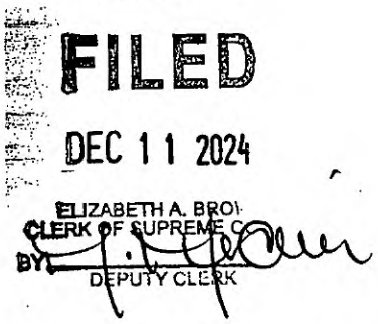
IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN PIERCE,
Appellant,
vs.
BRIANNA PIERCE, A/K/A BRIANNA BANGLE,
Respondent.

No. 86714



ORDER AFFIRMING IN PART, REVERSING IN PART, VACATING IN PART, AND REMANDING

This is an appeal from a post-judgment order modifying child support and awarding attorney fees. Eighth Judicial District Court, Family Division, Clark County; Nadin Cutter, Judge.

Appellant Steven Pierce and respondent Brianna Pierce divorced in 2013; they share joint legal and physical custody of one minor child, O.P. As part of their divorce decree, the district court ordered Steven to maintain health insurance for O.P. and to pay Brianna monthly child support; Steven received a child support deviation for providing O.P.'s health insurance. In 2022, Steven filed a motion seeking, in relevant part, a review of child support and attorney fees. Brianna opposed and filed a countermotion also seeking a review of child support, attorney fees, and other relief. The district court recalculated child support and decreased Steven's monthly support obligation. The court also found that the previous deviation in child support for health insurance costs was improperly excessive and ordered Steven to repay Brianna nearly $6,500 for the years Brianna had been overpaying for her share of O.P.'s health insurance. Finally, the district court awarded Brianna attorney fees because it found

Brianna was the prevailing party on two of the issues in her countermotion. Steven now appeals.

To the extent Steven raises arguments concerning the district court's order granting Brianna's countermotion to enforce the divorce decree's Qualified Domestic Relations Order (QDRO) provisions, we conclude that we lack jurisdiction over the QDRO. Steven did not appeal that order and the time to do so has expired. *See* NRAP 3(c)(1)(B) (requiring the notice of appeal to "designate the judgment, order or part thereof being appealed"); NRAP 4(a)(1) (requiring an appeal be filed "no later than 30 days after written notice of entry of the judgment or order appealed from is served"); *see also Reno Newspapers, Inc. v. Bibb*, 76 Nev. 332, 335, 353 P.2d 458, 459 (1960) ("Only those parts of the judgment which are included in the notice of appeal will be considered by the appellate court.").

In contrast, Steven's arguments concerning the order modifying child support are properly before us. We review a district court's order regarding a child support determination for an abuse of discretion. *Hargrove v. Ward*, 138 Nev., Adv. Op. 14, 506 P.3d 329, 331 (2022). While we generally decline to disturb a district court's factual findings underlying a child support order, such findings must be supported by substantial evidence. *See Rivero v. Rivero*, 125 Nev. 410, 430, 216 P.3d 213, 227 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 5, 501 P.3d 980, 983 (2022).

Steven first argues that the district court abused its discretion in its child support calculation. We agree. Specifically, we conclude the district court abused its discretion when it calculated the parties' gross monthly incomes (GMIs) for purposes of modifying child support. The parties' financial disclosure forms and testimony do not support the figures

the district court calculated. The evidence demonstrates that Steven receives 26 bi-weekly paychecks, and that Brianna is paid twice monthly, for a total of 24 paychecks. By calculating GMI based on a daily rate of pay rather than the parties' actual frequency of pay, the district court overestimated the annual and monthly incomes for both Steven and Brianna, resulting in an erroneous child support calculation. Because the district court's modified child support calculation is not supported by substantial evidence, we conclude that the district court abused its discretion and we reverse with instructions for the district court to recalculate child support based on the parties' pay schedules and rates of pay. As a result, we need not reach Steven's argument that the district court abused its discretion by failing to order Brianna to repay Steven the amount of child support Steven overpaid while the motions to modify support were pending. We also decline to address Steven's arguments concerning the district court's decision to exclude Brianna's one-time hiring bonus from its calculation of Brianna's gross income and the adjustments afforded him under NAC 425.150(1) (authorizing the court to adjust a child support obligation "in accordance with the specific needs of the child and the economic circumstances of the parties").

Steven next argues that the district court erred by ordering him to reimburse Brianna for overpaying her share of health insurance costs for O.P because doing so retroactively modified the child support. *See* NRS 125B.140(1)(a) (providing that a child support order "may not be retroactively modified or adjusted"). Substantial evidence in the record supports the district court's finding that Brianna had been overpaying her share of O.P.'s health insurance costs, as Steven had been taking more than the court-authorized deduction. By ordering Steven to reimburse Brianna

for overpaying health insurance costs in the past, the district court was enforcing the terms of the original child support order that required the parties to equally share O.P.'s health insurance costs. Thus, we reject Steven's argument that the district court erred by retroactively modifying child support. And the record belies Steven's contention that he was not on notice that the district court was considering ordering reimbursement, as Brianna requested reimbursement in her countermotion and supplemental briefing. Because Steven had "notice and an opportunity to be heard" on this issue, we reject the claim that the district court deprived Steven of due process by making its ruling. *Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007). And because we conclude that the district court did not retroactively modify child support by ordering Steven to reimburse Brianna, we affirm that portion of the district court's order.

Finally, because we reverse and remand the district court's child support order, we necessarily vacate the award of attorney fees to Brianna. The district court will need to reconsider that award after recalculating child support. Based upon the foregoing, we

ORDER the judgment of the district court AFFIRMED IN PART, REVERSED IN PART, and VACATED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Nadin Cutter, District Judge, Family Division
Larry J. Cohen, Settlement Judge
Nevada Family Law Group
McFarling Law Group
Eighth District Court Clerk