


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SAMARN REED,  
Appellant,  
vs.  
DOROTHY REED,  
Respondent.

No. 87580-COA

**FILED**

JAN 31 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Samarn Reed appeals from a post-divorce decree order resolving his motion to terminate or modify his alimony obligation. Eighth Judicial District Court, Family Division, Clark County; Gregory G. Gordon, Judge.

Samarn and respondent Dorothy Reed were married for approximately 29 years and had three children together, who are now adults. Prior to the parties' divorce, Samarn was an executive-level employee at the United States Postal Service (USPS) who earned over \$200,000 per year. In 2021, Samarn began a relationship with a coworker, who he had promoted and advocated for her to receive management training and other benefits. Eventually, Dorothy learned of the relationship, which prompted her to commence the underlying divorce proceeding against Samarn. Around this same time, Samarn notified USPS's human relations department about his relationship with his coworker, which eventually triggered an internal investigation into his conduct.

The parties entered into a stipulated divorce decree in April 2022. Pursuant to the terms of the decree, Samarn was required to pay Dorothy \$1,250 per month in alimony until such time as his \$1,552 child

support obligation for the parties' youngest child, who was still a minor at the time, terminated due to the child reaching the age of majority, which occurred in May 2023. Thereafter, the decree required Samarn to pay Dorothy \$2,500 per month in alimony for 10 years. No provision was included in the decree to make Samarn's alimony obligation nonmodifiable.

Meanwhile, USPS concluded its investigation into Samarn's conduct and issued a letter of decision in January 2023. In that letter, the deciding official found that Samarn promoted an applicant with whom he was romantically or sexually involved and later advocated for her to receive management training and other benefits. The deciding official further found that, although Samarn was not initially forthright, he later admitted to his misconduct and had prior knowledge that his conduct violated applicable USPS rules of employment and ethical guidelines. Based on the foregoing, Samarn's employment was terminated.

Samarn subsequently appealed his termination to the United States Merit Systems Protection Board and, in May 2023, entered into a settlement agreement with USPS, which resulted in the withdrawal of Samarn's appeal. Pursuant to the terms of the settlement agreement, Samarn agreed to a voluntary demotion to a non-executive level position, in lieu of termination of his employment, at an annual salary of \$110,000. Samarn further agreed that he would not seek a promotion at USPS until February 2025.

Approximately two weeks later, Samarn moved in district court to terminate alimony, asserting that his demotion resulted in a 45 percent reduction in his monthly income and that review of his alimony obligation was therefore required. Moreover, Samarn argued that he could not afford to pay \$2,500 per month in alimony given his reduced income and that

Dorothy's financial circumstances had improved. Although the relief sought in Samarn's motion was termination of alimony, he later argued in his pre-trial memorandum that the district court should at least reduce his alimony obligation to an amount sufficient to equalize the parties' incomes, which he suggested was \$557.87 per month. Samarn also argued in his pre-trial memorandum that the relief he sought was warranted based on an analysis of the factors set forth in NRS 125.150(9). Dorothy opposed any change to Samarn's alimony obligation, arguing that while a review of alimony was required due to Samarn's reduction in income, the reduction was not a basis for terminating or modifying alimony since it resulted from Samarn's knowing violation of USPS's rules of employment and ethical policies. Further, Dorothy maintained that Samarn continued to earn a substantial income and could afford his alimony obligation.

Following an evidentiary hearing in which the district court heard extensive testimony concerning the circumstances surrounding Samarn's demotion and the parties' finances, the court entered an order declining to terminate or substantially modify Samarn's alimony obligation as he had requested, but instead, narrowly restructuring alimony. In particular, the court determined that it was appropriate to restructure Samarn's alimony obligation to ensure that he was capable of meeting his alimony obligation so it would be enforceable. Thus, the district court directed Samarn to pay \$2,000 per month in alimony from October 1, 2023, through January 31, 2025, reasoning that he would be in a better position to pay \$2,500 per month in alimony beginning in February 2025 when he could apply for a promotion at USPS. However, to approximately offset this reduction, the district court extended the term of Samarn's alimony obligation by three months.

To support its decision, the district court determined that it could properly consider the circumstances surrounding Samarn's demotion and reduction in income when evaluating his request to terminate alimony pursuant to the supreme court's decision in *Rosenbaum v. Rosenbaum*, 86 Nev. 550, 471 P.2d 254 (1970). From there, the court found that Samarn's reduction in income was not the result of circumstances beyond his control, but instead resulted from his deliberate, willful, and knowing violation of USPS's rules of employment ethical policies, which the court indicated factored greatly into its decision. The district court further found that, despite Samarn's reduction in income, he was capable of maintaining a nominal budget surplus, notwithstanding his alimony obligation, if he eliminated certain unnecessary expenses. The district court also determined that, aside from Dorothy's testimony that she was struggling financially, there was no evidence to show that her financial circumstance had changed or improved since the parties' divorce, such that a modification of alimony would be warranted, particularly when Samarn sought to terminate his alimony obligation within approximately one year of when the parties negotiated the terms of the stipulated decree. This appeal followed.

On appeal, Samarn argues that the district court misapplied *Rosenbaum* as a basis to treat his reduction in income as a factor that did not warrant terminating or substantially modifying his alimony obligation in the manner he had requested. Samarn further contends that the district court should have evaluated his request to terminate or modify alimony based on the factors set forth at NRS 125.150(9) and that the court's refusal to provide the relief he sought was inconsistent with the purposes of alimony.

We review the district court's decision to grant or deny a motion to modify alimony for an abuse of discretion. *Davitian-Kostanian v. Kostanian*, 139 Nev., Adv. Op. 27, 534 P.3d 700, 705 (2023). This court will not disturb the district court's findings if 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). However, "[w]e review questions of law, including interpretation of caselaw, de novo." *Martin v. Martin*, 138 Nev., Adv. Op. 78, 520 P.3d 813, 817 (2022).

Following the entry of a divorce decree requiring a party to make specified periodic payments of alimony, the district court may modify alimony with respect to unaccrued payments based on a showing of changed circumstances. NRS 125.150(8); *Davitian-Kostanian*, 139 Nev., Adv. Op. 27, 534 P.3d at 705. If a spouse's income changes by 20 percent or more, circumstances are deemed to have changed and the district court is required to review alimony to determine whether modification is warranted. NRS 125.150(12); *Davitian-Kostanian*, 139 Nev., Adv. Op. 27, 534 P.3d at 705. In evaluating whether to modify alimony, the district court must consider whether the income of the spouse ordered to pay alimony "has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay." NRS 125.150(8). The district court may also consider any other factors it deems relevant.

*The district court did not err in its application of Rosenbaum*

Samarn contends that the district court misapplied *Rosenbaum* in refusing to grant the relief he sought because the court purportedly penalized him for "bad behavior" during his marriage even though his demotion and reduction in income were not intentional. He also argues, without citing any supporting authority, that the court should have

considered that he did not engage in the conduct leading to the changes in his employment for the purpose of avoiding alimony. We disagree.

Initially, although the district court found that Samarn's demotion resulted in a reduction of his income of more than 20 percent, the court was not obligated to grant him the relief he sought based on that finding alone, but instead, was required to review the alimony obligation to determine whether modification was required based on an inability to pay and any other factors the court considered relevant. NRS 125.150(8), (12); *Davitian-Kostanian*, 139 Nev., Adv. Op. 27, 534 P.3d at 705. One of the factors that the district court considered relevant in its review was the circumstances surrounding Samarn's demotion, and in doing so looked to *Rosenbaum* for guidance.

In *Rosenbaum*, the husband quit his employment in one occupation and took new employment in a different occupation at significantly reduced pay, and the supreme court held that the district court could consider the wife's evidence of the husband's prior earnings to establish what he was capable of earning, in evaluating her requests for child support and alimony. 86 Nev. at 551-52, 554, 471 P.2d at 255, 256-57. The supreme court held that, although not required, the district court was permitted "to consider what a husband or father could in good faith earn if he so desired," emphasizing that "the key to this rule is . . . good faith." *Id.* at 554, 471 P.2d at 256-57. Thus, the supreme court explained that if a party "intentionally holds a job below his reasonable level of skill or purposefully earns less than his reasonable capabilities permit, the [district] court should take that into consideration in fixing the amount of alimony or child support." *Id.* at 554, 471 P.2d at 257. On the other hand, the supreme court reasoned that if a party, "through circumstances beyond

[the party's] control, cannot in good faith obtain a job commensurate with [the party's] skills or by the exercise of ordinary industry of a person commanding those skills earn more money, the award should be in keeping with [the party's] ability to pay, having regard for all other factors which bear upon the issue." *Id.*

In the present case, the district court found that Samarn had knowledge of USPS's rules of employment and ethical policies yet deliberately and willfully engaged in conduct that violated them when he knew or should have known his actions would imperil his career and financial security and, by extension, Dorothy's financial security. Thus, the court concluded that Samarn's demotion and reduction in income did not result from circumstances beyond his control, and, therefore, did not warrant the relief he sought from his alimony obligation under *Rosenbaum*. In essence, the court determined that his deliberate and willful conduct prevented him from earning what he could earn, thereby implicitly finding that Samarn had not acted in good faith, although the court did not specifically use the good faith terminology from *Rosenbaum*, 86 Nev. at 554, 471 P.2d at 256. The district court's decision is supported by substantial evidence in the record, including USPS's letter of decision regarding termination and Samarn's testimony. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242.

Nevertheless, as discussed above, Samarn advances several theories as to why the district court's decision in this respect constituted a misapplication of *Rosenbaum*. However, despite Samarn's assertion to the contrary, we disagree that *Rosenbaum* does not apply under these circumstances merely because his demotion and reduction in income were in a sense involuntary insofar as they were imposed by USPS. Indeed,

Samarn agreed to the settlement. Further, although USPS imposed changes to Samarn's employment, these changes were nevertheless precipitated by Samarn's voluntary conduct, which was deliberate, willful, and engaged in with knowledge of USPS's employment rules and ethical policies. To conclude that *Rosenbaum* does not permit the district court to account for such conduct when evaluating how a spouse's loss of employment or income affects a modification to alimony would overlook the emphasis placed on the spouse's good faith and the distinction between changes to the spouse's employment resulting from his or her intentional or purposeful conduct versus circumstances beyond the spouse's control. 86 Nev. at 554, 471 P.2d at 257. Thus, relief is unwarranted on this ground.

We are also unpersuaded by Samarn's assertion that the district court's application of *Rosenbaum* effectively penalized him for "bad behavior" in violation of *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000). In that case, the supreme court concluded that the district court abused its discretion by considering evidence of a spouse's extramarital affair in refusing to award her alimony, reasoning that a spouse's marital misconduct or fault is not an appropriate factor for assessing whether an alimony award is just and equitable under NRS 125.150(1), even when the misconduct has an economic impact on the other spouse. *Id.* at 996, 999, 13 P.3d at 417-419 ("Alimony is not a sword to level the wrongdoer. Alimony is not a prize to reward virtue.").

However, the present case is distinguishable from *Rodriguez* in that here the district court was called upon to determine whether Samarn, having become underemployed, was entitled to a modification of his alimony obligation as established in the parties' stipulated divorce decree, which they presumably entered into with knowledge that Nevada law requires a



just and equitable alimony award. *See Sengel v. IGT*, 116 Nev. 565, 573, 2 P.3d 258, 262-63 (2000) (recognizing that “[e]very one is presumed to know the law, and this presumption is not even rebuttable”). *Rosenbaum* expressly authorizes the district court to consider the circumstances surrounding a spouse’s underemployment in fixing the amount of an alimony award, and nothing in *Rodriguez* suggests an intent to overrule *Rosenbaum*. Moreover, in applying *Rosenbaum* it was not Samarn’s marital misconduct with which the district court was concerned, but rather, the violation of USPS’s rules of employment and ethical policies that led to Samarn’s demotion and reduction in income. Consequently, relief is not warranted.

Insofar as Samarn further argues that the district court misapplied *Rosenbaum* because it did not first find that he was unemployed or underemployed for the purpose of evading alimony or child support, his argument is unavailing. *Rosenbaum* imposed no such requirement. Thus, the district court was not required to determine that Samarn instigated his demotion and reduction in income for the purpose of avoiding alimony.

Given the foregoing, we conclude that the district court did not err in relying on *Rosenbaum* to conclude that Samarn’s demotion and reduction in income did not warrant the relief from his alimony obligation that he requested.

*The district court did not abuse its discretion by resolving Samarn’s motion to terminate or modify his alimony obligation without considering the factors set forth at NRS 125.150(9)*

Although the district court did not err by concluding that Samarn’s demotion and reduction in income did not warrant the relief he sought under *Rosenbaum*, this does not end our analysis. Samarn also contends that the court should have considered the factors set forth at NRS

125.150(9), which, as he argued below, he believes would have supported terminating or substantially modifying his alimony obligation. In evaluating a motion to *modify* alimony, the district court generally is not required to consider all the factors set forth in NRS 125.150(9), but instead, must consider “whether the income of the spouse who is ordered to pay alimony . . . has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay,” and the court may consider “any other factors [it] *considers relevant*.” NRS 125.150(8) (emphasis added); *see also* NRS 125.150(9) (requiring the district court to consider a non-exhaustive list of eleven factors when considering whether to award alimony and, if so, how much to award). We note the NRS 125.150(9) factors govern when deciding an initial award of alimony and not when modifying an existing award. Nevertheless, if the parties address additional factors, beyond the ability to pay as required by NRS 128.150(8), in connection with a motion to modify alimony, the district court should consider those additional factors if they are relevant. *See Swanson v. Swanson*, No. 54105, 2011 WL 1659877, at \*3 (Nev. Apr. 29, 2011) (Order of Affirmance) (explaining that, “in the abstract” it would be error for the district court to treat the ability to pay factor as dispositive in evaluating a motion to modify alimony since the court may consider additional factors, but concluding that the district court did not abuse its discretion by denying such a motion without consideration of additional factors since none were tendered).

Here, in addition to considering the circumstances surrounding Samarn’s demotion and reduction in income, the district court also considered the parties’ financial circumstances and the short period that had elapsed since the parties entered into the stipulated divorce decree that

established Samarn's alimony obligation. Samarn agreed to this obligation knowing he would potentially be under investigation at USPS that could impact his employment.


Further, after recognizing that Samarn's income had been reduced by more than 20 percent, the district court found that he was "operating right at a break-even level given his current income" and that paying \$2,500 per month in alimony would not allow much leeway for Samarn to pay "additional expenses, emergency expenses, or discretionary expenses." However, the court also found that, despite his demotion and reduction in income, Samarn continued to spend money on trips for himself and his family, heavily utilized credit cards, and otherwise engaged in spending that suggested his margins were not as tight as he argued.

With respect to Dorothy, the district court found that she negotiated to receive \$2,500 per month in alimony approximately one year before Samarn moved to terminate the obligation or substantially modify it, that she depended upon the agreed upon alimony payments, and that she credibly testified that she was struggling financially and going further into debt. Balancing these factors, the district court determined that, rather than terminating or substantially modifying Samarn's alimony obligation, it was appropriate and reasonable to narrowly restructure his obligation.

Although the district court did not consider the factors set forth at NRS 125.150(9) in modifying alimony, Samarn's arguments concerning those factors, both below and on appeal, focus on the parties' financial circumstances, which the district court considered in its analysis, albeit without framing its findings in terms of NRS 125.150(9). Consequently, in arguing that the district court did not address the NRS 125.150(9) factors, Samarn is essentially asking this court to reweigh the evidence considered

by the district court to support its findings, which this court does not do. *Ellis*, 123 Nev. at 152, 161 P.3d at 244 (explaining that Nevada's appellate courts do not reweigh the evidence on appeal). Thus, because the district court considered Samarn's ability to pay his alimony obligation as it was required to do; evaluated other relevant factors as permitted; and made findings supported by substantial evidence, including the parties' testimony and financial disclosure forms, to support its decision, under the facts and circumstances of this case, we conclude that the court did not abuse its discretion in resolving Samarn's motion to terminate or substantially modify his alimony obligation. See NRS 125.150(8); see also *Davitian-Kostanian*, 139 Nev., Adv. Op. 27, 534 P.3d at 705; see *Ellis*, 123 Nev. at 149, 161 P.3d at 242. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

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

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

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<sup>1</sup>Insofar as the parties raise 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. Gregory G. Gordon, District Judge  
Lansford W. Levitt, Settlement Judge  
Mills & Anderson Law Group  
The Abrams & Mayo Law Firm  
Eighth District Court Clerk