

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALERIE ALLEN,  
Appellant,  
vs.  
JASHI MARK ALLEN,  
Respondent.

No. 88401-COA

**FILED**

DEC 18 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Valerie Allen appeals from a decree of divorce and district court order denying a motion for relief from the decree under NRCP 60(b). Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.

Valerie and respondent Jashi Mark Allen were married in Jamaica in 2012. Valerie is a United States citizen and Jashi is a Jamaican citizen. The parties met while Valerie was in Jamaica on vacation. From 2012 to 2017, Jashi lived in Jamaica while Valerie lived in Florida and would visit Jashi in Jamaica. In 2015, Jashi began the immigration process and Valerie hired an attorney who secured a United States permanent resident card for Jashi in 2017. Shortly thereafter, Jashi moved to Utah to attend trucking school and eventually relocated to Las Vegas. Valerie continued to reside in Florida. In 2018, the parties separated, and Jashi filed a complaint for divorce in Nevada. Valerie filed an answer and counterclaim, alleging that Jashi used her for immigration purposes. Because there were no minor children from the marriage, the parties' dispute concerned the division of assets and debts and Valerie's request for alimony set forth in her counterclaim. Valerie also requested that the

district court order Jashi to reimburse her for funds she paid in order for him to immigrate to the United States.

Thereafter, the district court held a trial in March 2023. Jashi indicated that the parties have been separated since May 2018 and lived separate from each other for most of the marriage. Jashi explained that he is a self-employed truck driver and started his own trucking company. Neither party presented evidence regarding the trucking company's value. Per Jashi's financial disclosure form (FDF), his gross monthly income was approximately \$4,806. The court found that Valerie presented no evidence to support her contention that Jashi's income was different from what he indicated on his FDF. Per Valerie's FDF, she receives military disability and social security benefits in the total amount of \$5,400.89 per month.

The district court entered a decree of divorce in April 2023. The court found that the respective incomes of the parties did not support an award of alimony and, regardless, that Valerie had abandoned her alimony claim. The court further found that Valerie did not present evidence that Jashi committed fraud in his marriage to her. The court noted that both parties admitted that there was conflict in their marriage prior to and after Jashi came to the United States. Thus, the court found that there was no evidence of fraud. To the extent Valerie requested that she be reimbursed for trips that she made to visit Jashi in Jamaica and funds she paid for him to immigrate to the United States, the court found that these requests were not supported by law. The district court further found that, even if Valerie had used separate funds to pay for her trips to visit Jashi during the marriage and for Jashi to immigrate to the United States, those funds would be considered gifts to the community.

Given these findings, the district court ordered each party to keep their own vehicles and any debt related to the vehicles in their possession, and to keep their own personal property as well as their bank accounts and debt. Valerie was awarded her mobile home as her separate property from before the marriage, and Jashi was awarded his trucking company and his tractor truck. The court further awarded Valerie her share of equity in Jashi's tractor truck and her share of community funds used to pay for Jashi's truck driving training. As a result, the court ordered Jashi to pay Valerie \$8,750 as an equalization payment. The district court further denied Valerie's request for attorney fees.

In May 2023, Valerie filed a motion seeking to set aside the decree of divorce alleging that Jashi committed "perjury, slander, libel, obstruction of justice, and ha[d] made false claims" at the trial. In particular, she argued that Jashi made false claims about his assets. The motion also included a request to recuse the district court judge. Valerie subsequently filed various exhibits to support her motion, including statements regarding her vehicle, black and white photos of cars, an online report that she obtained regarding Jashi, billing statements from her attorney, medical records, photos of Jashi's alleged home, proof of nonpayment for her mobile home in Florida, loans that she had taken out, and pictures of damages to her home. In opposition, Jashi argued that, as his sponsor with regards to the application for him to immigrate to the United States, she was required by law to pay for his expenses once he entered the United States. He further argued that the marriage was short-term, and Valerie was not entitled to relief. In August 2023, the Chief Judge entered an order denying Valerie's request to disqualify the district court judge.

Subsequently, the district court entered an order denying Valerie's motion to set aside the decree. The court noted that Valerie's motion argued that the decree should be set aside because Jashi committed "perjury, slander, libel, obstruction of justice, and has made false claims." However, the court found that, in her motion, Valerie acknowledged that, at the evidentiary hearing, her counsel effectively presented arguments that Jashi inaccurately portrayed his income. As a result, the court noted that these assertions of perjury and other alleged misdeeds were mere allegations that did not justify reconsideration of the decree. The court further found that Valerie did not demonstrate that the exhibits she submitted in her supplemental filings could not have been produced at the evidentiary hearing, as the evidence she sought to introduce was readily accessible at the time of the evidentiary hearing with reasonable due diligence. As a result, the court found that Valerie's exhibits and associated claims did not meet the standards for a new evidentiary hearing and, thus, denied her motion to set aside. This appeal followed.

On appeal, Valerie's pro se brief generally focuses on the divorce decree, asserting that the district court abused its discretion in the division of all assets and property acquired during the marriage and in denying her requests for alimony, for reimbursement of her expenditures to visit Jashi in Jamaica and for Jashi to immigrate to the United States, and for attorney fees and costs. And with regard to the motion to set aside, she asserts that she "discovered new evidence, mostly after the trial, which would have affected the outcomes, had it been wholly considered."

This court reviews the district court's decisions in divorce proceedings for an abuse of discretion. *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004). Similarly, the district court has broad

discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b), and this court will not disturb that decision absent an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996). As relevant here, under NRCP 60(b)(2), a district court may relieve a party from a final judgment or order on grounds of “newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b).”

Beginning with the division of assets issue, Valerie maintains that the district court failed to equally distribute the parties’ community property. The district court must equally divide community property unless it finds a compelling reason for making an unequal distribution and sets forth in writing the reasons for doing so. NRS 125.150(1)(b). This court reviews the district court’s decisions concerning the disposition of community property for an abuse of discretion. *Kogod v. Cioffi-Kogod*, 135 Nev. 64, 75, 439 P.3d 397, 406 (2019). We defer to the district court’s factual findings and will not disturb them unless they are clearly erroneous or unsupported by substantial evidence. *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009). Substantial evidence is evidence that a reasonable mind may accept as adequate to sustain a judgment. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

Here, a review of the record demonstrates that, in entering the decree of divorce, the district court considered the assets and debts awarded to each party and then calculated the amount to be offset in order to equalize the distribution. Specifically, the court ordered each party to keep their own vehicles, and any debt related to the vehicles in their possession and that they would keep their own personal property as well as their bank accounts and debt. The court further awarded Valerie her share of equity

in Jashi's tractor truck and her share of the community funds used to pay for Jashi's truck driving training. And based on this award, the court ordered Jashi to pay Valerie \$8,750 as an equalization payment. Thus, contrary to Valerie's arguments, the record demonstrates that the district court properly divided the parties' community assets and debts such that we discern no abuse of discretion in the district court's distribution. See NRS 125.150(1)(b); see also *Kogod*, 135 Nev. at 75, 439 P.3d at 406.

Although Valerie vaguely asserts that the district court failed to account for all assets and debts in making the division, below Valerie failed to specifically identify any allegedly omitted assets in her motion and instead sought to set the entire decree aside under NRCP 60(b). And to the extent that Valerie attempts to present arguments regarding certain specific assets that were allegedly omitted for the first time on appeal, those arguments are not properly before the court and we do not consider them. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

With regard to the motion for NRCP 60(b) relief generally, on appeal, Valerie fails to develop any cogent argument explaining why she believes the district court improperly denied NRCP 60(b) relief. Instead, Valerie merely notes that she discovered new evidence that would have impacted the outcome at the evidentiary hearing, without explaining why this evidence could not have been discovered prior to the hearing with reasonable due diligence as the district court found. Under these circumstances, where Valerie has failed to develop any cogent argument on this issue, we need not consider it. See *Edwards v. Emperor's Garden Rest.*,

122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues unsupported by cogent argument).


As to Valerie's challenge to the district court's denial of alimony, such an award is discretionary. See NRS 125.150(1)(a) (indicating that the district court *may* award alimony to either spouse as appears just and equitable). In this case, the district court determined that Valerie abandoned her claim to alimony at the trial and that she failed to present any evidence relating to the factors for determining whether an alimony award is warranted or demonstrate her need for alimony. Based on our review of the record, including the parties' filed FDFs, substantial evidence supports the court's determination that an award of alimony was not warranted in this case and its resulting denial of Valerie's request for alimony. And regardless, on appeal, Valerie fails to address the district court's determination that she abandoned her request for alimony at the evidentiary hearing, such that any challenge to that determination has been waived. See *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived."). Accordingly, we cannot conclude the district court abused its discretion in denying this request. See *Schwartz v. Schwartz*, 126 Nev. 87, 90, 225 P.3d 1273, 1275 (2010) (reviewing a district court decision concerning alimony for an abuse of discretion).

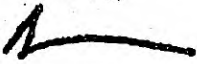
We next turn to Valerie's summary arguments regarding Jashi's alleged marriage fraud and her request for reimbursement for funds expended to travel to Jamaica to visit Jashi and for costs associated with Jashi obtaining immigration status in the United States. On appeal, Valerie does not address the district court's finding that her request for reimbursement was not legally supported, nor does she address the court's

finding that she failed to provide evidence that marriage fraud occurred. Thus, any challenge to these specific determinations has been waived. *See Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3. Furthermore, Valerie provides no argument as to the denial of her request for attorney fees, and thus, any challenge to this decision is likewise waived. *Id.*

Accordingly, based on the foregoing analysis, we affirm the district court's divorce decree and its denial of the motion to set aside the decree.

It is so ORDERED.<sup>1</sup>

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

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

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

cc: Hon. Vincent Ochoa, District Judge  
Valerie Allen  
The Law Office of Dan M. Winder, P.C.  
Eighth District Court Clerk

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<sup>1</sup>Insofar as Valerie 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.