

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADAM GOLDSTEIN,
Appellant,
vs.
SANDY GOLDSTEIN,
Respondent.

No. 88541-COA

FILED

DEC - 2 2025

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

ORDER OF AFFIRMANCE

Adam Goldstein appeals from district court post-divorce decree orders granting attorney fees. Second Judicial District Court, Family Division, Washoe County; Bridget E. Robb, Judge.

Adam and respondent Sandy Goldstein were married in April 2011. They underwent divorce and child custody proceedings in 2019 after Sandy filed a complaint for divorce/custody. The matter proceeded to a bifurcated trial with the trial regarding custody issues held in May 2021, and then a trial regarding financial issues held in September 2021. Thereafter, in May 2022, the district court issued an order establishing child custody, parenting time, and support, which contained the district court's orders on the custody and relocation issues. The district court awarded Sandy primary physical custody, along with permission to relocate with the children to Colorado, finding that Adam opposed the relocation in bad faith. In making its custody decisions, the court explained that Adam's allegations during the litigation that Sandy was an alcoholic were unsubstantiated. The court also found that Adam withheld parenting time from Sandy and influenced one of the children's testimony during the custody trial. The court further found that Adam made an unsubstantiated

claim against Sandy for educational neglect in an attempt to gain an advantage in the litigation. With respect to relocation, the court found Adam's objections to Sandy's request for relocation were not honorable. The court noted Adam's testimony about wishing to remain in Nevada was not credible and was inconsistent with his conduct and conversations between the parties. The district court also issued a separate findings of fact, conclusions of law, and decree of divorce regarding financial issues, which included an award of alimony to Adam. Adam did not appeal from these orders.

Subsequently, the parties each submitted briefs requesting attorney fees. As pertinent on appeal, Sandy requested fees pursuant to NRS 18.010(2). She alleged that Adam pursued substantial bad faith actions, including withholding the children from her prior to the case management conference, influencing one of the children's testimony, and making an unsubstantiated claim that she was an alcoholic and a claim for educational neglect. She also argued that Adam opposed the relocation in bad faith, and the district court ultimately granted her primary physical custody and permitted her relocation to Colorado with the minor children. In opposition to Sandy's request, Adam acknowledged that Sandy prevailed in her request for custody and relocation, but he argued that his positions in the litigation were not frivolous. He also asserted that he largely prevailed on the financial issues in the litigation.

Thereafter, the district court denied Adam's request for attorney fees but granted Sandy's request. The court found that it could award reasonable attorney fees to either party in an action for divorce pursuant to NRS 125.150(4). The court then determined that the parties' attorney fees incurred in the divorce were a community obligation and that

the court could "adjust the allocation upon a finding that one or the other has engaged in improper litigation tactics, thus wasting community assets." The district court further found Adam failed to demonstrate a basis for certain legal positions, which caused the community to incur unnecessary attorney fees. Specifically, the court noted that Adam did not address Sandy's assertions that he withheld parenting time, influenced one of the minor children's testimony at trial, and made an unsubstantiated claim for educational neglect to the authorities. The district court also found that Adam admitted that the court had previously found that his opposition to Sandy's request for relocation was not in good faith. The court further found that Adam's frustration of Sandy's parenting time was in bad faith and his efforts to pursue claims of alcoholism without evidence of danger to the children caused the community to incur unnecessary legal fees.

With respect to the disparity in income between the parties, the district court noted that it issued prior orders in the case and found that the parties had essentially the same net income during the proceedings, after considering that Sandy was renting a home and required to travel for her employment, while Adam remained in the marital residence and had very few housing expenses. The court also found that there had been parity in the proceedings, as the court awarded Adam alimony so that he could increase his earning capacity in the future. The district court further found Adam was only entitled to alimony for a short period of time and had the skills and ability to find employment and substantially increase his earning capacity, which skills and ability existed during the pendency of this case. Accordingly, the district court granted Sandy's request for attorney fees and ordered her to file an affidavit and billing statements identifying her reasonable attorney fees incurred regarding (1) the custody issues only from

after the filing of the complaint through the date of the case management conference, (2) attorney fees incurred in connection with the issue of alcoholism at trial, (3) attorney fees incurred to litigate the issue of relocation, and (4) attorney fees incurred in preparing for and attending both interviews with the minor children and filing her motion for a second child interview.

Thereafter, Sandy filed her affidavit outlining her request of \$194,861.25 in attorney fees. Adam responded and argued, among other things, that the district court impermissibly determined that the attorney fees were a community debt to allocate between the parties. He argued those debts were incurred after the parties' separation using separate property and loans and did not benefit the community. Even if the fees were considered a community expense, he argued that allegedly employing improper litigation tactics was not a compelling reason to unequally divide them. Additionally, Adam argued the request for \$194,861.25 was unreasonable given the circumstances because the custody issues were not complex, and Sandy caused the litigation concerning the issue of alcohol. He asked the district court to reduce the attorney fees due to counsel's "block billing" entries. Adam also argued that the district court needed to consider the disparity in the parties' incomes because he had no income during the proceedings and obtained an award of alimony. He also disputed the finding that he opposed relocation in bad faith.

The district court issued a separate order awarding Sandy attorney fees in the amount of \$124,627.12. The court rejected Adam's arguments and noted that he committed waste by incurring attorney fees during the divorce proceeding in connection with his frivolous claims and bad faith actions. Specifically, the court found Adam wasted attorney fees

in the divorce proceedings by making frivolous claims and acting in bad faith to frustrate Sandy's parenting time and in opposing Sandy's request for relocation. The court further found Adam's improper influence on the children's testimony at trial necessitated additional motion practice and for one of the children to testify a second time. The court declined to revisit its previous findings on credibility and the determination that Adam acted in bad faith. The district court further noted that but for Adam's litigation tactics, both parties would have spent significantly less on attorney fees.

The district court undertook an analysis of the *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), factors and found it appropriate to reduce the fees from the \$194,861.25 amount Sandy requested. The court declined to award certain attorney fees (\$7,905) included in block billing as it could not allocate those fees and could not make a reasonable percentage award. Similarly, the district court found it appropriate to reduce the attorney fees for preparing and attending the custody trial (\$77,856.25) by 30 percent because relocation encompassed most, but not all of the child custody issues. The court also reduced the requested attorney fees by a total of 20 percent to account for attorney fees billed for one of Sandy's counsel's supervision of a junior attorney. Thus, the district court awarded Sandy \$124,627.12 in attorney fees. This appeal followed.

On appeal, Adam first argues that the district court abused its discretion by granting Sandy an award of attorney fees in the amount of \$124,627.12 on the basis that the attorney fees incurred in this divorce action were a community obligation. Adam asserts that even if the attorney fees could be considered a community obligation, his alleged improper litigation tactics were not a compelling reason to unequally divide the

attorney fees in the case. Conversely, Sandy asserts that the district court's finding that the attorney fees incurred were a community obligation was not an abuse of discretion, and any such finding was harmless because the court's findings suggest that the basis for the attorney fees award was Adam's misconduct in engaging in frivolous claims. She further argues that Adam's litigation tactics should be construed as synonymous with financial misconduct in wasting community assets, which would also support an award of fees.

This court reviews an award of attorney fees for an abuse of discretion. *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015). "An abuse of discretion can occur when the district court bases its decision on a clearly erroneous factual determination or disregards controlling law." *LVMPD v. Blackjack Bonding, Inc.*, 131 Nev. 80, 89, 343 P.3d 608, 614 (2015). The district court generally may not award attorney fees absent authority under a statute, rule, or contract. *Liu v. Christopher Homes, LLC*, 130 Nev. 147, 151, 321 P.3d 875, 878 (2014). In family law matters, courts must consider the disparity in income of the parties when evaluating an attorney fee request, *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998), and fees may be awarded in a divorce action so that a party is "able to meet [their] adversary in the courtroom on an equal basis" without having to liquidate their assets or jeopardize themselves financially, *Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972).

The Nevada Supreme Court has previously explained that debt that occurs after parties separate and not incurred for the benefit of the community is not considered community debt. *See Barry v. Lindner*, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003) (concluding that because a loan for legal expenses was not acquired for the benefit of the community and was

acquired after the parties separated, it was not a community debt), *superseded by rule on other grounds as stated in LaBarbera v. Wynn Las Vegas, LLC*, 134 Nev. 393, 395, 422 P.3d 138, 140 (2018). Similarly in *Franklin v. Franklin*, No. 84334, 2024 WL 3085490, at *5 (Nev. June 20, 2024) (Order Affirming in Part, Reversing in Part, and Remanding), the appellant challenged a district court's finding that a promissory note to pay attorney fees that occurred after the parties separated to effectuate a divorce was not a community debt. The supreme court concluded that because the debt "was not acquired for the benefit of the community and was acquired after the parties had separated, . . . the district court properly concluded that the debt belonged to [appellant] rather than the community." *Id.*

Here, the district court determined that the parties' attorney fees incurred in the divorce were a community obligation, citing to NRS 125.150(1)(b) (explaining that in granting a divorce, the district court shall "make an equal disposition of the community property"). The court then noted that it could make an unequal disposition upon a determination that one of the parties had engaged in improper litigation tactics, thereby wasting community assets. *See, e.g., Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996) (holding "the financial misconduct of the husband provided compelling reasons for an unequal division of the community property"). The district court further found that Adam's litigation tactics, including the pursuit of certain frivolous claims, caused the community to incur unnecessary legal fees and thus ordered him to pay Sandy's attorney fees. However, because the attorney fees the parties incurred in the litigation were acquired after the parties separated, the fees incurred were not for the benefit of the community and therefore were not

a community obligation. *See Barry*, 119 Nev. at 671, 81 P.3d at 543; *Franklin*, No. 84334, 2024 WL 3085490, at *5. Thus, we conclude that the district court could not award Sandy attorney fees on this basis. *Liu*, 130 Nev. at 151, 321 P.3d at 878.

Nevertheless, Sandy argues that the award of attorney fees can be upheld based on the alternative ground asserted below that the fees were warranted under NRS 18.010(2)(b). Adam argues that to the extent the district court impliedly considered NRS 18.010(2)(b), the court abused its discretion by failing to make sufficient findings that he brought or maintained claims without reasonable grounds or to harass Sandy. Conversely, Sandy argues that the district court made appropriate findings supported by substantial evidence that the award of attorney fees was warranted pursuant to NRS 18.010(2)(b). In making this argument, Sandy points to the district court's findings contained in the custody order that Adam maintained custodial and relocation claims without reasonable grounds. In reply, Adam acknowledges that the district court's award of attorney fees "was rooted in its findings regarding what it deemed frivolous and harassing claims" by him during the divorce action. However, although Adam contends that such findings could not be the "basis for finding a compelling reason in support of an unequal division of community property," he does not dispute the findings and effectively concedes that they provide sufficient grounds for awarding attorney fees, observing that they are "the basis outlined in NRS 18.010(2)(b) to support an award of fees to a prevailing party."

Under NRS 18.010(2)(b), the district court may award attorney fees to a "prevailing party" when "the court finds that the claim . . . of the opposing party was brought or maintained without reasonable ground or to

harass the prevailing party.” “The court shall liberally construe the provisions of [NRS 18.010(2)(b)] in favor of awarding attorney’s fees in all appropriate situations,” and “[i]t is the intent of the Legislature that the court award attorney’s fees pursuant to [NRS 18.010(2)(b)] . . . in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses.” NRS 18.010(2)(b). There must be evidence in the record supporting the proposition that a claim was brought or maintained without reasonable grounds. *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 486, 851 P.2d 459, 464 (1993). “For purposes of NRS 18.010(2)(b), a claim is frivolous or groundless if there is no credible evidence to support it.” *Rodriguez v. Primadonna Co.*, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

As noted above, the district court made detailed written findings in its three orders concerning Adam’s improper conduct in the underlying proceeding. In particular, with respect to Adam’s opposition to relocation, claim of alcoholism against Sandy, and improperly withholding the children from Sandy, the court found that Adam acted in bad faith, failed to demonstrate a legal position, and asserted frivolous positions. The court further found Adam’s improper influence on the children’s testimony at trial necessitated additional motion practice and for one of the children to testify a second time. Moreover, the district court found that the parties would have spent significantly less on attorney fees but for Adam’s conduct, and while the amount of fees the court awarded was substantial, it was much less than the amount Sandy sought.

Based on our review of the record before us, we conclude the district court’s above noted findings are supported by substantial evidence. *See Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 996, 860 P.2d 720, 724 (1993) (“[I]f the record reveals that counsel or any party has brought, maintained,

or defended an action in bad faith, the rationale for awarding attorney fees is even stronger.” (citation omitted)). As noted, Adam did not appeal from the district court’s order awarding Sandy primary physical custody and permitting her to relocate with the children to Colorado, and no one disputes that Sandy was the prevailing party in that aspect of the litigation. *See Las Vegas Metro. Police Dep’t*, 131 Nev. at 90, 343 P.3d at 615 (explaining that “[a] party prevails if it succeeds on any significant issue in litigation which achieves some of the benefit it sought in bringing suit,” and a party need not prevail on all claims to be considered the prevailing party) (internal quotation marks omitted)). Because that order contained findings as to Adam’s pursuit of frivolous claims, and he concedes in his reply brief that those findings are sufficient to support an award of attorney fees pursuant to NRS 18.010(2)(b), we necessarily determine that the district court reached the right result by granting Sandy’s attorney fees, even if it did not expressly grant the attorney fees pursuant to NRS 18.010(2)(b).¹ *See*

¹Although Adam argues that the district court abused its discretion to the extent it awarded Sandy attorney fees due to him making efforts to preserve his separate property, we are unpersuaded by this argument. A review of the district court’s attorney fees orders demonstrates the specific categories of attorney fees that the district court determined Sandy could recover, which did not include the attorney fees she incurred in connection with Adam’s efforts to preserve his separate property. To the extent the court included findings suggesting that Adam advanced separate property claims in the litigation to the detriment of the community, Adam fails to meet his burden to demonstrate that any such error was prejudicial and not harmless, given that the court did not award Sandy attorney fees based on that aspect of the litigation. *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”); *cf.* NRCP 61 (“At every stage of the

Saavedra-Sandoval v. Wal-Mart, Stores, Inc., 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (holding that we will affirm the district court if it reaches the correct result, even if for the wrong reason); *see also Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (treating a party's failure to respond to an argument as a concession that the argument is meritorious); NRS 125.150(4) (stating that a court may award reasonable attorney fees to either party in a divorce action even if there was no request for fees under NRS 125.040); NRS 125C.250 (stating a court in a child custody action may order reasonable attorney fees and costs).

Thus, because adequate grounds existed to support the district court's decision that Adam pursued frivolous claims in the action, we cannot say the court abused its discretion by finding an award of attorney fees to Sandy was warranted. *See Bergmann v. Boyce*, 109 Nev. 670, 675, 856 P.2d 560, 563 (1993) (explaining that an analysis under NRS 18.010(2)(b) "depends upon the actual circumstances of the case rather than a hypothetical set of facts favoring plaintiffs averments"), *superseded by statute on other grounds as recognized in In re DISH Network Derivative Litig.*, 133 Nev. 438, 451 n.6, 401 P.3d 1081, 1093 n.6 (2017).

To the extent Adam argues that the district court did not appropriately consider *Sargeant*, 88 Nev. at 227, 495 P.2d at 621, and the disparity in income between the parties, *Wright*, 114 Nev. at 1370, 970 P.2d at 1073, we are likewise not persuaded by these arguments. A review of the record demonstrates that the district court did consider the disparity in income and found that the parties had essentially the same net income during the proceedings, after considering that Sandy was renting a home

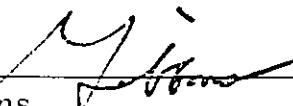
proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.").


and required to travel for her employment, while Adam remained in the marital residence and had very few housing expenses. The court also found that there had been parity in the proceedings, as the court awarded Adam alimony so that he could increase his earning capacity in the future. Moreover, while Adam summarily argues that the amount of attorney fees awarded was unreasonable and certain billing entries were vague, the record demonstrates that the district court considered the factors set forth in *Brunzell* and provided sufficient reasoning in support of the amount awarded, noting its reduction of certain fees that Sandy requested and that it omitted certain billing entries. Thus, we discern no abuse of the district court's discretion in assessing the amount of attorney fees.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

²Insofar as the parties have raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they need not be reached given the disposition of this appeal.

cc: Hon. Bridget E. Robb, District Judge, Family Division
Barber Law Group, Inc.
Ford & Friedman, LLC
Washoe District Court Clerk