

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER DOUGLAS,  
Appellant,  
vs.  
JOY DOUGLAS,  
Respondent.

No. 86888-COA

**FILED**  
OCT 11 2024  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Christopher Douglas appeals from a district court order denying a request for attorney fees and costs in a domestic action. Eighth Judicial District Court, Family Division, Clark County; Michele Mercer, Judge.

Christopher and respondent Joy Douglas were married in 2015 and share one minor child together. In June 2022, Christopher initiated a divorce action and sought primary physical custody of the parties' minor child. Joy requested primary physical custody and permission to relocate the minor child to Iowa, where she was already residing. The parties submitted competing requests for attorney fees pursuant to NRS 18.010(2)(b), and Christopher also requested attorney fees and costs pursuant to EDCR 7.60(b).<sup>1</sup> The district court held an evidentiary hearing

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<sup>1</sup>Although Christopher cited to EDCR 7.60(b), EDCR 5.219 now addresses sanctionable conduct in the family division:

on the issues of the divorce and child custody, entered a written decree of divorce in May 2023, and ultimately awarded Christopher primary physical custody of the minor child and denied Joy's request to relocate the minor child. The court also denied Joy's requests for alimony and that Christopher pay for the minor child's transportation costs to Iowa for Joy's parenting time.

Subsequently, the district court entered an order in June 2023 addressing the requests for attorney fees and costs. The court found that both parties prevailed on certain issues, but not all the issues. The court further found that neither party maintained their action without reasonable grounds, or to harass the other party. The court also found that

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Sanctions may be imposed against a party, counsel, or other person, after notice and an opportunity to be heard, for unexcused intentional or negligent conduct, including, but not limited to:

- (a) Presenting a position that is obviously frivolous, unnecessary, or unwarranted;
- (b) Multiplying the proceedings in a case so as to increase costs unreasonably and vexatiously;
- (c) Failing to prepare for a proceeding;
- (d) Failing to appear for a proceeding;
- (e) Failing or refusing to comply with these rules;
- or
- (f) Failing or refusing, to comply with any order or directive of the court.

EDCR 5.219. The district court's order on appeal noted that the applicable rule was EDCR 5.219.

neither party presented an unwarranted position nor needlessly increased the litigation. As such, the court found that neither party was entitled to an award of attorney fees pursuant to NRS 18.010(2)(b) and EDCR 5.219 and denied Christopher's request for attorney fees and costs. However, the court found that Joy was entitled to an award of attorney fees and costs pursuant to NRS 125.040.<sup>2</sup> Thus, the court ordered Joy to file and serve a memorandum of fees and costs and detailed billing statements. Christopher appeals from the June 2023 order.<sup>3</sup>

On appeal, Christopher argues the district court abused its discretion by not awarding him his reasonable attorney fees and costs pursuant to NRS 18.010(2)(b) and EDCR 5.219. Christopher asserts Joy maintained frivolous and unwarranted positions throughout the underlying litigation when she requested primary physical custody and relocation of the minor child, despite not meeting the requirements for seeking relocation; she requested alimony despite being willfully underemployed; and she requested transportation costs from Christopher despite being the

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<sup>2</sup>See NRS 125.040 (stating that district courts may impose reasonable attorney fees in divorce proceedings).

<sup>3</sup>We note that the Nevada Supreme Court issued an order dismissing this appeal in part as it pertains to the portion of the order awarding Joy attorney fees and costs because there was no determination as to the amount of that award when this appeal was filed. But this appeal was allowed to proceed with respect to the portion of the order that denied Christopher's request for attorney fees and costs. Thus, we do not consider in this appeal the district court's intention to award Joy her attorney fees and costs.

relocating party. Thus, Christopher argues he prevailed on the substantive issues in the divorce, including child custody, relocation, costs of transportation, and alimony, and should have been awarded his attorney fees and costs.

This court reviews a decision to award or deny attorney fees in divorce proceedings for an abuse of discretion. *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). Attorney fees and costs are not recoverable unless authorized by statute, rule, or contractual provision. *Id.* at 623, 119 P.3d at 730.<sup>4</sup> NRS 18.010(2)(b) allows for an award of attorney fees to a prevailing party if the district court makes specific findings that the opposing party brought or maintained a claim “without reasonable ground or to harass the prevailing party.” *See Frederic & Barbara Rosenberg Living Tr. v. MacDonald Highlands Realty, LLC*, 134 Nev. 570, 580, 427 P.3d 104, 113 (2018) (defining a groundless claim as one unsupported by credible evidence); *see also* EDCR 5.219 (allowing sanctions in domestic actions on various grounds, including when a party multiplies “the proceedings in a case so as to increase costs unreasonably and vexatiously”). Factual findings of the district court will not be set aside if supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment. *Ellis v. Carucci*, 123

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<sup>4</sup>To the extent Christopher asserts he should have been awarded his reasonable costs, he only presents argument under EDCR 5.219. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues an appellant does not raise on appeal are waived). Therefore, we only consider his argument with respect to EDCR 5.219.


Nev. 145, 149, 161 P.3d 239, 242 (2007). It is not within the purview of this court to weigh conflicting evidence or to assess witness credibility. *See id.* at 152, 161 P.3d at 244.

Here, although Christopher asserts that he prevailed in the action, the district court concluded that both parties prevailed on certain issues. Regardless, the court did not find that Joy brought or maintained any claim or defense “without reasonable ground” or to harass Christopher. *See Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (explaining that a district court’s factual findings will not be set aside unless they are clearly erroneous or not supported by substantial evidence). Furthermore, Joy testified at the evidentiary hearing in support of her claims, *see In re DISH Network Derivative Litigation*, 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.”), and although she did not ultimately prevail in her requests for primary custody, relocation, alimony, and transportation costs, the record does not demonstrate that there was no credible evidence to support her claims, such that they were frivolous, vexatious, or meant to harass Christopher, *see Pub. Emps. Ret. Sys. of Nev. v. Gitter*, 133 Nev. 126, 136, 393 P.3d 673, 682 (2017) (holding that whether a claim or defense ultimately succeeds is not dispositive of whether it was brought or maintained without reasonable grounds); *see also Rivero v. Rivero*, 125 Nev. 410, 441, 216 P.3d 213, 234 (2009) (“Although [appellant] did not prevail on the motion, and it may have been without merit, that alone is insufficient for a determination that the motion was frivolous, warranting sanctions.”), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d

980, 984 (2022), *abrogated on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). Because there are adequate grounds upon which the district court based its decision, we cannot say the court abused its discretion in denying Christopher's request for attorney fees and costs.

Therefore, we

ORDER the judgment of the district court AFFIRMED.<sup>5</sup>

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

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

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

cc: Hon. Michele Mercer, District Judge, Family Division  
Nevada Family Law Group  
Joy Douglas  
Eighth District Court Clerk

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<sup>5</sup>Insofar as Christopher 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.