

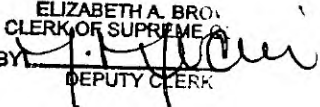
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ALICIA ANN YOUNG N/K/A ALICIA
ANN HAGERMAN,
Appellant,
vs.
RICHARD YOUNG,
Respondent.

No. 88014-COA

FILED

DEC 18 2024

ELIZABETH A. BRO.
CLERK OF SUPREME &
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Alicia Ann Young n/k/a Alicia Ann Hagerman appeals from an order of the district court modifying child custody. Eighth Judicial District Court, Family Division, Clark County; Michele Mercer, Judge.

Alicia and respondent Richard Young were married and share one child in common, who was born in 2016. In 2019, Richard filed a complaint for divorce. Alicia answered the complaint and filed a counterclaim. The district court subsequently entered a decree of divorce, which noted that the parties had reached an agreement concerning the division of community property and the child custody issues. The court accordingly awarded the parties joint legal custody of the child and awarded Alicia primary physical custody of the child. In addition, the court awarded Richard parenting time every other weekend and a midweek evening on alternating weeks. The decree also provided for a holiday and vacation timeshare.

Richard subsequently filed several motions alleging that Alicia failed to follow the physical custody arrangement and that she failed to

afford him his parenting time with the child, including overnight visits. Richard eventually sought modification of the primary physical custody arrangement. The district court set an evidentiary hearing concerning the child custody matters but the parties resolved their issues. The parties agreed that they should retain joint legal custody and that Alicia should retain primary physical custody. The parties further agreed that the child should continue to visit her therapist as she was experiencing ongoing issues. In addition, the parties agreed to the appointment of a parenting coordinator and for the parenting coordinator to aggressively promote an expansion of Richard's parenting time. They also agreed that Richard would have more frequent visits with the child and that the child would stay overnight with Richard upon the recommendation of the child's therapist and the parenting coordinator. Upon success of the reunification efforts, the parties agreed to a two-week schedule in which Richard would have two days of parenting time including time overnight per week and additional time on one evening during the workweek. Moreover, the parties agreed to a holiday and vacation timeshare.

The district court subsequently entered an order adopting the parties' agreement. The court also entered an order appointing the parenting coordinator and setting the terms of her duties in this matter. The appointment order provided that the parenting coordinator had the authority to resolve disputes related to the child custody arrangement but did not permit the parenting coordinator to make a substantive change to that arrangement. The parenting coordinator was also permitted to make recommendations concerning the shared parenting plan but was not to evaluate physical custody. However, the parenting coordinator was

directed to immediately inform the court if the child suffered or was anticipated to suffer abuse, neglect, or if either parent wrongfully removed the child from the other parent. Finally, the order informed the parties that decisions made by the parenting coordinator were not final and that they could be reviewed by the district court.

Approximately two months after her appointment, the parenting coordinator filed a report informing the district court that Alicia had blocked the efforts to reunify the child with Richard and refused to bring the child to the therapy appointments. The parenting coordinator explained that she believed Alicia's actions had become abusive and neglectful of the child's mental health needs. The parenting coordinator subsequently filed several additional reports concerning her interactions with the parties. The parenting coordinator further recommended that the child be temporarily placed in Richard's care for a short period of time to facilitate the reunification efforts and to ensure that the child visited with her therapist.

The district court conducted additional proceedings and ultimately entered an order temporarily placing the child in Richard's care. The court noted that the child had not seen Richard in months. The court also noted it had reviewed the parenting coordinator's reports and a report from the child's therapist. Based on the foregoing, it found that the reunification efforts had not yet been successful.

The child was in Richard's care for 18 days and the parties thereafter attempted to resume the previously ordered physical custody arrangement. However, additional issues between the parties arose, and Richard filed a motion to modify custody. In his motion, Richard contended

that there had been a substantial change in circumstances warranting modification of the previous custody order and that it was in the child's best interest to award him primary physical custody. Richard contended that Alicia attempted to interfere with his relationship with the child, she withheld the child, and she coached the child to falsely allege that Richard abused her. Richard further asserted that Alicia refused to take the child to her therapy sessions and refused to cooperate with the parenting coordinator. Alicia opposed the motion. She also requested the district court to disqualify the parenting coordinator due to bias and for overstepping her authority.

The district court subsequently conducted an evidentiary hearing concerning Richard's request to modify physical custody. Richard, Alicia, and the child's therapist testified at the evidentiary hearing. The therapist testified that Alicia's behavior had a negative impact on the child and increased the child's anxiety. During the closing arguments of the evidentiary hearing, Richard's counsel referred to the parenting coordinator's reports but Alicia objected to consideration of the parenting coordinator's reports. Alicia acknowledged they were part of the record in this matter but contended they were not admitted into evidence at the evidentiary hearing and contained hearsay statements. The district court noted that it had already read those reports and stated that it was capable of figuring out the appropriate use of the hearsay statements contained within the reports.

The district court thereafter entered a written order in which it concluded that the evidence established that there had been a substantial change in circumstances affecting the welfare of the child since entry of the

previous custody decision, in particular Alicia's actions causing parental alienation between Richard and the child and interference with the child's therapy. The court also found that several of the best interest factors under NRS 125C.0035(4) favored awarding Richard primary physical custody. Based on the evidence presented and the district court's findings, the court concluded it was in the child's best interest to award Richard primary physical custody. However, the court concluded that the parties should continue to share joint legal custody. The court also provided Alicia with parenting time overnight on the first, second, third, and fourth Sunday to Tuesday of each month, and on Monday to Tuesday following any fifth Sunday of a month. In addition, the district court rejected Alicia's contention that the parenting coordinator should be disqualified. This appeal followed.

First, Alicia argues the district court abused its discretion by modifying the physical custody order. Alicia contends that the court's findings were based on information contained within the parenting coordinator's reports even though those reports were not admitted at the evidentiary hearing and contained hearsay. Alicia also contends the court abused its discretion by finding there had been a substantial change in circumstances warranting modification of the physical custody order.

This court reviews district court decisions concerning child custody for an abuse of discretion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). In reviewing child custody determinations, this court will affirm the district court's factual findings if they are supported by substantial evidence, "which is evidence that a reasonable person may accept as adequate to sustain a judgment. *Id.* at 149, 161 P.3d at 242. When

making a custody determination, the sole consideration is the best interest of the child. NRS 125C.0035(1). Further, we presume the district court properly exercised its discretion in determining the child's best interest. *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1226-27 (2004).

To establish that a custodial modification is appropriate, the moving party must show that "(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child's best interest is served by the modification." *Romano v. Romano*, 138 Nev. 1, 5, 501 P.3d 980, 983 (2022) (internal quotation marks omitted), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). A court may award one parent primary physical custody if it determines that joint physical custody is not in the best interest of the child. NRS 125C.003(1).

At the evidentiary hearing, Richard testified at length concerning his relationship with the child and explained that it improved substantially during the temporary period in which the child had been in his care. Richard also explained that he believed Alicia caused the child to fear for her safety when she was with him. In addition, Richard testified concerning allegations that he had abused the child and explained that Child Protective Services (CPS) determined that they were unfounded. Richard also testified concerning several times when the police became involved when he was to pick up the child for his parenting time and Alicia was present at the exchange.

The child's therapist testified that she had been working with the child for approximately two years. The therapist explained that the child suffered from anxiety and experienced difficulties due to the transition

between the parties. The therapist also explained that she noticed the child's watch had been set to record the therapy sessions and that Alicia on many occasions had not brought the child to her therapy appointments. In addition, the therapist stated that the child was playful and readily shared her feelings when she was brought to an appointment by Richard. However, when the child was brought to an appointment by Alicia, the child raised complaints about Richard and his home.

The therapist also explained several concerning issues. She noted that the child stated that Alicia had encouraged her not to eat the food at Richard's home, calling it unhealthy and gross. In addition, the child informed the therapist that Alicia had her keep a log of the food she ate while at Richard's home and that Alicia weighed the child before and after her time with Richard. Moreover, when Alicia was with the child during therapy sessions, the child would look to Alicia for confirmation when making statements. The child also was concerned about informing Alicia of anything positive about her time with Richard, including her relationship with Richard's young daughter from his recent marriage. The therapist also stated that the child was concerned with Alicia and Alicia's family viewing the child acting happy with Richard during an event called Fall Fest. The therapist ultimately expressed her opinion that Alicia's actions had a negative impact upon the child.¹

¹Alicia also argues that the district court abused its discretion by permitting the therapist to testify concerning matters outside of the scope of her role. However, Alicia does not identify which portion of the therapist's testimony was improperly admitted. Alicia thus fails to provide cogent argument concerning this issue. As a result, we decline to consider this issue. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130

Alicia also testified at the evidentiary hearing and testified at length about her relationship with the child. Alicia acknowledged that she weighed the child before and after her time with Richard but explained that she was worried that the child was losing weight when in Richard's care. Alicia also acknowledged that her sister had made a report to CPS about Richard but contended that she had not been responsible for the report.

Following presentation of the evidence, the district court found that there had been a substantial change in circumstances affecting the welfare of the child. The court found that Alicia coached the child to make false allegations of sexual and physical abuse against Richard, that Alicia intentionally interfered with Richard's parenting time on numerous occasions and therefore interfered with the child's relationship with Richard, and that Alicia cancelled or skipped many of the child's therapy sessions. The court also found that Alicia's continuous and inappropriate conduct caused the child to have a significant amount of anxiety, impeded the child's emotional growth, and adversely affected the child's ability to have a healthy relationship with Richard. In addition, the district court found that Alicia was incapable of following orders concerning the child and acting in the child's best interest.

The district court also evaluated the relevant best interest factors from NRS 125C.0035(4) and found that several favored Richard. Specifically, the court found that the evidence demonstrated that Alicia had persuaded the child to tell Richard on several instances that she did not

P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant's argument that is not cogently argued).

want to visit him, that Alicia frequently interfered with Richard's parenting time, and that Alicia severely impeded Richard's relationship with the child. In contrast, the court found the evidence demonstrated that Richard allowed the child to have a continuing relationship with Alicia and that he understood the importance of the child's relationship with Alicia. Thus, the court concluded that Richard was the parent more likely to allow the child to have frequent associations and a continuing relationship with Alicia. *See* NRS 125C.0035(4)(c).

Next, the district court noted that the parties had difficulty co-parenting the child but found that the difficulty was caused by Alicia's demand for control over the child. The court further found that Alicia's actions in this regard had adversely affected the child and hindered the parties' ability to cooperate to meet the child's needs. Thus, the court concluded that Richard was best able to cooperate to meet the child's needs. *See* NRS 125C.004(e).

In addition, the district court noted the child was attending therapy to treat her severe anxiety and for her developmental and emotional growth. The court noted that the child was stressed about many things. Despite those issues, Alicia failed to take the child to several appointments. The court also found that Alicia interfered with the child's ability to engage in therapy in a proper manner. In addition, the court found that Alicia's behavior around Richard caused the child anxiety. Finally, the court found that Alicia's behavior hindered the child's developmental and emotional growth. Thus, the court concluded that Richard was best able to help with the physical, developmental, and emotional needs of the child. *See* NRS 125C.0035(g).

Further, the district court found that Richard had remarried and since had another daughter and that the child enjoys spending time with her younger sibling. However, the court noted that the child became very concerned when Richard took pictures of the child with her younger sibling as the child believed that Alicia did not want her to be affectionate with her younger sibling. Based on that information, the court found that Alicia adversely affected the relationship between the child and her younger sibling. Thus, the court concluded that Richard was best able to help the child to maintain a relationship with her younger sibling. *See* NRS 125C.0035(i).

The district court also noted Alicia's actions to alienate the relationship between Richard and the child. In particular, the district court noted that the child's therapist testified that Alicia's behavior negatively impacted the child. The district court also concluded that Alicia would not reliably take the child to her therapy sessions, hindering the child's ability to get the help that she needs. The court concluded that Alicia's alienating actions had become abusive and neglectful of the child's mental health and emotional needs. Thus, the court concluded that the abuse factor favored Richard. *See* NRS 125C.0035(j).

Based on the aforementioned evidence and the findings made concerning that evidence, the district court concluded that it was in the child's best interest to award Richard primary physical custody. The district court's factual findings made in support of its physical custody determinations are supported by the evidence presented at the evidentiary hearing, and thus, were supported by substantial evidence in the record. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242.

Moreover, the district court did not specifically rely on the parenting coordinator's reports in its findings concerning the child's custody. But even assuming that the district court considered the parenting coordinator's reports when reaching its ultimate custody decision and that it was error for it to do so because the reports were not admitted into evidence during the evidentiary hearing and contained hearsay, Alicia fails to meet her burden to demonstrate that any error was prejudicial and not harmless. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (explaining that, to establish an error is not harmless and reversal is warranted, "the movant must show that the error affects the party's substantial rights so that, but for the alleged error, a different result might reasonably have been reached"). Richard and the child's therapist testified extensively about Alicia's actions to interfere with the child's relationship with Richard and how those acts of alienation caused harm to the child. In addition, Alicia testified concerning her version of the events discussed in the parenting coordinator's reports. The district court made detailed findings concerning the best interest factors, and in particular focused on the harm caused to the child as a result of Alicia's interference with her relationship with Richard. Accordingly, even assuming, without deciding, that consideration of the parenting coordinator's reports constituted error, any such error was harmless because Alicia did not meet her burden to establish prejudice stemming from consideration of those reports. *See id.* at 465, 244 P.3d at 778 ("When an error is harmless, reversal is not warranted."); *cf.* NRCP 61 ("At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.").

Turning to Alicia's contention that modification was not warranted because there were no changed circumstances and modification of the previous custody order was not warranted because Richard and the child had already been reunified, her argument fails. The district court reviewed the evidence submitted at the evidentiary hearing and made findings concerning Alicia's acts to alienate the child from Richard, and it found that her efforts to interfere with their relationship were ongoing. While Alicia challenges the district court's findings and contends it should not have found that there had been a substantial change in circumstances warranting modification of the physical custody arrangement or that modification of the custody order was in the child's best interest, this court is not at liberty to reweigh the evidence or the district court's credibility determinations on appeal. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). Accordingly, we discern no abuse of discretion by the district court in modifying the custody order and awarding Richard primary physical custody. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241.

Second, Alicia contends that the district court improperly delegated its decision-making authority to the parenting coordinator by adopting the coordinator's recommendations. As stated previously, this court reviews district court decisions concerning child custody for an abuse of discretion. *Id.* District courts have "the ultimate decision-making power regarding custody determinations" and may not delegate such power. *Roe v. Roe*, 139 Nev., Adv. Op. 21, 535 P.3d 274, 290 (Ct. App. 2023) (internal quotation marks omitted). However, district courts may appoint a parenting coordinator to resolve non-substantive disputes, so long as the

parenting coordinator's authority does "not extend to modifying the underlying custody arrangement." *Harrison v. Harrison*, 132 Nev. 564, 572, 376 P.3d 173, 179 (2016).

As explained previously, the district court entered an order appointing the parenting coordinator and provided her with the authority to resolve disputes between the parties, to make recommendations to the court concerning the parenting plan, and to inform the court of child abuse or neglect. However, the court retained the ultimate decision-making authority with respect to the child's physical custody. During the district court proceedings, the parenting coordinator issued reports and recommendations concerning the parties' behavior and the custody issues. The district court separately entered orders concerning the child's physical custody and in so doing made its own findings in support of those decisions. Moreover, as discussed previously, Alicia fails to demonstrate that the district court abused its discretion with its custody decisions. In light of the foregoing, we conclude that Alicia fails to demonstrate that the district court improperly delegated its decision-making authority, and therefore, Alicia is not entitled to relief based on this argument.

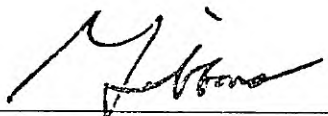
Third, Alicia contends that the district court abused its discretion by declining to disqualify the parenting coordinator. Alicia argues that the parenting coordinator was biased against her and improperly exceeded the scope of her role by making recommendations to the court concerning the child's physical custody arrangement. Again, this court reviews district court decisions concerning child custody for an abuse of discretion. *Ellis*, 123 Nev. at 149, 161 P.3d at 241. In reviewing child custody determinations, this court will affirm the district court's factual

findings if they are supported by substantial evidence. *Id.* at 149, 161 P.3d at 242. Here, the district court reviewed the information concerning the parenting coordinator and the parties, and it found that the parenting coordinator did not exhibit any bias or prejudice against Alicia. Instead, the court found that the parenting coordinator had merely held both parties accountable for their actions. The district court also found that the parenting coordinator did not make improper recommendations or overstep her authority. Finally, the district court found that there were no grounds to disqualify the parenting coordinator.


The district court's findings are supported by substantial evidence and we accordingly conclude that the district court did not abuse its discretion by finding that the parenting coordinator was not biased against Alicia and did not overstep her authority. *See id.* at 149, 161 P.3d at 241-42.

In light of the foregoing, we conclude that Alicia is not entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

²Insofar as Alicia 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.

cc: Hon. Michele Mercer, District Judge, Family Division
Alicia Ann Hagerman
Burton & Reardon
Eighth District Court Clerk