

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHANDLER JENSEN,
Appellant,
vs.
NATASHA PETERSON,
Respondent.

No. 90580-COA

FILED

NOV 12 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Chandler Jensen appeals from a district court post-custody decree order in a family law matter. Fourth Judicial District Court, Elko County; Mason E. Simons, Judge.

Jensen and respondent Natasha Peterson share one child in common, who was born in 2016. In 2023, Jensen filed a complaint for custody. Peterson answered the complaint and filed a counterclaim. While the initial custody matter was pending before the district court, the parties had several encounters at restaurants and Peterson received messages from Jensen that Peterson believed constituted threats. As a result of the encounters and messages, Peterson applied for a protection order against domestic violence and specifically requested the justice court to prohibit Jensen from threatening or harassing her.

The justice court subsequently issued a temporary order for protection against domestic violence and transferred the matter to the district court. The district court, after a hearing on May 13, 2024, issued an extended order of protection until November 13, 2024. The order of protection prohibited Jensen from threatening or harassing Peterson and stated that the parties were to only communicate through an electronic parenting application concerning custody, visitation, or parenting issues.

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The order further stated the communication was to be reasonable in frequency and was not to contain any profanity. The order also explained that any use of profanity in the aforementioned communications would be considered a violation of the protection order.

In August 2024, the district court conducted a trial concerning the outstanding custody issues. Following the trial, the district court issued a decree of custody in which it awarded the parties joint legal and physical custody of the parties' child based on its findings under NRS 125C.0035(4)'s best interest factors. In making those findings, the court noted that the Division of Child and Family Services (DCFS) had an ongoing investigation concerning Peterson and her boyfriend, and that Peterson was currently exercising parenting time with the child under the supervision of her brother. The court reiterated that DCFS's investigation was ongoing and it was making no finding that Peterson had committed abuse or neglect of the child at that time. The court also noted that neither party presented evidence at the trial concerning acts of domestic violence. In light of the DCFS investigation, and because there had been no evidence demonstrating a need to restrict Jensen's parenting time, the district court concluded joint legal and physical custody was in the child's best interests. The decree also directed the parties to refrain from making abusive communications, including calling the parties or their significant others disparaging names and using foul language, and to maintain respect with each other and with their significant others.

Peterson subsequently filed a motion to modify the custody arrangement. In her motion, Peterson contended a substantial change in circumstances occurred that warranted modification of custody. Peterson noted that Jensen had, prior to entry of the custody decree, been charged with violating the order of protection due to an incident that occurred at a Boys and Girls Club, and the criminal matter stemming from that incident

was pending. Peterson also explained that, since entry of the decree of custody, Jensen was harassing her as he had sent her numerous messages that contained disparaging and inappropriate comments concerning her boyfriend and herself. Peterson also explained that the DCFS investigation was complete and the allegations were determined to be unsubstantiated. In light of the foregoing, Peterson urged the district court to conclude that modifying the custody arrangement was in the child's best interest. Jensen opposed the motion, arguing that there had been no substantial change in circumstances since entry of the custody decree. Peterson thereafter filed a reply in support of her motion.

The district court subsequently conducted an evidentiary hearing concerning the request to modify the custody arrangement. Jensen and Peterson testified at the evidentiary hearing concerning their interactions with each other and the child. In particular, the parties testified concerning the nature of Jensen's communications and his repeated statements that Peterson's boyfriend was a pedophile and his accusations that she allowed the child to be in danger from her boyfriend. Jensen testified that he had not made such statements prior to the DCFS investigation. However, over Jensen's objection, the district court admitted a message that Jensen sent to Peterson made well before the DCFS investigation began in which he stated his belief that Peterson's boyfriend was a pedophile.

Peterson also presented evidence concerning Jensen's numerous messages sent after entry of the decree, including messages containing disparaging comments concerning Peterson and her boyfriend. In addition, the parties acknowledged that Jensen had previously been charged with offenses stemming from a violation of the protective order and that he recently entered a plea of no contest to those charges but had not yet been sentenced. However, Jensen argued that the district court was not

permitted to consider Jensen's no contest plea as evidence against him when it evaluated the motion.

The district court later entered a written order granting Peterson's motion to modify custody. The court found the evidence presented at the hearing demonstrated that several circumstances had changed since entry of the decree of custody. Specifically, the court noted that the custody arrangement had in part relied upon the situation stemming from the DCFS investigation into Peterson and her boyfriend, and it found that DCFS's later determination that the allegations it had been investigating were unsubstantiated constituted a substantial change in circumstances. The court also found that the evidence presented at the evidentiary hearing demonstrated that Jensen violated the extended order of protection and that Jensen had violated the custody decree numerous times as well. In addition, the court noted that Jensen had recently entered a no contest plea to the charges that stemmed from the violation of the order of protection. The district court found that these issues constituted a substantial change in circumstances affecting the welfare of the child.

The district court also reviewed NRS 125C.0035(4)'s best interest factors and found, based on those factors, that it was in the child's best interest to modify the custody arrangement. In addition, the court found that clear and convincing evidence demonstrated that Jensen's behavior following entry of the custody decree constituted harassment and amounted to domestic violence. *See* NRS 125C.0035(5) (stating, in relevant part, that a finding by clear and convincing evidence that a parent engaged in acts of domestic violence against the other parent of a child creates a rebuttable presumption that joint physical custody is not in the best interest of the child); NRS 125C.230(1) (same); *see also* NRS 33.018(1)(e) (including "[a] knowing, purposeful or reckless course of conduct intended to harass the other person" as an act constituting domestic violence). The district

court also explained it determined that Jensen's testimony was not credible, noting he had presented untruthful testimony concerning the timing of when he made disparaging remarks about Peterson's boyfriend as the evidence presented demonstrated Jensen began to call her boyfriend a pedophile months before DCFS initiated its investigation.

The district court accordingly awarded Peterson primary physical custody of the child. It also elected to maintain joint legal custody but provided Peterson with final decision-making authority as to the child's healthcare and educational needs. In addition, the court provided Jensen with parenting time on alternating weekends. Finally, the district court modified child support to account for the modification to the physical custody arrangement. This appeal followed.

First, Jensen argues the district court abused its discretion at the evidentiary hearing by admitting documentary evidence concerning the March 2024 text message. Jensen contends the message was not properly authenticated and thus should not have been admitted. We review a district court's decision to admit evidence for an abuse of discretion. *M.C. Multi-Fam. Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 913, 193 P.3d 536, 544 (2008). The district court's exercise of discretion will not be disturbed "absent a showing of palpable abuse." *Id.* "[E]stablishing the identity of the author of a text message through the use of corroborating evidence is critical to satisfying the authentication requirement for admissibility." *Rodriguez v. State*, 128 Nev. 155, 162, 273 P.3d 845, 849 (2012). "[W]hen there has been an objection to admissibility of a text message" the party seeking its admission "must explain the purpose for which the text message is being offered and provide sufficient . . . corroborating evidence of authorship in order to authenticate the text message as a condition precedent to its admission." *Id.*

During the evidentiary hearing, Peterson produced a text message from March 2024 in which Jensen told her to keep her “pedo boyfriend” away from the child. Peterson testified that the message she produced came from the electronic parenting communication application that she and Jensen began using to communicate with each other in November 2023. Peterson also testified that the message accurately depicted a portion of her communications with Jensen that occurred on March 25, 2024. Peterson thereafter moved the district court to admit the message into evidence. Jensen objected, challenging the authentication of the message. In response, Peterson noted that the district court had previously admitted an exhibit depicting numerous messages between the parties in which Jensen referred to Peterson’s boyfriend as a pedophile, and explained that this message, which occurred well before the DCFS investigation began, demonstrated that Jensen’s testimony to the contrary was not accurate. The district court thereafter admitted the message into evidence, overruling Jensen’s objection.

Here, the record demonstrates that Peterson explained the purpose for which the text message was offered and provided corroborating evidence that Jensen authored it. The evidence presented was sufficient for the district court to find that Jensen authored the challenged message and that Peterson presented sufficient information to authenticate the message. Accordingly, we conclude the district court did not abuse its discretion by admitting the challenged text message into evidence.

Second, Jensen raises several arguments concerning the district court’s decision to modify the physical custody arrangement. Jensen argues the district court abused its discretion by finding that there was a substantial change in circumstances affecting the welfare of the child such that modification of the physical custody arrangement was warranted. Moreover, Jensen argues the district court erroneously considered his no

contest plea as evidence against him. Jensen also argues the district court's findings that he violated the protection order and he referred to Peterson's boyfriend as a pedophile numerous times since entry of the custody decree were not supported by substantial evidence. In addition, Jensen argues the district court erroneously considered acts of domestic violence that occurred prior to entry of the custody decree in reaching its decision to modify the custody arrangement. Finally, Jensen argues the district court did not properly evaluate the best interest factors.

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 child. 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 child'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. A court may award one parent primary physical custody if it

determines that joint physical custody is not in the best interest of the child. NRS 125C.003(1).

Here, as explained previously, the district court made several determinations concerning the changed circumstances factor. The court noted that there had been allegations of abuse made against Peterson and her boyfriend and, at the time of entry of the custody decree, DCFS's investigation into those allegations was not completed and Peterson's parenting time with the child was limited during the investigation. The district court, the same one that had made the decisions for the decree, stated that the DCFS investigation had factored into its decisions and DCFS's determination that the allegations were unsubstantiated amounted to a substantial change in circumstances.

The district court also concluded Jensen violated the order of protection and the issues relating to his violation of that order constituted a substantial change in circumstances. In addition, the court reviewed the criminal proceedings in which Jensen entered a no contest plea, noted his plea and that he was awaiting sentencing, and concluded that the issues stemming from the criminal proceedings constituted a substantial change in circumstances.

The district court properly evaluated Jensen's conduct and communications with Peterson to ascertain whether he violated the protection order and whether such conduct constituted a substantial change in circumstances warranting modification of the custody arrangement. See *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) ("The court must hear *all* information regarding domestic violence in order to determine the child's best interests."). Based on the testimony and documentary evidence presented at the evidentiary hearing, the district court did not abuse its discretion by determining Jensen had violated the order of protection by harassing Peterson. In addition, the court found that

Peterson's violations of the order of protection were not an accident or a mistake, but instead, were attempts to undermine Peterson's relationship with the child. Finally, the court found that the conclusion of the DCFS investigation, together with DCFS's determination that the abuse allegations were unfounded, constituted a substantial change in circumstances.

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, 366, 212 P.3d 1068, 1080 (2009).

Jensen correctly notes that no contest pleas should not be used as evidence against a party in a civil action, *see* NRS 48.125(2); *State v. Gomes*, 112 Nev. 1473, 1479 n.2, 930 P.2d 701, 705 n.2 (1996), and the district court thus erred by considering Jensen's no contest plea. However, Jensen fails to meet his burden to demonstrate that the error was prejudicial and not harmless. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (explaining that, to establish an error is not harmless and reversal is warranted, "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"). In light of the district court's additional findings concerning the changed circumstances factor, any error the district court made in considering Jensen's no contest plea was harmless. *See id.*; *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."). Accordingly, we discern no abuse of discretion by the district court in determining that there had been a substantial change in

circumstances affecting the welfare of the child. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241.

The district court also evaluated NRS 125C.0035(4)'s best interest factors to determine whether modification of physical custody was in the child's best interest and it found that several favored awarding Peterson primary physical custody. Specifically, the court found that Jensen's disparagement of Peterson's boyfriend and his harassment/stalking of Peterson appeared to be done with the intent to interfere and hinder Peterson's relationship with the child. *See* NRS 125C.0035(4)(c). The court also found that there was a high level of conflict between the parties, noting that Jensen did not maintain respect toward Peterson, communicated in a harassing manner, and did not focus on the child's best interest. *See* NRS 125C.0035(4)(d).

In addition, the court found that the parties were not able to cooperate to meet the needs of the child, noting Jensen's continued disparagement of Peterson caused communication regarding the child's needs, including her medical and mental health needs, to be difficult if not impossible. *See* NRS 125C.0035(4)(e). The court also noted the evidence presented demonstrated that the parties had been unable to agree on the child's medical, dental, and mental healthcare, and that their inability to meet the physical, developmental, and emotional needs of the child stemmed primarily from Jensen's conduct. While the court noted Peterson shared some responsibility for the parties' communication problems, it found it was in the child's best interest for Peterson to have a larger role in the child's development and emotional well-being.¹ *See* NRS

¹To the extent Jensen challenges the district court's decision to award Peterson with final decision-making authority concerning the child's medical and mental healthcare and her education, Jensen does not present

125C.0035(4)(g). Further, the district court found that Jensen's relationship with the child would not be significantly degraded with a reduction of his parenting time. See NRS 125C.0035(4)(h). Moreover, the district court found that the child has an older half-sibling that resides with Peterson, and additional time with Peterson would benefit their relationship. See NRS 125C.0035(4)(i).

The district court also focused on Jensen's conduct and concluded, based on the aforementioned information, that Jensen engaged in harassing behavior toward Peterson that constituted domestic violence. See NRS 125C.0035(4)(k). In making that finding, the court noted the evidence presented at the evidentiary hearing included numerous messages Jensen sent to Peterson that included abusive language. The court noted that some of the harassing and abusive messages occurred prior to entry of the custody decree but found that the parties had not presented that information to it during the proceedings leading to that decree. It also found that a significant number of abusive messages occurred after entry of the decree. Under the circumstances in this matter, Jensen does not demonstrate the district court erroneously considered acts of domestic violence that occurred prior to entry of the decree. See *Castle*, 120 Nev. at 105-06, 86 P.3d at 1047-48 (stating when evaluating a request to modify a prior custody order, a district court is permitted to consider evidence of prior acts of domestic violence if the evidence "was not previously discovered, or the extent of which was unknown" when the prior order was entered, and noting "[e]ven previously litigated acts of domestic violence may need to be reviewed if additional acts occur"). Further, the court's findings concerning

cogent argument concerning this issue. As a result, we decline to consider this issue. 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).

Jensen's conduct were supported by the record, which included exhibits depicting his messages both before and after entry of the custody decree. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241.

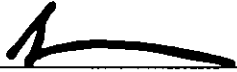
In addition, the district court found that the information presented at the evidentiary hearing demonstrated by clear and convincing evidence that Jensen engaged in acts of domestic violence such that there was a rebuttable presumption that an award of "primary or joint physical custody by [Jensen] is not in the child's best interest[]." *See* NRS 125C.0035(5); *Soldo-Allesio v. Ferguson*, 141 Nev., Adv. Op. 9, 565 P.3d 842, 848 (Ct. App. 2025) ("Nevada has adopted a rebuttable presumption against awarding a parent physical custody—whether joint, primary, or sole—where it has been established by clear and convincing evidence that the parent committed domestic violence."). The court also found that Jensen did not overcome the rebuttable presumption.

The aforementioned 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 is not at liberty to reweigh the evidence or the district court's credibility determinations, *see Grosjean*, 125 Nev. at 366, 212 P.3d at 1080. To the extent that the district court considered Jensen's no contest plea in reaching its determination that Jensen engaged in acts of domestic violence toward Peterson, any error was harmless in light of the additional and extensive findings concerning the NRS 125C.0035(4) best interest factors and the additional findings made concerning NRS 125C.0035(5)'s rebuttable presumption. *See Wyeth*, 126 Nev. at 465, 244 P.3d at 778 ("When an error is harmless, reversal is not warranted."); *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."). Accordingly, we discern no abuse of discretion by the district court

in determining that modification of physical custody was in the child's best interest. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241.

In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Mason E. Simons, District Judge
Law Offices of Kenneth S. Friedman, PLLC.
Pecos Law Group
Ruby Mountain Law, Ltd.
Elko County Clerk