


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JEREMY J. HERRMANN,
Appellant,
vs.
KELLY N. HERRMANN,
Respondent.

No. 88635-COA

FILED
SEP 20 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Jeremy J. Herrmann appeals from a district court order relinquishing jurisdiction in a child custody matter. Second Judicial District Court, Family Division, Washoe County; Sandra A. Unsworth, Judge.

Jeremy and respondent Kelly N. Herrmann were married in 2007 and share two minor children. In December 2021, Kelly filed a complaint for divorce seeking sole legal and primary physical custody of the parties' minor children. At the time Kelly filed the complaint for divorce in Nevada, she had relocated back to California, where the parties had originally resided, while Jeremy resided in Nevada. The district court entered a default decree of divorce in April 2022, awarding Kelly sole legal and primary physical custody of the children. The decree also stated that it was in the minor children's best interests to relocate back to California to allow Kelly to continue to reside there.

In July 2022, Jeremy filed a notice of change of address indicating that he had changed his address from Reno, Nevada to Montana. In July 2023, Kelly filed a notice of change of address indicating that she had relocated from California to Pennsylvania. Shortly thereafter, in

August 2023, Jeremy filed a motion for an order to enforce the divorce decree and/or for an order to show cause regarding contempt. In his motion, Jeremy alleged that Kelly relocated from California to Pennsylvania with the minor children without first submitting a motion for permission to relocate or seeking his consent. Kelly filed an opposition.

The district court held a hearing on the matter in February 2024. At the hearing, Jeremy testified that he was currently in Arizona but was not residing there as he is a “fulltime traveler.” He further testified that he is currently homeless, but his address on file with the district court is a Montana address. Kelly testified that she was currently in Pennsylvania with the minor children. The district court subsequently took the matter under advisement. Shortly after the hearing, Kelly filed a petition to modify custody in Pennsylvania. Jeremy subsequently filed a motion to modify custody in Nevada and Kelly filed an opposition and countermotion for the district court in Nevada to relinquish jurisdiction, noting that she had since registered the decree of divorce and initiated a petition to modify custody in Pennsylvania. She argued that Nevada was divested of jurisdiction given that all the parties had left the state and now there were proceedings ongoing in Pennsylvania. In his reply, Jeremy argued that Kelly had unlawfully relocated with the minor children and that the minor children needed to be returned immediately to California. Jeremy also filed a request for the district court to hold a conference with the Pennsylvania court to resolve the issue of jurisdiction.

Subsequently, the district court entered an order resolving Jeremy’s motion to enforce/or for an order to show cause regarding contempt. The order noted that, at the time the divorce proceedings were initiated, Nevada was the home state of the children. However, at the

February 2024 hearing, Kelly had testified that after the decree was entered in April 2022, the minor children had resided outside Nevada since approximately May 2022. The court further found that the children resided in California until approximately July 2023 and had resided in Pennsylvania ever since. Thus, the court found that once the children and the parties no longer resided in Nevada, the court lost exclusive, continuing jurisdiction in the matter. The court further noted that it had held an informal conference with the Pennsylvania court and would be issuing a contemporaneous order relinquishing jurisdiction to Pennsylvania. With regard to the contempt issue itself, the court found that, while Kelly relocated without seeking the court's permission, Jeremy failed to file a fact-specific affidavit or declaration in support of his motion as required by NRS 22.030(2) and WDCR 42(2), such that the court lacked jurisdiction to enter a finding of contempt. The court subsequently entered a separate order regarding jurisdiction. The court noted that, after conferring with the Pennsylvania court, it was agreed that Pennsylvania had assumed jurisdiction. As a result, the court found that it lost jurisdiction, such that Jeremy's motion to modify custody should be denied as moot. This appeal followed.

On appeal, Jeremy argues that the district court erred as it allowed Kelly to unlawfully relocate with the minor children to California and later allowed them to unlawfully relocate from California to Pennsylvania without seeking his or the district court's permission. Jeremy further argues that the district court was "corrupt." Conversely, Kelly argues that Nevada lost exclusive, continuing jurisdiction over the children given that the parties and the minor children had left Nevada, and that the district court properly held a conference with the court in Pennsylvania and

the two judges agreed that Pennsylvania would assume jurisdiction. She also asserts that Jeremy cannot demonstrate that the district court was biased or corrupt. In his reply, Jeremy acknowledges that the parties have moved out of Nevada, but he asserts that Kelly's alleged illegal relocation would prevent her from obtaining residency in Pennsylvania, and thus, Nevada would continue to have jurisdiction.

Subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), is a question of law subject to de novo review. *Kragen v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 49, ___ P.3d ___ (Ct. App. 2024). The district court's factual findings are given deference and will be upheld so long as "they are supported by substantial evidence, 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) (footnote omitted).

Preliminarily, we note that neither party disputes that Nevada had jurisdiction under NRS 125A.305 to make the initial child custody determination when it entered the divorce decree. Thus, Nevada initially had "exclusive, continuing jurisdiction" under NRS 125A.315(1). However, NRS 125A.315(1)(b) states that exclusive, continuing jurisdiction ceases when "[a] court of this state or a court of another state determines that the child, the child's parents and any person acting as a parent do not presently reside in this state." *See also* UCCJEA (1997) § 202, comment 2 ("Continuing jurisdiction is lost when the child, the child's parents, and any person acting as a parent no longer reside in the original decree State" and jurisdiction is not reestablished if the noncustodial parent returns to the state.).

As detailed above, the district court found that Jeremy, Kelly, and the minor children no longer reside in Nevada. None of the parties dispute this finding, which is supported by substantial evidence in the record. Indeed, the record demonstrates that neither parent nor the minor children had resided in Nevada for over a year before Jeremy filed his motion to enforce/or for an order to show cause regarding contempt in August 2023. While Jeremy argues that the district court's initial decision, in the divorce decree, allowing the minor children to relocate to California was improper, that issue is not properly before us given that Jeremy failed to timely appeal the divorce decree. *See* NRAP 3(a)(1) (requiring the timely filing of a notice of appeal for appeals permitted by law); NRAP 4(a)(1) (providing a notice of appeal must be filed no later than 30 days after the date written notice of entry of the order appealed from is served). Under these circumstances, Jeremy's argument that Nevada retained continuing, exclusive jurisdiction because Kelly should not have been allowed to relocate to California with the children under the divorce decree does not provide a basis for relief. As a result, the district court properly determined that Nevada lost continuing, exclusive jurisdiction over the parties' child custody dispute as the parties and the children no longer resided in Nevada.

This does not end our analysis, however, because in certain circumstances, a Nevada court can modify its prior custody order even if it has lost exclusive, continuing jurisdiction. In particular, once exclusive, continuing jurisdiction ceases, a court can modify its prior child custody determination "only if it has jurisdiction to make an initial [child custody] determination pursuant to NRS 125A.305." *Friedman v. Eighth Jud. Dist. Ct.*, 127 Nev. 842, 848, 264 P.3d 1161, 1166 (2011). Under NRS 125A.305, a Nevada district court has jurisdiction to make an initial custody

determination (1) when it is the home state of the child or was the home state within 6 months of the initiation of the proceedings and a parent remains in Nevada, (2) when another state's court lacks jurisdiction or the home state court declines to exercise jurisdiction because Nevada is a more appropriate forum, (3) all courts with jurisdiction have declined to exercise jurisdiction because Nevada is the more appropriate forum, or (4) no other court would have jurisdiction.

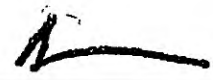
In arguing that the district court could continue to exercise jurisdiction despite the fact neither the parties nor the children reside in Nevada, Jeremy focuses on his contention that Kelly improperly relocated to Pennsylvania as providing the district court with jurisdiction to resolve the parties' custody dispute. But in making this argument, he fails to explain how the allegedly improper relocation impacts the district court's jurisdictional analysis or otherwise provides the district court with jurisdiction to act under NRS 125A.305. Indeed, Jeremy wholly fails to cite or address NRS 125A.305 or point to any authority supporting the proposition that Kelly's allegedly improper relocation from California to Pennsylvania would allow Nevada to exercise jurisdiction over the parties' custody dispute even though Nevada no longer had exclusive, continuing jurisdiction. As a result, Jeremy has failed to offer any cogent argument demonstrating that the district court's decision to relinquish jurisdiction to Pennsylvania was improper under the circumstances presented here. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant's argument that is not cogently argued).

In light of the foregoing and given that the district court properly held a conference with the Court of Common Pleas of Berks

County, Pennsylvania—at Jeremy’s request—at which it was agreed that Pennsylvania had assumed jurisdiction, we discern no basis to disturb the district court’s decision to relinquish jurisdiction to Pennsylvania.¹

Accordingly, we ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Sandra A. Unsworth, District Judge, Family Division
Jeremy Jon Herrmann
Willick Law Group
Washoe District Court Clerk

¹To the extent that Jeremy contends the district court’s order should be reversed because the court was “corrupt,” nothing in the record before this court demonstrates that the district court’s decisions in the underlying case were based on knowledge acquired outside of the proceedings or that its decisions 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).

²To the extent Jeremy 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.