

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAYMOND BELL,
Appellant,
vs.
NICHOLE D. ROBINSON,
Respondent.

No. 89297-COA

FILED

JUN 25 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Raymond Bell appeals from an order denying a motion for modification of physical custody. Eighth Judicial District Court, Family Division, Clark County; T. Arthur Ritchie, Judge.

Bell and respondent Nichole D. Robinson never married and have one minor child R.R.B., who was born in March 2013. Bell and Robinson have litigated against each other for legal and physical custody over R.R.B. almost constantly since 2015. This appeal solely concerns physical custody, which the two have held jointly since a district court order in August 2022.

In April 2023, Bell moved for primary physical custody of R.R.B., accusing Robinson of substance abuse and parental neglect. Attached to Bell's motion was a declaration from Robinson's ex-boyfriend, Bradley Hunt. Many of Hunt's statements concerned Robinson's alleged substance abuse, but were imprecise as to when that abuse occurred, or related to events that took place prior to the entry of the most recent and controlling custody order of August 2022. However, Bell did describe an incident from January 2023 where, after a party, Robinson allegedly acted belligerently, which included biting Hunt on the arm. Hunt stated that he

drove Robinson to a police station, and while he was walking inside to report the incident, Robinson stole his car and damaged its interior.

Robinson opposed Bell's motion, disputing most of his and Hunt's factual allegations. Although she admittedly drove away from the police station in Hunt's car during the January 2023 incident, she claimed she did so to escape Hunt, who was threatening domestic violence. She conceded that she may have bitten Hunt, but that it was in self-defense. Robinson reported that Bell was surveilling her daily activities, which included him hiring private investigators to follow her and having GPS trackers placed on her vehicle.

Having determined that Bell made a prima facie case for custody modification, the district court held an evidentiary hearing in August 2023. Bell first called Robinson who testified that she was currently smoking marijuana 2-3 times per week, but did not do so in front of R.R.B., nor did she abuse prescription drugs, drink on the job, or pick R.R.B. up from school while under the influence of alcohol, as Hunt alleged. She also gave her version of the January 2023 incident essentially denying Hunt's allegations, and she asserted that the dashcam footage from Hunt's vehicle attached to Bell's motion was heavily edited and misleading.

Hunt testified and repeated his version of the January 2023 incident, elaborating that Robinson was intoxicated following the party and refused to get out of his car, thus necessitating the trip to the police station. He also made other non-specific allegations about Robinson's substance abuse and lack of parental fitness. On cross-examination, Hunt admitted that he sent Robinson flowers in February 2023 and attempted to reconcile in March 2023 via text message despite stating in his declaration that he stopped communicating with Robinson on the night of the fight in January

2023. He also acknowledged that he never reported Robinson to Child Protective Services although he was romantically involved with her on and off for ten years and apparently had grave concerns about her parenting during that entire time.

Bell testified, offering little in the way of specific allegations against Robinson since the August 2022 custody order. He simply stated that granting him primary physical custody of R.R.B. would ensure that R.R.B. always had adult supervision, as Robinson was often absent due to her drug addiction and gambling problems. Bell admitted on cross-examination that he often made decisions without input from Robinson, such as signing R.R.B. up for football and basketball and attempting to enroll him in a private Christian school, all against Robinson's wishes. Bell also admitted to providing incomplete or incorrect contact information for Robinson on school emergency contact forms.

The district court made lengthy oral findings and subsequently entered a final written order. The court found that the most serious and relevant allegations against Robinson were not proven and that most of Hunt's testimony lacked credibility, as he had many reasons to fabricate information and many of his allegations were not supported by anything other than his personal testimony. Thus, the court found Bell failed to show a substantial change in circumstances warranting modification of the custody order. It also considered the applicable best interest factors enumerated in NRS 125C.0035(4) and found R.R.B.'s best interest would be served by maintaining joint physical custody. Thus, Bell's motion for primary physical custody was denied. This appeal follows.

A parent moving for primary physical custody 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, 3, 501 P.3d 980, 982 (2022), *abrogated by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167 (2023). The party requesting modification bears the burden to satisfy both prongs. *Ellis v. Carucci*, 123 Nev, 145, 150-51, 161 P.3d 239, 242-43 (2007). In demonstrating a substantial change in circumstances, the moving parent must allege facts that have occurred since the last custody determination. *Id.* at 151, 161 P.3d at 243. This requirement is meant to prevent dissatisfied parents from filing repetitive motions in the hopes of achieving a different outcome. *Id.* It is also meant to provide stability to the child. *Id.* This court reviews a district court's child custody determinations for a clear abuse of discretion. *Id.* at 149, 161 P.3d at 241. It will not disturb the district court's factual findings if they are supported by substantial evidence, which is evidence that a reasonable person would accept as adequate to support a judgment. *Id.* at 149, 161 P.3d at 242.

Here, the district court's finding that Bell did not meet his burden to demonstrate a substantial change in circumstances is supported by substantial evidence. The significant allegations against Robinson since the August 2022 custody order relate to the private investigator's surveillance report covering January to July 2023, which revealed that Robinson regularly patronized legal cannabis dispensaries and Hunt's allegations concerning the January 2023 fight between him and Robinson. However, Bell admitted during the hearing that the private investigator provided no useful information pertaining to Robinson's parental fitness, and we note the best interest factor related to domestic violence is inapplicable in this situation because Hunt was not a parent or person seeking custody, was not living with Robinson, and the child was not

present during the altercation, thereby detracting from the argument that Robinson's actions on that evening affected the welfare of the child. See NRS 125C.0035(4)(k) ("Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child."); *Romano*, 138 Nev. at 3, 501 P.3d at 982 (holding that a substantial change in circumstances must affect the welfare of the child).

The district court found Hunt not credible with respect to his allegations against Robinson, especially with respect to the January 2023 incident. It declined to place significant weight on Hunt's testimony about that incident in addressing whether Bell had demonstrated changed circumstances or whether a change in custody would be in R.R.B.'s best interest. This court does not reweigh credibility determinations. *Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). Nor will we question a district court's resolution of a factual issue where conflicting evidence is presented. *Morrison v. Rayen Inv., Inc.*, 97 Nev. 58, 61, 624 P.2d 11, 13 (1981) (noting that it is the purview of the trier of fact to resolve conflicts in testimony). Given that Bell attempted to demonstrate changed circumstances almost exclusively through Hunt's testimony, that Robinson's testimony mostly contradicted Hunt's, and that the district court found Hunt lacking in credibility—a determination to which this court defers—we conclude that the district court did not abuse its discretion in finding that Bell did not satisfy his burden to show a substantial change in circumstances warranting custody modification. See *Ellis*, 123 Nev. at 149, 161 P.3d at 241.

Because a parent moving to modify physical custody must demonstrate both a substantial change in circumstances and that

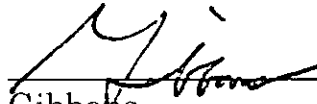
modification would be in the child's best interest, and Bell failed to demonstrate a change in circumstances, we need not reach the issue of whether Bell demonstrated that modification would be in R.R.B.'s best interest. *See Romano*, 138 Nev. at 3, 501 P.3d at 982. However, we note that while Bell argues that the district court made factual findings regarding the best interest factors listed in NRS 125C.0035(4) with which he disagrees, he does not demonstrate how those findings are not supported by substantial evidence when the district court's role is specifically to resolve such factual disputes between the parties, which it did. Thus, even when considering the argument on the merits, Bell has not shown an abuse of discretion.


Again, we review a district court's custody determinations for abuse of discretion. *Ellis*, 123 Nev. at 149, 161 P.3d at 241. The district court is in the best position to make factual findings concerning the best interest of the child. *See Culbertson v. Culbertson*, 91 Nev. 230, 233-35, 533 P.2d 768, 770-71 (1975) (presuming that the district court properly exercised its discretion in determining the best interest of the child where the court made substantial factual findings and noting that the district court had the opportunity to observe parties and witnesses and "appraise their relative fitness for custody of . . . minor children"). The district court, basing its findings on the evidence presented to it, found that almost, if not all, of the best interest factors weighed in favor of maintaining joint physical custody. Assuming, arguendo, that it did err with respect to some of the best interest factors, Bell fails to show how different findings would have affected the court's overall custody determination. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) ("To establish that an error is prejudicial, 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.”). Bell thus fails to demonstrate how the district court abused its discretion, and his arguments do not provide a basis for relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. T. Arthur Ritchie, District Judge, Family Division
JK Nelson Law LLC
Carman & Price
Eighth District Court Clerk

¹Insofar as Bell has raised 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.