (born in 2019), which was set forth in a custody decree entered in January 2021. The parties share joint legal and joint physical custody of the minor child. In October 2022, Christopher filed a motion requesting that the minor child's name be changed to be hyphenated to include his surname, which Jill opposed. Subsequently, the district court set an evidentiary hearing for May 2023 on the issue. At the evidentiary hearing, Christopher testified as to his reasons for his surname to be added to the minor child's name, which included being able to travel internationally with the minor child or pick her up from school without issue and for the minor child to have a connection to his family and background. During Jill's testimony, she stated that she believed the minor child, who was four at the

time, should not have her name changed at that point as it would cause confusion, but she also acknowledged that the minor child was smart and would be able to learn the expanded surname.

Subsequently, the district court entered its findings of fact, conclusions of law, and order shortly after the evidentiary hearing and granted Christopher's request to add his surname to the minor child's surname.[1] Specifically, the court found in weighing the evidence that Christopher provided clear and compelling evidence that it was in the minor child's best interest to change her surname to enhance her attachment and relationship with both parents. The court considered the factors outlined in *Petit v. Adrianzen*, 133 Nev. 91, 94-95, 392 P.3d 630, 633 (2017), and found that the name change would not cause insecurity or identify confusion, would be easily accepted by the minor child, would allow the minor child to identify equally with both parents, and that Christopher's motives were honorable in seeking the change. Thus, the district court ordered that the minor child's surname be hyphenated to add Christopher's surname. This appeal followed.

On appeal, Jill argues that preclusion principles barred the district court from modifying the minor child's name because the decree of custody was a final judgment on all issues and the name change issue should have been litigated in the initial custody proceeding. Jill further

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[1]Christopher's motion also requested that an additional middle name be added to the minor child's name, but the district court denied this request, which is not at issue on appeal.

argues that the court abused its discretion in modifying the minor child's name as Christopher did not present clear and compelling evidence to show that the best interest of the child necessitated a name change. Conversely, Christopher asserts that preclusion principles do not bar the district court from modifying the name of the minor child as the minor child's name had not been litigated before. Christopher also argues that the district court did not abuse its discretion when modifying the minor child's name to a hyphenated surname reflecting both parents' surnames because the district court made sufficient findings of fact consistent with *Petit*, 133 Nev. at 94-95, 392 P.3d at 633, to support changing the minor child's name. We address the arguments in turn.

Claim preclusion "applies when (1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case." *Holland v. Anthony L. Barney, Ltd.*, 139 Nev., Adv. Op. 49, 540 P.3d 1074, 1084 (Ct. App. 2023) (quoting *Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008) (internal quotation marks omitted)); *see also Bennett v. Fid. & Deposit Co. of Md.*, 98 Nev. 449, 452, 652 P.2d 1178, 1080 (1982) (providing that the party asserting res judicata bears the burden of establishing its elements).

Here, Jill fails to establish that claim preclusion would apply to the modification of the minor child's name. Although Jill cites to general principles of claim preclusion, she fails to cite any authority to support the proposition that claim preclusion would apply to bar a parent from seeking to change the name of a minor child after the initial custody determination is made. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38,

130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument and relevant authority); *cf. Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) ("[R]es judicata principles should not prevent a court from ensuring that the child's best interests are served."). Thus, we conclude that Jill's argument regarding the application of claim preclusion to Christopher's request to modify the minor child's name is without merit.

Next, we turn to whether the district court abused its discretion in changing the minor child's surname. This court reviews a child custody decision for an abuse of discretion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). Additionally, we review a district court's findings of a child's best interest for an abuse of discretion. *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1227 (2004). Neither parent has a greater right to have their child bear his or her surname, and the only relevant factor in determining a child's surname is the best interest of the child. *Magiera v. Luera*, 106 Nev. 775, 777, 802 P.2d 6, 7 (1990); *see also Petit*, 133 Nev. at 94, 392 P.3d at 632. In *Petit*, the Nevada Supreme Court adopted a non-exhaustive list of factors that the district court should consider when determining whether a name change is in the minor child's best interest, which include:

> (1) the length of time that the child has used his or her current name; (2) the name by which the child has customarily been called; (3) whether a name change will cause insecurity or identity confusion; (4) the potential impact of the requested name change on the child's relationship with each parent; (5) the motivations of the parties in seeking a name change; (6) the identification of the child with a

> particular family unit, giving proper weight to stepparents, stepsiblings, and half-siblings who comprise that unit; and (7) any embarrassment, discomfort, or inconvenience that may result if the child's surname differs from that of the custodial parent[.]

Id. at 94-95, 392 P.3d at 633. The supreme court also held that cultural considerations are an additional factor for the district court's consideration. *Id.* at 95, 392 P.3d at 633.[2]

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[2]The *Petit* court further determined that, when the parties present an initial naming dispute, neither party bears the burden of proof, whereas in cases like *Magiera*, where the parties had previously agreed to the name, the party seeking the name change must prove that the substantial welfare of the child requires that the child's name be changed by clear and compelling evidence. *Petit*, 133 Nev. at 93-94, 392 P.3d at 632-33.

Here, the district court concluded that the parties did not originally agree on the surname of the child, and based on our review of the record, that finding is supported by substantial evidence. *See Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (explaining that appellate courts will not disturb the district court's decisions on appeal when they are supported by substantial evidence, which is evidence that "a sensible person may accept as adequate to sustain a judgment"); *Dieleman v. Sendlein*, 99 Nev. 768, 770, 670 P.2d 578, 579 (1983) (noting that where the parties present conflicting evidence, it is for the trier of fact to resolve the conflicts and judge witness credibility). But the court went on to conclude that Christopher had the burden of proving the name change was warranted by clear and compelling evidence, a standard the court concluded he met in granting his motion as to the child's surname. On appeal the parties likewise argue this standard of proof, which Jill argues Christopher failed to meet. But because this was an initial naming dispute, under *Petit*, neither party bore the burden of proof as to whether the name change was warranted as the parties instead stand on "equal footing." *Petit*, 133 Nev. at 94, 392 P.3d at 632-33. Regardless—and under either standard of proof—

Here, the court reviewed the non-exhaustive list of factors set forth in *Petit* and made specific findings to determine that Christopher demonstrated it was in the minor child's best interest to change her surname. *See Petit*, 133 Nev. at 95, 392 P.3d at 633 (affirming a district court's order that the best interests of the minor child supported hyphenating a child's surname to include both parents' surnames). After a review of the record, we conclude Christopher demonstrated, through his testimony at the evidentiary hearing, that it was in the minor child's best interest to change her surname. Christopher testified as to his good faith reasons for requesting the name change, which included being able to travel internationally with the minor child or pick her up from school, without issue, and for the minor child to have a connection to his family and background. *See In re Dish Network Derivative Litig.*, 133 Nev. 438, 445 n.3, 401 P.3d 1081, 1089 n.3 (2017) ("[T]estimony is evidence whether it is given in court or a deposition."). To the extent Jill argues that Christopher did not demonstrate that the surname change was warranted because of certain factual issues she raised before the district court, such as Christopher purportedly not wanting to be involved in the minor child's life when Jill was pregnant and other reasons, this court will not reweigh the evidence or the district court's credibility determinations on appeal. *See Ellis*, 123 Nev. at 152, 161 P.3d at 244 (refusing to reweigh credibility determinations on appeal); *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (refusing to reweigh evidence on appeal). Thus, for the

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we conclude that the district court properly exercised its discretion in granting the motion to modify the minor child's surname.

reasons set forth above, we conclude that the district court did not abuse its discretion in granting Christopher's motion to hyphenate the child's surname to include his surname.

Therefore, we

ORDER the judgment of the district court AFFIRMED.[3]

_____, C.J.
Gibbons

_____, J.
Bulla

_____, J.
Westbrook

cc: Hon. T. Arthur Ritchie, Jr., District Judge, Family Division
The Grigsby Law Group
Jones & LoBello
Eighth District Court Clerk

[3]To the extent Jill raises other arguments that are not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief.