

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CLODUALDO JASSO-MARTINEZ,
Appellant,
vs.
MARIA RODRIGUEZ LARA,
Respondent.

No. 89957-COA

FILED

SEP 24 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *Elizabeth A. Brown*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Clodualdo Jasso-Martinez appeals from a district court post-custody decree order in a family law matter. Second Judicial District Court, Family Division, Washoe County; Tamatha Schreinert, Judge.

In 2021, Jasso-Martinez filed a petition to establish custody of the three minor children he shares with respondent Maria Rodriguez Lara, seeking sole legal and primary physical custody of the children. Rodriguez Lara answered his petition, opposing his requests and seeking an award of sole legal and primary physical custody in her favor. Rodriguez Lara also sought to relocate with the children to California. The district court conducted a trial and, following the trial, issued a written order concerning the outstanding custody issues. The district court found, after consideration of NRS 125C.0035(4)'s best interest factors, that it was in the children's best interest to award Rodriguez Lara primary physical custody of the children. In particular, the district court found the evidence presented at trial caused it to have concerns as to Jasso-Martinez's mental health and found that the children were afraid of Jasso-Martinez. The district court also determined it was in the children's best interest for the parties to share joint legal custody but for Rodriguez Lara to have final decision making authority over

the children's schooling and medical issues. In addition, the district court reviewed the relevant relocation factors and determined it was in the children's best interest to relocate to California with Rodriguez Lara. Finally, the district court provided Jasso-Martinez with parenting time on holidays and summer breaks, together with nightly video or phone calls with the children.

In 2022, Jasso-Martinez filed a motion to modify custody, requesting sole physical custody of the children. The district court held an evidentiary hearing concerning his motion and thereafter issued a written order denying it. In its order, the court found that Jasso-Martinez, in his communications with Rodriguez Lara and the children, had issued threats and made derogatory comments about Rodriguez Lara. The court accordingly concluded it was appropriate for Jasso-Martinez to have supervised parenting time over video through the Family Peace Center but otherwise maintained the prior custodial arrangement. In light of the evidence presented at the hearing, the court again expressed its concerns regarding Jasso-Martinez's mental health and possible substance or alcohol abuse. The district court therefore directed Jasso-Martinez to complete a full mental health evaluation and to begin weekly counseling.

Jasso-Martinez subsequently filed several motions to modify custody but they were denied by the district court. In addition, in 2023, Jasso-Martinez requested the Family Peace Center to remove him from its parenting time schedule. The Family Peace Center notified the district court that Jasso-Martinez had removed himself from its schedule, and the district court thereafter conducted a status hearing in August 2023 on the custodial issues. However, Jasso-Martinez did not attend the hearing, and

the district court ordered him to not have contact with the children pending further orders from the court addressing that issue.

On May 20, 2024, Jasso-Martinez again filed a motion seeking to modify the custodial arrangement. In his motion, Jasso-Martinez checked boxes indicating that he sought modification of legal custody, physical custody, and the parenting time schedule. Jasso-Martinez contended that he did not have mental health issues and asserted that a change to the custody order was warranted because he believed the children's residence was too small, they were in unsafe conditions, and they would be happier with him. Rodriguez Lara opposed the motion but acknowledged that Jasso-Martinez should have parenting time with the children. Jasso-Martinez filed a reply. Jasso-Martinez later filed an ex parte emergency motion in which he raised allegations concerning district court staff members, alleged Rodriguez Lara engaged in illegal drug sales, and stated he sought justice for his children.

The district court subsequently set a mediation concerning the outstanding issues and, if the mediation was not successful, an evidentiary hearing concerning the custody matters. The court also noted that the parties agreed that Jasso-Martinez should have parenting time with the children and it directed both parties to contact the Family Peace Center to allow Jasso-Martinez to engage in weekly video calls with the children. The district court also reminded Jasso-Martinez that he had previously been ordered to engage in weekly counseling, and it directed him to file proof of ongoing counseling prior to the evidentiary hearing.

Jasso-Martinez did not attend the mediation. The district court issued several notices concerning the December 16, 2024, evidentiary hearing, including certificates of service indicating they were served upon

Jasso-Martinez. However, the record indicates that Rodriguez Lara attended the evidentiary hearing but Jasso-Martinez did not.

The district court thereafter issued a written order concerning Jasso-Martinez's motion to modify the custodial arrangement. In its order, the district court noted that Jasso-Martinez did not attend the December 2024 hearing. It accordingly concluded he had not met his burden to establish that modification of the custody arrangement was warranted. However, the district court noted that Rodriguez Lara had, at the evidentiary hearing, explained that the children would like to have increased contact with Jasso-Martinez and that she stated she did not oppose his participation in supervised parenting time. In considering that information, the district court concluded it would be in the children's best interest for Jasso-Martinez to have supervised parenting time with the children during winter and summer breaks. The district court further afforded Jasso-Martinez supervised phone calls with the children.

In addition, the district court expressed its concern regarding Jasso-Martinez's mental health, in particular pointing to the nature of Jasso-Martinez's filings in this matter. In light of that concern, the court concluded that, before it would allow Jasso-Martinez to engage in unsupervised parenting time, he would have to provide proof that he participated in a mental health evaluation, engaged in weekly counseling, and that he followed all recommendations related to the same. The district court further determined that Jasso-Martinez was not entitled to any additional relief sought in his motion to modify custody. The district court also denied Jasso-Martinez's ex parte emergency motion. This appeal followed.

First, Jasso-Martinez contends the district court abused its discretion by denying his request to modify the physical custody arrangement. Jasso-Martinez asserts that the children should reside primarily with him, as he believes that he is best able to support them and teach them proper principles and morals.

This court reviews district court decisions concerning child custody for an abuse of discretion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). In reviewing child custody determinations, this court will affirm the district court's factual findings if they are supported by substantial evidence, "which is evidence that a reasonable person may accept as adequate to sustain a judgment." *Id.* at 149, 161 P.3d at 242. When making a custody determination, the sole consideration is the best interest of the children. NRS 125C.0035(1); *Davis v. Ewalefo*, 131 Nev. 445, 451, 352 P.3d 1139, 1143 (2015). Further, we presume the district court properly exercised its discretion in determining the children's best interest. *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1226-27 (2004).

To establish that a custodial modification is appropriate, the moving party 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, 5, 501 P.3d 980, 983 (2022) (internal quotation marks omitted), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 404-05, 535 P.3d 1167, 1171 (2023). The party requesting modification bears the burden to satisfy both prongs. *Ellis*, 123 Nev. at 150-51, 161 P.3d at 242-43.

Here, Jasso-Martinez did not attend the evidentiary hearing concerning his motion to modify the custody arrangement, and the district

court determined he thus failed to meet his burden to establish that a change in the physical custody arrangement was warranted. *See Romano*, 138 Nev. at 5, 501 P.3d at 983. We also note that Jasso-Martinez does not present cogent argument concerning the district court's decision to deny his request for an award of primary physical custody. As a result, we conclude Jasso-Martinez does not demonstrate he is entitled to relief. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that appellate courts need not consider issues that are not supported by cogent argument).

Second, Jasso-Martinez challenges the district court's findings concerning his mental health. Jasso-Martinez asserts that he does not suffer from mental health problems and contends the district court's concerns related to that issue are not warranted.

In reviewing a district court's child custody discretionary determinations, we focus on whether the district court "reached its conclusions for the appropriate [legal] reasons" and whether its factual findings were "supported by substantial evidence." *Ellis*, 123 Nev. at 149, 161 P.3d at 241-42; *see also Sims v. Sims*, 109 Nev. 1146, 1148, 865 P.2d 328, 330 (1993) (stating that this court "must be satisfied that the [district] court's determination was made for the appropriate reasons"). Moreover, as stated previously, "[i]n any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child." NRS 125C.0035(1). To that end, a district court may "make such an order for the custody, care, education, maintenance and support of the minor child as appears in his or her best interest." NRS 125C.0045(1)(a).

Here, in making its initial custody determination in this matter, the district court stated that the evidence presented at trial caused

it to have concerns as to Jasso-Martinez's mental health. In reviewing Jasso-Martinez's May 2024 motion to modify custody, the court noted it had previously ordered Jasso-Martinez to complete a mental health evaluation and to engage in weekly counseling sessions. *See Nance v. Ferraro*, 134 Nev. 152, 163, 418 P.3d 679, 688 (Ct. App. 2019) (providing that district courts are not barred "from reviewing the facts and evidence underpinning their prior rulings in deciding whether the modification of a prior custody order is in the child's best interest"). The district court thereafter reiterated its concerns regarding Jasso-Martinez's mental health and specifically pointed to the nature of the documents he filed in this matter.

The district court's factual findings made in support of these determinations are supported by substantial evidence in the record, *see Ellis*, 123 Nev. at 149, 161 P.3d at 242, 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, 365-66, 212 P.3d 1068, 1080 (2009). Moreover, on appeal, Jasso-Martinez acknowledges that he had bouts of depression and issues stemming from substance abuse.

In light of the foregoing, we conclude Jasso-Martinez does not demonstrate the district court's findings concerning his mental health were erroneous or that the court abused its discretion by directing him to undergo a mental health evaluation and to participate in weekly therapy sessions. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241; *see also Askew v. Askew*, No. 66444, 2016 WL 606903, at *2 (Nev. Feb. 12, 2016) (Order Affirming in Part, Reversing in Part and Remanding) (affirming in part a district court order for supervised parenting time contingent on appellant's therapy and drug testing, which served the children's best interest). Accordingly, Jasso-Martinez is not entitled to relief based on this argument.

Third, Jasso-Martinez argues the district court erred by denying his ex parte motion for emergency relief. A party may obtain an ex parte order without notice to the opposing party in a family law case when “a child’s health and safety is in danger.” WDCR 43(2)(b)(4). Here, the district court determined that Jasso-Martinez did not demonstrate he was entitled to relief because he did not allege an emergency involving the health or safety of the children warranted the court’s intervention. In light of the record before this court, we conclude Jasso-Martinez does not demonstrate the district court abused its discretion by denying his ex parte emergency motion. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241. Accordingly, Jasso-Martinez is not entitled to relief based on this argument.

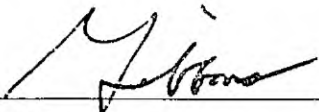
Finally, Jasso-Martinez argues that the district court was biased against him due to his race. We conclude that relief is unwarranted on this point because Jasso-Martinez has not demonstrated that the court’s decisions in the underlying case were based on knowledge acquired outside of the proceedings 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 v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213,

233 (2009) (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. Therefore, we conclude that Jasso-Martinez is not entitled to relief based on this argument.

In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Tamatha Schreinert, District Judge, Family Division
Clodualdo Jasso-Martinez
Maria Rodriguez Lara
Washoe District Court Clerk

¹Insofar as Jasso-Martinez 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.