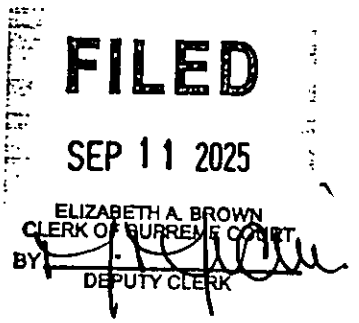
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHRISTOPHER ROWAN,
Appellant,
vs.
HEATHER WALKER F/K/A HEATHER ROWAN,
Respondent.

No. 87590-COA



ORDER OF REVERSAL AND REMAND

Christopher Rowan appeals from a district court order denying his motion to modify child support and alimony. Second Judicial District Court, Family Division, Washoe County; Bridget E. Robb, Judge.

The parties were married in August 2004 and share two minor children: W.R. (born in 2013) and R.R. (born in 2015). The parties divorced pursuant to a stipulated divorce decree in June 2021. Pursuant to the divorce decree, Rowan was ordered to pay respondent Heather Walker child support and alimony. In June 2023, Rowan filed a motion to modify child support and alimony alleging his gross monthly income had decreased by more than 20 percent. Rowan sought a reciprocal reduction in child support and alimony. Walker opposed the motion and Rowan filed a reply.

The district court subsequently entered a written order denying the motion to modify child support and alimony without holding a hearing. The court acknowledged that Rowan alleged that his gross monthly income had decreased more than 20 percent but concluded that Rowan's earning capacity remained the same and that any decrease was the result of his voluntary decision to resign his employment. However, the court further found that even assuming Rowan had demonstrated changed circumstances based on his decreased income, modification of child support was not

warranted because it was not in the children's best interest. The court further denied the motion to modify alimony concluding modification was unwarranted for essentially the same reasons discussed above. This appeal followed.

While the appeal was pending, Rowan filed a second motion to modify child support and alimony alleging his income had decreased further. The district court set an evidentiary hearing on this second motion to modify and stated it would not reconsider the prior denial that is the subject of this appeal.

Before turning to the merits of this appeal, we address Walker's argument that this appeal was rendered moot by the district court's order setting an evidentiary hearing on Rowan's second motion to modify child support and alimony. "The question of mootness is one of justiciability. This court's duty is not to render advisory opinions but, rather, to resolve actual controversies by an enforceable judgment." *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010).

We conclude the district court's subsequent evidentiary hearing, which was set to address a different motion to modify, does not render this appeal moot. Any modification of child support or alimony based on this later-filed motion to modify would not alter the award amounts at issue in this appeal and would only impact his payments from July 2024 (the date the motion was filed) onward. *See Hildahl v. Hildahl*, 95 Nev. 657, 660, 601 P.2d 58, 60 (1979) ("[P]ayments once accrued for either alimony or support of children become vested rights and cannot thereafter be modified or voided." (quotation omitted)). Accordingly, we conclude the appeal is not moot. *Personhood Nev.*, 126 Nev. at 602, 245 P.3d at 574.

Turning to the merits of this appeal, district court orders regarding child support and alimony are reviewed for abuse of discretion. *Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996); *Gilman*

v. Gilman, 114 Nev. 416, 422, 956 P.2d 761, 764 (1998) (reviewing a district court ruling on a motion to modify alimony for an abuse of discretion). However, this court reviews questions of statutory interpretation de novo. *MGM Mirage v. Nev. Ins. Guar. Ass'n*, 125 Nev. 223, 226, 209 P.3d 766, 768 (2009).

Rowan argues the district court abused its discretion by adjudicating his motion to modify child support without holding a hearing despite the fact that he demonstrated a prima facie case of changed circumstances.[1] We agree.

NRS 125B.145(4) states that "a change of 20 percent or more in gross monthly income . . . shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child."

Recently, this court held that when a moving party demonstrates a prima facie case of changed circumstances under NRS 125B.145(4), this "necessitate[es] a full hearing," including a "substantive review of the child support order." *Backman v. Gelbman*, 141 Nev., Adv. Op. 8, 565 P.3d 330, 335-36 (Ct. App. 2025). The court further recognized that a 20-percent change in a party's income constitutes changed circumstances and explained that "[w]hile presentation of evidence of a greater than 20-percent decrease in income requires a *review* of a child support order, it does not require *modification* of a child support order." *Id.* at 334, 336 (emphasis original).

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[1]Walker argues that Rowan waived the argument that he was entitled to an evidentiary hearing because his motion to modify did not expressly request an *evidentiary* hearing but instead more generally requested a hearing on his motion to modify. We are not convinced that the failure to include *evidentiary* when requesting a hearing is sufficient to warrant treating Rowan's argument as forfeited.

Here, it is undisputed that Rowan presented prima facie evidence that his income had decreased by more than 20 percent, and thus, under NRS 125B.145(4), he was entitled to a full hearing. *See Backman*, 141 Nev., Adv. Op. 8, 565 P.3d at 335 (holding that a court is required to conduct a substantive review when the moving party presents "some credible evidence" supporting the requested relief); *see also Myers v. Haskins*, 138 Nev. 553, 558, 513 P.3d 527, 532 (Ct. App. 2022) (holding the supreme court has implicitly held "the place to present evidence for a district court to weigh is at an evidentiary hearing"). Because the district court did not conduct a full hearing on Rowan's motion to modify child support, he was deprived of a meaningful opportunity to be heard on the matter, *see Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (explaining that due process requires a meaningful opportunity to be heard). Moreover, without such a hearing, which would have permitted the parties to develop a record, we cannot fully evaluate the district court's conclusion that modification is not in children's best interest.[2] Accordingly, we reverse the district court's denial of Rowan's motion to modify child support and remand for an evidentiary hearing.

We likewise conclude the district court abused its discretion by failing to hold a hearing on the motion to modify alimony given the parties did not dispute Rowan's income had changed and Rowan had alleged a decrease of more than 20 percent. Nevada's alimony modification statute, NRS 125.150(12), contains the same "review" language as NRS 125B.145(4). *Compare* NRS 125.150(12) ("a change of 20 percent or more in the gross monthly income . . . shall be deemed to constitute changed circumstances *requiring a review for modification* of the payments of alimony" (emphasis

[2]We take no position regarding whether discovery is necessary to resolve this matter.

added)), *with* NRS 125B.145(4) ("a change of 20 percent or more in the gross monthly income . . . shall be deemed to constitute changed circumstances *requiring a review for modification* of the order for the support of a child" (emphasis added)). Given the identical language, we conclude that once the moving party has demonstrated a prima facie case of changed circumstances requiring a review of alimony payments, the district court must hold a hearing on the motion. *Cf. Poole v. Nev. Auto Dealership Inv., LLC*, 135 Nev. 280, 283-84, 449 P.3d 479, 482-83 (Ct. App. 2019) (construing statutes with similar language and purpose in a similar fashion). And since no hearing was held on Rowan's motion to modify alimony we reverse and remand for the district court to conduct an evidentiary hearing for the same reasons as stated above in the context of the district court's child support determination.

It is so ORDERED.[3]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

[3]In light of the above resolution, we do not address the parties' remaining arguments. However, to the extent the district court has not already held a hearing on Rowan's second motion to modify, we see no reason why the court could not combine the evidentiary hearings to reduce the burden on the parties and the court itself.

cc: Hon. Bridget E. Robb, District Judge, Family Division
Gabrielle Jeanne Carr, Settlement Judge
Attorney Marilyn D. York, Inc.
Dickinson Wright PLLC/Reno
Viloria, Oliphant, Oster & Aman, LLP
Washoe District Court Clerk