IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE PETITION BY: ALANA COOPER.

DEXTER FARLOUGH,
Appellant,
vs.
ALANA COOPER,
Respondent.

No. 89485-COA

ORDER OF AFFIRMANCE

Dexter Farlough appeals from a district court decree of custody. Eighth Judicial District Court, Family Division, Clark County; Nadin Cutter, Judge.

Respondent Alana Cooper filed a complaint for custody in the district court on January 24, 2024. In her complaint, Cooper stated that she and Farlough shared two children in common and she sought an award of joint legal and physical custody. Cooper also stated she did not seek an award of child support. Cooper further alleged that she and the children resided in Nevada.

Farlough thereafter filed an answer and additional supporting documents. In particular, Farlough submitted a 2016 Arizona court order in which he had been granted sole decision-making authority for the children and that found Arizona was the home state of the children at that time. However, Farlough's answer also stated that his current address was in Nevada. Farlough later filed a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) declaration, in which he declared that Nevada has been the residence for both himself and the children for more than six

months. In addition, Farlough filed an affidavit in which he stated he and the children moved to Nevada on June 3, 2023. The record also indicates that Farlough attempted to initiate separate custody actions, but the district court ultimately consolidated those cases with this matter pursuant to EDCR 5.203(e).

The district court conducted several hearings with the parties concerning the custody issues. At hearings in March and May 2024, the parties informed the district court that they and the children reside in Nevada. In response, the court stated that it appeared that neither party wanted Arizona to retain jurisdiction as everyone had moved to Nevada. The parties also reached an agreement to modify the physical custody arrangement and to share joint physical custody of the children. However, the parties informed the district court that there were several issues where they disagreed. In particular, Farlough expressed his desire for sole legal custody of the children but explained that he was mainly concerned with the children's medical and educational issues. The district court accordingly set a case management conference to review the outstanding issues.

At the case management conference, the parties reached agreements as to outstanding issues concerning financial matters but initially had difficulty reaching an agreement concerning legal custody. Cooper explained that she wished to share joint legal custody so that she could participate in important decisions concerning the children's lives. Farlough acknowledged that Cooper should be involved with the children and expressed his desire for her to help with many parts of the children's lives. However, Farlough explained that one child has several serious

medical and educational issues, and he expressed his belief that he had more knowledge about those issues.

The district court thereafter explained that it was able to award the parties joint legal custody but to grant Farlough final decision-making authority for medical and educational issues involving the children. The district court inquired if such an arrangement was appropriate in this matter. Cooper stated that she agreed to that proposal, and Farlough responded that they accordingly had "a full agreement." The district court also acknowledged that the parties reached an agreement as to the legal custody issues.

The district court later entered a written decree of custody. In the decree, the district court found the children had resided in Nevada for at least six months, and that both parents no longer reside in Arizona but instead currently reside in Nevada. The district court accordingly found it had jurisdiction pursuant to NRS 125A.305 and NRS 125A.325 concerning child custody matters and to modify the custodial arrangement previously decided by an Arizona court.

The district court also noted the parties stipulated to share joint physical custody of the children, with Cooper having parenting time from Sunday evenings through Wednesday evenings and Farlough having parenting time from Wednesday evenings through Sunday evenings. The court also noted the parties stipulated to share joint legal custody of the children but for Farlough to have final decision-making authority concerning medical and educational issues. In addition, the court explained that the parties stipulated to no award of child support as it was not necessary to meet the needs of the children in light of social security

payments received by Farlough. The decree also provided for a holiday and vacation timeshare. This appeal followed.

First, Farlough challenges the district court's finding that it had jurisdiction concerning the custody matters. He contends that Arizona courts had exclusive jurisdiction over the custody matters and that the Nevada district court should not have considered this case. We review the district court's decisions concerning subject matter jurisdiction de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009). Nevertheless, the district court's factual findings are entitled to deference and "will be upheld if not clearly erroneous and if supported by substantial evidence." *Id.* at 668, 221 P.3d at 704. Substantial evidence 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 UCCJEA, which Nevada has codified as NRS Chapter 125A, exclusively governs subject matter jurisdiction over child custody issues. NRS 125A.305(2); *Friedman v. Eighth Jud. Dist. Ct.*, 127 Nev. 842, 847, 264 P.3d 1161, 1165 (2011). "The UCCJEA elevates the 'home state' to principal importance in child custody determinations." *Kragen v. Eighth Jud. Dist. Ct.*, 140 Nev., Adv. Op. 49, 555 P.3d 1218, 1223 (Ct. App. 2024). A child's home state for purposes of determining jurisdiction under the UCCJEA is "[t]he state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding." NRS 125A.085(1).

Pursuant to NRS 125A.305(1)(a), Nevada courts have jurisdiction over a child custody determination if Nevada was the child's home state when the action was commenced. Nevada courts also have

jurisdiction to "modify a child custody determination made by a court of another state" if Nevada courts have jurisdiction to make an initial custody determination as provided by NRS 125A.305 and, in addition to other circumstances not relevant here, a Nevada court "determines that the child, the child's parents and any person acting as a parent do not presently reside in the other state." NRS 125A.325.

Thus, the question of subject matter jurisdiction over the child custody proceeding turns on whether the children lived in Nevada for the required time period under NRS 125A.305(1) and whether the children's parents no longer resided in Arizona. The time period in which the child lived in Nevada and whether the parents no longer resided in Arizona were questions of fact to be resolved by the district court. *See Vaile v. Eighth Jud. Dist. Ct.*, 118 Nev. 262, 271, 44 P.3d 506, 512 (2002) ("Residency is a question of fact to be determined by the district court.") *abrogated on other grounds by Senjab v. Alhulaibi*, 137 Nev. 632, 497 P.3d 618 (2021). As previously explained, Farlough stated in his UCCJEA declaration that the children resided in Nevada for more than six months prior to the commencement of this action. Farlough also filed additional supporting documents, including an affidavit, in which he asserted that he resided in Nevada and the children moved with him to Nevada on June 3, 2023, which was more than six months before Cooper filed the complaint for custody on January 24, 2024. In addition, Cooper stated in the complaint that she resided in Nevada. Moreover, both parties orally informed the district court that they resided in Nevada.

The district court's factual findings concerning this issue are supported by substantial evidence, *see Ogawa*, 125 Nev. at 668, 221 P.3d at 704, and this court will not second guess a district court's resolution of

factual issues involving conflicting evidence, *see Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). In addition, Farlough does not present cogent argument as to why he believes the district court erroneously concluded it had jurisdiction to consider the child custody issues and to modify the custodial award entered by the Arizona court. *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 that are not supported by cogent argument). In light of the foregoing, we conclude that the district court did not err by concluding it had subject matter jurisdiction concerning the child custody issues. *See* NRS 125A.305(1)(a); NRS 125A.325; *Ogawa*, 125 Nev. at 667, 221 P.3d at 704. Accordingly, Farlough is not entitled to relief based on this argument.

Next, Farlough argues that the district court erroneously determined the parties stipulated to share joint legal custody of the children. "Parties in family law matters are free to contract regarding child custody and such agreements are generally enforceable if they are not unconscionable, illegal, or in violation of public policy." *Mizrachi v. Mizrachi*, 132 Nev. 666, 671, 385 P.3d 982, 985 (Ct. App. 2016) (internal quotation marks omitted). Contract principles apply when evaluating a stipulated custody order. *See id.* at 677, 385 P.3d at 989. Thus, such a stipulation is enforceable "when the parties have agreed to the material terms, even though the contract's exact language is not finalized until later." *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). While this court reviews contract interpretation de novo, "the question of whether a contract exists is one of fact, requiring this court to defer to the district court's findings unless they are clearly erroneous or not based on substantial evidence." *Id.* at 672-73, 119 P.3d at 1257.

In addition, parties may make stipulations in family law proceedings "on the record in court" and such "stipulation[s] adopted by the court shall be binding on the parties immediately, and shall become an enforceable order once written, signed by the court, and filed." EDCR 5.601(b), (d). Moreover, "[a] court-adopted stipulation concerning child custody shall be construed as including findings that it is the best interest of the child." EDCR 5.601(e). "The parents need not have equal decision-making power in a joint legal custody situation" and "one parent may have decisionmaking authority regarding certain areas or activities of the child's life, such as education or healthcare." *See Rivero v. Rivero*, 125 Nev. 410, 421, 216 P.3d 213, 221 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022).

Here, as explained previously, the district court informed the parties of the option to share joint legal custody of the children with Farlough having final decision-making authority for medical and educational issues. Cooper stated her agreement to that proposal, and Farlough thereafter acknowledged that they "had a full agreement." The district court accordingly adopted the parties' stipulation concerning legal custody and later entered a written order reflecting the parties' stipulation as to that issue.

After a review of the record, we determine that the district court's finding that the parties reached a stipulation regarding legal custody was based on substantial evidence and was not clearly erroneous. *See May*, 121 Nev. at 672-73, 119 P.3d at 1257. Accordingly, we discern no abuse of discretion by the district court in concluding that the parties reached a stipulation regarding legal custody of the children. Therefore, we conclude Farlough is not entitled to relief based on this argument.

Third, Farlough appears to assert that his due process rights were violated because he was not given notice of the district court's hearings or served with Cooper's motion requesting a case management order and a case management conference. "This court applies a de novo standard of review to constitutional challenges." *Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007). "[P]rocedural due process requires notice and an opportunity to be heard." *Id.* (internal quotation marks omitted). "Due process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner." *Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (internal quotation marks omitted).

The record demonstrates that Farlough was served with notices regarding the district court hearings through the district court's electronic filing system. *See* NRCP 5(b)(2)(E) (allowing service through a court's electronic filing system). In addition, Cooper's motion contains a certificate of service indicating she served Farlough by the U.S. mail. Because service of the aforementioned documents was complete upon submission through the court's electronic filing system or upon mailing, *see* NRCP 5(b)(2)(C), (E), Farlough had adequate notice of the hearings and Cooper's motion, *see Matter of Guardianship of D.M.F.*, 139 Nev. 342, 351, 535 P.3d 1154, 1163 (2023) (stating that "[n]otice is sufficient to satisfy due process where it is reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

Moreover, Farlough appeared at the March 2024 and August 2024 hearings, which were the hearings where the stipulations concerning the custody matters at issue in this case were entered into by the parties

and accepted by the district court. In light of the foregoing, we conclude Farlough had notice of the relevant hearings and an opportunity to be heard at a meaningful time and in a meaningful manner. To the extent Farlough argues he did not receive notice of any additional hearings or motions, he does not provide cogent argument related to the same. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. Accordingly, we conclude Farlough fails to demonstrate his due process rights were violated.

Finally, Farlough argues that the district court judge was biased against him because of his gender. We conclude that relief is unwarranted on this point because Farlough has not demonstrated that the judge's decisions in the underlying case were based on knowledge acquired outside of the proceedings and its decisions did not otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally "do not establish legally cognizable grounds for disqualification"); *see also Rivero*, 125 Nev. at 439, 216 P.3d at 233 (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano*, 138 Nev. at 6, 501 P.3d at 984.

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

ORDER the judgment of the district court AFFIRMED.[1]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Nadin Cutter, District Judge, Family Division
Dexter SC Farlough
Alana Cooper
Eighth District Court Clerk

[1]Insofar as Farlough 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.