IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARTURO GILBERTO RENDON,
Appellant,
vs.
LEA GARCIA F/K/A LEA RENDON,
Respondent.

No. 89514-COA

FILED

NOV 20 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Arturo Gilberto Rendon appeals from a district court post-divorce decree order granting a motion to relocate. Fourth Judicial District Court, Elko County; Kriston N. Hill, Judge.

Arturo and respondent Lea Garcia, then-residents of Elko, Nevada, were married in 2012 and have one minor child together who was born in 2017. The parties divorced in 2021 pursuant to a joint petition for summary decree of divorce, which provided that they would share joint legal and physical custody over the minor child. The parties eventually modified their parenting time schedule to a rotating week-on/week-off timeshare without court intervention.

In 2023, Lea, an employee of the Bureau of Land Management (BLM), applied for and received an offer to work at the BLM office in Boise, Idaho. Afterwards, Lea sent written notice to Arturo on October 19, 2023, requesting permission to relocate to Boise, Idaho with the minor child. On October 23, 2023, Lea conditionally accepted BLM's offered promotion and arranged for rental housing in Boise. Arturo rejected Lea's request to relocate on November 2, 2023. Thereafter, Lea worked on-site in the Boise

office during the week she did not have physical custody of the minor child, and traveled back to Nevada during the week she had the child in her care.[1]

In December 2023, Lea filed a motion to relocate with the minor child in the Fourth Judicial District Court. In that motion, Lea requested that the district court award her primary physical custody of the minor child and emphasized that her new position at the Boise BLM would provide increased income and also allow her career advancement opportunities beyond those available in Elko. Lea also emphasized that the relocation would be in the minor child's best interests, as schools in Boise were consistently rated higher than those in Elko. Arturo opposed the motion, arguing that Lea's increase in income was not large enough to warrant disrupting the minor child's current social life, and that educational opportunities, medical care, and other factors are roughly equal between Idaho and Nevada.

The district court held an evidentiary hearing on the motion. During that hearing, the district court heard testimony from Lea and Arturo, as well as Stephanie Fredrick (Lea's former coworker at the Elko BLM), and Sandra Gonzalez, Lea's mother. In general, the parties' testimony and evidence revealed that the parents cooperated well with each other, were heavily involved in Rio's life, education, medical appointments, and extracurricular activities, and did not need court intervention to effectively coparent. Nonetheless, the parties testified that there were a few instances of conflict between them following their divorce.

Lea's testimony largely focused on her promotion, the low cost of living in Elko, and the higher rated elementary, middle, and high schools

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[1]At no time did Lea relocate with the minor child before receiving the district court's permission to do so.

in the Boise area. She testified that at her position in Elko, there was no room for advancement, and that she had already received a raise at her new position in Boise—meaning that she would be making $89,860 per year in Boise with additional advancement opportunities rather than $80,623 in Elko. Lea also presented testimony and evidence purporting to demonstrate that her favored choice of school—Sacred Heart Elementary—exceeded the minor child's previous school, and that, even if Arturo ultimately objected to the child attending Sacred Heart, public schools in Boise outperformed the public school in Elko that the minor child currently attended. Finally, Lea also testified, among other things, that relocation to Boise would be beneficial for herself and the minor child because it provides greater access to recreational activities, larger hospitals, closer interaction with the child's maternal uncle and cousins, and access to an international airport for flights to visit extended family on both sides.

Arturo's case in chief focused on the need for stability for the minor child. Arturo testified that while neither he nor the minor child had additional family in Elko, he was heavily involved in the child's life, that she has many friends in Elko, and is already performing well in her current school. Arturo testified that because the minor child does not have any current medical conditions, he believes it is unnecessary for the child to relocate to Boise just for the sake of medical care. Next, Arturo testified that he disagreed with the curriculum at Sacred Heart, which is a Catholic school, as he was worried that a religious school would teach creationism and abstinence, and testified that he would prefer Rio to attend a public school. Arturo also voiced concerns that moving to Boise would further remove Rio from Hispanic culture, as the schools in Boise were less diverse than Elko. Finally, he voiced concerns with forcing Rio to travel on a

dangerous highway for custody exchanges, as many of the patients at the hospital where he worked were injured on the highway between Boise and Elko.

Following the hearing, the district court entered an order granting Lea's motion for relocation and awarded her primary physical custody over the child. In so doing, the district court made specific findings and determined that Lea satisfied her burden of proof with regard to the threshold factors of NRS 125C.007(1), including the best interest of the child factors under NRS 125C.007(1)(b), and found that when weighing the compelling interests of the child, the relocating parent, and the non-relocating parent under NRS 125C.007(2), relocation was appropriate. Accordingly, the district court found that the impending relocation was a substantial change in circumstances warranting modification of physical custody, and under the best interest of the child factors found in NRS 125C.0035(4), determined that Lea should exercise primary physical custody over the child subject to Arturo's exercise of parenting time. Arturo now appeals.

This court reviews child custody determinations for an abuse of discretion. *Johnson v. Bennett*, 141 Nev., Adv. Op. 35, 575 P.3d 1023, 1027 (Ct. App. 2025). "An abuse of discretion occurs when a district court's decision is not supported by substantial evidence or is clearly erroneous." *Id.* (citing *Bautista v. Picone*, 134 Nev. 334, 336, 419 P.3d 157, 159 (2018)). Substantial evidence is "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).

Where a joint physical custody order is already in place, a parent desiring to relocate must follow the procedures outlined in NRS

125C.0065(1), which provides that if joint physical custody has been established pursuant to an order of the court and one parent intends to relocate, the parent shall attempt to obtain the written consent of the non-relocating parent, and if refused, petition the court for primary physical custody of the child for the purpose of relocating.

In his fast track statement, Arturo first argues that the district court erred by granting Lea's motion to relocate as Lea failed to comply with NRS 125C.0065. Specifically, he argues that although Lea requested written permission to relocate to Boise as required under NRS 125C.0065(1)(a) and then filed a motion to relocate as required by NRS 125C.0065(1)(b), she nonetheless violated the statute by "relocating" part time to Boise without the minor child. However, we need not address this argument as Arturo did not raise it before the district court. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been [forfeited] and will not be considered on appeal.")

Next, Arturo argues that the district court abused its discretion when granting Lea's motion to relocate by finding that she satisfied the threshold requirement of NRS 125C.007(1)(c) (requiring the relocating parent to demonstrate an "actual advantage" for the relocating parent and child as a result of the relocation). Arturo further argues that the district court abused its discretion when weighing NRS 125C.007(2)(b)—one of the six relocation factors—and finding that Lea's motives were honorable and not designed to frustrate or defeat any visitation rights afforded to him.

When deciding whether to grant a request for relocation, the district court must consider NRS 125C.007, which "comprises NRS 125C.007(1) (the threshold test), NRS 125C.007(2) (the six relocation

factors), and NRS 125C.007(3) (the burden of proof)." *Monahan v. Hogan*, 138 Nev. 58, 59, 507 P.3d 588, 589 (Ct. App. 2022). The parent desiring to relocate has the burden of proving that relocating with the child is in the child's best interest, and must prove each element of NRS 125C.007's threshold test by a preponderance of the evidence. *Johnson*, 141 Nev., Adv. Op. 35, 575 P.3d at 1030 (citing *Monahan*, 138 Nev. at 60, 507 P.3d at 590).

Before addressing these arguments, however, we note that Arturo did not present any arguments in his fast-track statement claiming that the district court erred in its analysis of the other two factors under NRS 125C.007(1), including the best interests of the child factor, or the remaining five factors under NRS 125C.007(2).[2] Because Arturo did not raise these issues before this court or present any cogent argument or relevant authority to challenge the district court's findings, we conclude that he has forfeited these arguments on appeal and do not address them here. *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 not raised on appeal are deemed forfeited).

Arturo argues that the district court abused its discretion when it found that Lea met the NRS 125C.007(1)(c) threshold requirement of demonstrating that she and the child will realize an actual advantage from relocating. Specifically, Arturo argues that the relocation did not present

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[2]To the extent that statements in Arturo's fast track statement and reply could be construed to challenge the district court's assessment of the best interest of the child factors, we conclude that Arturo did not present cogent argument or relevant authority as to these assertions of error and thus do not consider them. *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (holding that the court need not consider claims that are not cogently argued or lack relevant authority).

an actual advantage for the minor child as the parties presented conflicting evidence regarding Sacred Heart school in Boise and Northside school in Elko, and that there was no evidence presented about extracurricular activities or health care. Arturo further argues that the relocation did not present an actual advantage for Lea as the relocating parent since her increase in income did not cover the cost of tuition for Sacred Heart and did not take into consideration travel costs for the round trip between Boise and Elko for Arturo's parenting time.

Lea argues that the district court did not abuse its discretion when it determined that she met this threshold factor for relocation as her testimony and evidence proved, by a preponderance of the evidence, that her new job position would provide not only an increase in salary, but additional opportunities for advancement and professional growth. She notes that her trial testimony reflected that the cost of living in Boise was lower than in Elko, and that Arturo's home equity payment (required under the divorce decree) covered the cost of tuition. She further observed that her testimony showed the new job position would likewise benefit both Lea and the minor child as her new job in Boise would be within range of cell phone service, while her prior job in Elko required two hours of travel to a remote location which did not allow for contact with the child during the workday. Next, Lea argues that her testimony and evidence demonstrated an actual advantage for the child as the schools she was considering in Boise were "significantly better than [the minor child's] school in Elko." Finally, Lea argues that her testimony and evidence supported the district court's

determination that Boise offered the minor child better opportunities to recreate and connect with extended family members.[3]

This court "is not at liberty to weigh the evidence anew, and where conflicting evidence exists, all favorable inferences must be drawn towards the prevailing party," *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000), and "[w]here a trial court, sitting without a jury, has made a determination upon the basis of conflicting evidence, that determination should not be disturbed on appeal if it is supported by substantial evidence," *Fletcher v. Fletcher*, 89 Nev. 540, 542, 516 P.2d 103, 104 (1973).

In its order, the district court found that Lea's new job in Boise provided her with better access to the minor child (as she no longer had to travel to remote areas for work), and that Lea's increase in income from that job would benefit both Lea and the minor child. The court also found that Boise provided an actual advantage to the minor child due to the educational and recreational opportunities, and its ease of access to relatives (who do not live in Elko). We conclude these determinations are supported by substantial evidence. *Quintero*, 116 Nev. at 1183, 14 P.3d at 523.

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[3]In reply, Arturo argues for the first time that the Sacred Heart school in Boise is less diverse than her school in Elko, and that relocation removed the child from Mexican Folkloric dance classes she was involved with in Elko. Because Arturo did not raise this issue in his opening brief, we do not address it here. *See Khoury v. Seastrand*, 132 Nev. 520, 530 n.2, 377 P.3d 81, 88 n.2 (2016) (citing NRAP 28(c) and concluding that an issue raised for the first time in an appellant's reply brief was forfeited).

Both Arturo and Lea's documentary evidence supported that the proposed school in Boise ranked higher in academics than the child's former school in Elko. While Lea testified that the proposed school in Boise is a private religious school requiring tuition, she further testified that the cost of living overall was lower in Boise and demonstrated, through paystubs, that she had received an additional raise since being hired in Boise, and that the cost of tuition was covered by other means. Because the district court's findings are supported by substantial evidence, we conclude it did not abuse its discretion when it determined that Lea satisfied the threshold requirement of demonstrating an actual advantage for herself and the minor child under NRS 125C.007(1)(c).

Next, Arturo argues that the district court abused its discretion when it determined that Lea's motivation for relocating was "honorable and not designed to frustrate or defeat any visitation rights accorded to the non-relocating parent" under NRS 125C.007(2)(b). In support of this argument, Arturo points to Lea's past conduct of initially seeking primary physical custody of the child prior to the joint divorce decree, and her pattern of requesting to relocate since entry of the divorce decree, noting that "[a] relocation was the only way [Lea] would be able to limit [Arturo's] time and influence with the child (a dishonorable objective) and it worked." Lea argues that the district court did not abuse its discretion when making this finding based on her testimony at the hearing, and requests that we defer to the district court's findings of fact on this issue. We agree with Lea.

In his fast track statement and reply, Arturo does not demonstrate that the district court's finding that Lea's motives were honorable was clearly erroneous, *Bautista*, 134 Nev. at 336, 419 P.3d at 159, nor does he present cogent argument or relevant authority for the

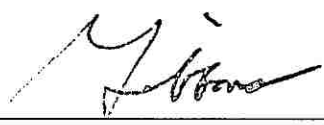
proposition that requesting primary physical custody at the outset of a case or later requesting relocation (without more) is inherently dishonorable. *See Edwards,* 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. Thus, we conclude that the district court did not abuse its discretion when finding that Lea's motives were honorable and not made to frustrate Arturo's parenting time.

Because we conclude that Arturo's challenges to the district court's order granting the motion for relocation are without merit, and because he has forfeited any other challenges as to the remaining factors in the order, we conclude the district court did not abuse its discretion by granting Lea's motion for relocation.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[4]

_____, C.J.
Bulla



_____, J.
Gibbons

_____, J.
Westbrook

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[4]Insofar as the parties raise 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.

cc: Hon. Kriston N. Hill, District Judge
Amens Law, LLC
Ruby Mountain Law, Ltd.
Elko County Clerk