


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM MENDENHALL,
Appellant,
vs.
NATALIE DODSON-MENDENHALL
F/K/A NATALIE MENDENHALL,
Respondents.

No. 88620-COA

FILED

AUG 12 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Adam Mendenhall appeals from a post-decree order awarding attorney fees and costs in a family law matter. Eighth Judicial District Court, Family Division, Clark County; Dedree Butler, Judge.

Adam and respondent Natalie Dodson-Mendenhall were previously married but divorced in 2017. They share two children in common and the district court awarded Natalie sole legal custody and primary physical custody of the children. In making its custody decisions, the court explained that the evidence demonstrated Adam had serious problems stemming from the abuse of alcohol and cocaine, and he therefore posed a significant threat to the children's well-being. In light of those issues, the district court provided Adam with supervised parenting time with the children.

Natalie subsequently moved to relocate with the children to California. The district court later granted Natalie's motion and provided Adam with continued supervised parenting time with the children but he was directed to submit to drug testing prior to his parenting time. The district court also explained that Adam could earn unsupervised parenting

time in Nevada if he had a six-month period of negative drug tests and had no incidents of domestic violence.

However, Adam subsequently tested positive for alcohol or cocaine on numerous occasions. Despite those ongoing issues, Adam moved to modify the child custody arrangement but the district court denied that motion in light of his substance abuse issues.

Natalie subsequently filed a motion seeking to relocate with the children to Virginia. Natalie contended she first sought Adam's agreement for the relocation but asserted he would only agree to her relocation request if she agreed to end his drug-testing requirements and allow him to have unsupervised parenting time with the children. Adam filed an opposition and countermotion opposing Natalie's relocation request and seeking modification of the parenting time arrangement to allow him unsupervised time with the children and alteration to the drug testing protocol. The district court later entered an order temporarily permitting Natalie to relocate to Virginia and stating it was inclined to award Natalie attorney fees based on Adam's behavior and his refusal to agree to the relocation under the circumstances of the case but it elected to defer that decision to a later time.

The district court thereafter set an evidentiary hearing concerning the parties' motions. The parties also conducted depositions and, according to a memorandum later filed by Natalie, during his deposition Adam acknowledged that he did not actually oppose Natalie's request to relocate to Virginia. The parties subsequently reached an agreement as to the majority of the outstanding issues, including for Natalie to relocate to Virginia with the children and for the existing drug testing protocol to remain in place. The district court thereafter entered an order

reflecting the parties' agreement. The district court also noted that the parties had not agreed whether Adam should be responsible for Natalie's attorney fees and costs and accordingly directed Natalie to submit a memorandum of fees and costs and for Adam to later file an opposition to the same.

Natalie filed a request for an award of attorney fees and costs, contending she was entitled to an award of attorney fees pursuant to NRS 18.010(2)(b) and EDCR 5.219 because Adam had opposed her request to relocate to Virginia without reasonable grounds. In her request for an award of attorney fees, Natalie relied upon Adam's deposition and noted he admitted he did not actually oppose her request to relocate to Virginia but instead hoped to use the court's consideration of that issue to gain modification of the drug testing protocol. After addressing the appropriate factors outlined in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), Natalie asserted she was entitled to \$16,576.85 in attorney fees and costs associated with Adam's opposition to her relocation request. Adam opposed, contending that he had reasonably opposed the relocation and sought alteration of the drug testing protocol.

Natalie later filed an amended memorandum in support of her request for attorney fees and costs. In this memorandum, Natalie acknowledged that her recently submitted proposed order had been returned by the district court, that she submitted the amended memorandum following that return, and, in the amended memorandum, she discussed the previously identified information concerning her request for attorney fees and costs, but also discussed the disparity in income between the parties, noting that Adam's child support obligation was

consistent with an income of \$38,000 per month and asserting that she did not earn any income.

The district court subsequently entered a written order explaining that it reviewed the documents filed concerning Natalie's request for attorney fees and costs and it concluded that her request should be granted pursuant to NRS 18.010(2)(b) and EDCR 5.219. The court found that Adam unreasonably increased the cost of litigation by multiplying the proceedings and that he put forth unreasonable positions while failing to comply with court orders regarding proof of his sobriety. The court accordingly found that Adam acted without reasonable grounds or to harass Natalie. In addition, the court noted it was difficult to determine the parties' incomes as there was limited information available but found that the parties were similarly situated such that Natalie's request for attorney fees was reasonable. The court also reviewed the appropriate *Brunzell* factors, finding that Natalie's attorneys had significant experience in family law matters, the work was of a difficult nature and required skill, the attorneys actually performed the work necessary for this matter, and they obtained an appropriate result given the circumstances in this matter. The district court accordingly awarded Natalie attorney fees and costs in the amount of \$16,576. This appeal followed.

First, Adam argues the district court abused its discretion by awarding attorney fees to Natalie, as he contends he opposed Natalie's request to relocate to Virginia in good faith.¹ "The decision to award

¹To the extent Adam also challenges the district court's award of costs, he fails to provide cogent argument or relevant authority regarding the propriety of this award, and therefore, we decline to consider this issue on appeal. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38,

attorney fees is within the sound discretion of the district court and will not be overturned absent a manifest abuse of discretion.” *Kahn v. Morse & Mowbray*, 121 Nev. 464, 479, 117 P.3d 227, 238 (2005) (internal quotation marks omitted). An abuse of discretion occurs when the court’s decision is not supported by substantial evidence, *Otak Nev., LLC v. Eighth Jud. Dist. Ct.*, 129 Nev. 799, 805, 312 P.3d 491, 496 (2013), “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). The district court may only award attorney fees where a statute, rule, or contract allows it. *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022, 1028 (2006). When awarding attorney fees, the court must consider the factors set forth in *Brunzell*, 85 Nev. at 349, 455 P.2d at 33.

Under NRS 18.010(2)(b), the district court may award attorney fees to a “prevailing party” when “the court finds that the claim . . . of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party.” This section is to be “liberally construe[d] . . . in favor of awarding attorney’s fees in all appropriate situations.” *Id.* “[A] claim is frivolous or groundless if there is no credible evidence to support it.” *Roe v. Roe*, 139 Nev., 163, 183, 535 P.3d 274, 293 (Ct. App. 2023) (internal quotation marks omitted). In addition, in a family law matter, a district court may impose sanctions when a party “[p]resent[s] a position that is obviously frivolous, unnecessary, or unwarranted” or that “[m]ultipl[ies] the proceedings in a case so as to increase the costs unreasonably and vexatiously.” EDCR 5.219(a), (b).

130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument and relevant authority).

Here, Natalie contended that Adam did not actually oppose her relocation request, and that he only purported to oppose her request in an attempt to gain modification of the drug testing protocols and parenting time schedule. Natalie noted that Adam revealed that information during his deposition. As noted above, in granting Natalie's motion for attorney fees, the district court stated that it had reviewed the information provided by Natalie and found Adam had opposed her request to relocate without reasonable grounds and improperly caused unnecessary court proceedings. The court began its analysis by noting it had previously indicated it was inclined to award attorney fees to Natalie based on Adam's refusal to permit the relocation even though he was not physically able to take the children due to his failure to comply with the court's drug testing orders. The court also found that when Natalie had sought to resolve the relocation issue, Adam had used this negotiation as a chance to renegotiate the terms of his drug testing protocol and supervised parenting time with the children, despite the existing orders related to those issues, rather than contesting or negotiating the relocation request itself. The district court also found that Adam had failed to demonstrate he was actually attempting to maintain sobriety despite trying to renegotiate the drug testing protocol and the related supervised parenting time restrictions.

In light of those findings, the district court determined that Adam had unreasonably increased the costs of litigation, pursued unreasonable positions when he was failing to comply with the court-ordered drug testing protocols, and that he acted with the intent to harass Natalie. The court further found that Natalie was the prevailing party as she had obtained her requested relief with regard to the relocation request. The district court accordingly concluded, based on the totality of the

circumstances, that Natalie's request for attorney fees should be granted in an effort to deter Adam from continuing such behavior.

Based on our review of the record before us, we conclude the district court's above noted findings made in support of its conclusion that Adam did not oppose the motion to relocate in good faith, unreasonably increased the costs of litigation, and pursued unreasonable positions are supported by substantial evidence. Our conclusion in this regard is further supported by Adam's failure to provide this court with a copy of his deposition transcript. As noted above, in seeking attorney fees, Natalie asserted Adam stated at the deposition that he did not actually oppose her request to relocate to Virginia with the children but instead hoped to gain modification to the drug testing protocol by opposing that request. Natalie also relies on this assertion in her answering brief. Despite Natalie having pointed to this issue both below and on appeal, Adam did not provide this court with a copy of a transcript of the deposition or file a reply brief to respond to Natalie's argument. Thus, Adam's failure in this regard further supports upholding the district court's determination that attorney fees were warranted under NRS 18.010(2)(b) and EDCR 5.219. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (noting that it is appellant's burden to ensure that a proper appellate record is prepared and that, if the appellant fails to do so, "we necessarily presume that the missing [documents] support[] the district court's decision"); *see also Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (treating a party's failure to respond to an argument as a concession that the argument is meritorious).

Given the foregoing analysis, we conclude that Adam's argument that he had a good faith basis for opposing Natalie's relocation

request is belied by the record and thus does not provide a basis for relief. See *Bergmann v. Boyce*, 109 Nev. 670, 675, 856 P.2d 560, 563 (1993) (explaining that an analysis under NRS 18.010(2)(b) “depends upon the actual circumstances of the case rather than a hypothetical set of facts favoring plaintiff’s averments”), *superseded by statute on other grounds as recognized in In re DISH Network Derivative Litig.*, 133 Nev. 438, 451 n.6, 401 P.3d 1081, 1093 n.6 (2017). Thus, because adequate grounds existed to support the district court’s decision that Natalie was the prevailing party and its decisions regarding Adam’s actions, we cannot say the court abused its discretion by finding attorney fees were warranted under NRS 18.010(2)(b) and EDCR 5.219.

In addition, the district court considered the *Brunzell* factors and compared the parties’ incomes. Based on the foregoing analysis, and because Adam does not challenge the reasonableness of the amount of the fee award under the *Brunzell* factors, see *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues an appellant does not raise on appeal are waived), we conclude Adam fails to demonstrate the district court abused its discretion in determining the amount of attorney fees to award.

Second, Adam argues the district court committed plain error by allowing Natalie to submit an amended memorandum of fees and costs, by allowing Natalie to submit a proposed order without submitting it to Adam for his review, and by seemingly communicating with Natalie ex parte about submitting additional information to address the disparity in the parties’ income. Adam acknowledges that he did not object to these issues before the district court but contends he is entitled to relief under plain error review.

“Appellate review is generally precluded when the aggrieved party fails to object, assign misconduct, or request an instruction from the lower court.” *Parodi v. Washoe Med. Ctr., Inc.*, 111 Nev. 365, 368, 892 P.2d 588, 590 (1995). However, this court may exercise its discretion to correct plain error, which is an “error [that] is so unmistakable that it reveals itself by a casual inspection of the record.” *Williams v. Zellhoefer*, 89 Nev. 579, 580, 517 P.2d 789, 789 (1983) (citation omitted); *see also Jeremias v. State*, 134 Nev. 46, 51-52, 412 P.3d 43, 49 (2018) (stating “the decision whether to correct a forfeited error is discretionary”). “Relief under the plain error standard is rarely granted in civil cases and is reserved for those situations where it has been demonstrated that the failure to grant relief will result in a manifest injustice or a miscarriage of justice.” *In re J.D.N.*, 128 Nev. 462, 469, 283 P.3d 842, 847 (2012) (quoting 5 Am. Jur. 2d Appellate Review § 720 (2007)).

Preliminarily, Adam does not provide relevant authority in support of his contention that the district court should not have permitted Natalie to submit an amended memorandum of attorney fees and costs, and thus, he is not entitled to relief based on any argument related to the same. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. In addition, Adam fails to demonstrate any of the aforementioned claims of error are revealed by a casual inspection of the record. Moreover, even assuming any of the aforementioned issues amounted to error, Adam does not demonstrate that, but for any of the aforementioned issues, a different result might have been reached in regard to the attorney fee award, and he thus fails to demonstrate that any of those issues amounted to a manifest injustice or a miscarriage of justice. *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."); *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."). Thus, Adam fails to demonstrate he is entitled to relief.

In light of the foregoing analysis, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Dedree Butler, District Judge, Family Division
Ara H. Shirinian, Settlement Judge
American Freedom Group, LLC
Ghandi Deeter Blackham
Eighth District Court Clerk