

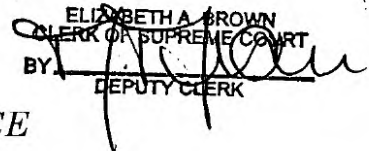
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RAFIK VARTANPOUR,
Appellant,
vs.
CHRISTIANA LLOYD,
Respondent.

No. 90732-COA

FILED

MAR 12 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Rafik Vartanpour appeals from a district court order denying a motion to modify child custody. Eighth Judicial District Court, Family Division, Clark County; Regina M. McConnell, Judge.

Vartanpour and respondent Christiana Lloyd share one minor child in common who was born in December 2008. In January 2012, Vartanpour filed a complaint to establish custody, parenting time, and child support. Vartanpour sought joint legal custody of the minor child and primary physical custody. Lloyd filed an answer and counterclaim seeking sole legal and primary physical custody of the minor child. Lloyd also provided documentation showing that as of January 2012, Vartanpour was in custody at the Clark County Detention Center (CCDC) due to charges consisting of two counts of lewdness with a minor under 14 years of age.

In September 2012, Vartanpour filed a motion indicating that he was detained at CCDC and requesting that the district court issue an order to compel officials to arrange his transportation so he could be present at hearings and conferences set by the court. Thereafter, the district court entered an order to produce Vartanpour at an October 2012 hearing. Following that hearing the district court entered a decree of custody. The

decree ordered that “[i]nasmuch as [Vartanpour] has been incarcerated for a period of ten (10) months, and it has not yet been decided as to how long he will be detained, [Lloyd] shall have SOLE LEGAL CUSTODY and PRIMARY PHYSICAL CUSTODY of the minor child, and [Vartanpour]’s [parenting time] shall be SUSPENDED. Upon his release from custody, [Vartanpour] shall present before the Court to address [parenting time].” Vartanpour did not appeal from entry of the decree.

In February 2025, Vartanpour filed the motion to modify custody at issue in this appeal. In his motion, Vartanpour sought modification of the custody arrangement to allow for parenting time with the minor child via letters or telephone calls based on changed circumstances. Vartanpour explained that he had been attending college and mental health education classes since 2015, including domestic violence and anger management classes. He further explained that he was disqualified from participating in some of the classes offered at Lovelock Correctional Center because he possessed a low risk assessment score but that he had paid out of his own pocket for external classes “to educate himself in required areas.” Vartanpour claimed that based on these classes, he had experienced “substantial mental changes,” growth, and improvement since the district court’s prior order. Vartanpour contended that not allowing him to have contact with the minor child was not in her best interest as she would be deprived of “having any knowledge of her natural father.” Vartanpour also argued that the district court erred by “not [taking] the initiative” to arrange his telephonic or video appearance at court hearings related to his custody challenges. Vartanpour contended that this resulted in denial of his fundamental right to access the courts.

Following a hearing where the parties were not present, the district court denied Vartanpour's motion in a written order. The district court noted that Vartanpour remains incarcerated and did not appear for the hearing. The district court found that while Vartanpour argued it was within the court's purview to arrange his appearance, Vartanpour himself was responsible for filing documents requesting his appearance at court hearings. In addressing Vartanpour's claim that he had demonstrated a substantial change in circumstances warranting contact with the minor child, the district court noted that it previously found (1) it was in the minor child's best interest that Lloyd be awarded sole legal and primary physical custody of the minor child and (2) that Vartanpour's parenting time should be suspended until his release from incarceration because contact with Vartanpour was not in the child's best interest. The district court found that Vartanpour failed to establish a substantial change in circumstances warranting modification of the previous custody and/or parenting time order and denied his motion. This appeal followed.

Vartanpour argues the district court erred by denying his motion to modify the child custody arrangement to allow parenting time via letters or telephone without first holding an evidentiary hearing. Vartanpour contends he made a prima facie showing of a substantial change in circumstances based on his college and mental health education classes, and the district court erred by failing to make best interest findings and improperly relying on the original decree in its decision to deny his motion.

This court reviews the denial of a motion to modify custody without an evidentiary hearing for abuse of discretion. *Myers v. Haskins*, 138 Nev. 553, 556, 513 P.3d 527, 531 (Ct. App. 2022); *see also Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) ("A court decision

regarding [parenting time] is a ‘custody determination.’”). A district court abuses its discretion only when “no reasonable judge could reach a similar conclusion under the same circumstances.” *In re Guardianship of Rubin*, 137 Nev. 288, 294, 491 P.3d 1, 6 (2021) (quoting *Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014)).

When a movant seeks to modify physical custody, a district court must hold an evidentiary hearing if the movant demonstrates “adequate cause” for one. *Rooney v. Rooney*, 109 Nev. 540, 542, 853 P.2d 123, 124 (1993). “Adequate cause” arises if the movant demonstrates a prima facie case for modification. *Id.* at 543, 853 P.2d at 125. A prima facie case requires that the movant demonstrate 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, 3, 501 P.3d 980, 982 (2022) (emphasis added), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 535 P.3d 1167 (2023).

The changed-circumstances prong of the foregoing test “is based on the principle of res judicata and prevents persons dissatisfied with custody decrees [from filing] immediate, repetitive, serial motions until the right circumstances or the right judge allows them to achieve a different result, based on essentially the same facts.” *Ellis v. Carucci*, 123 Nev. 145, 151, 161 P.3d 239, 243 (2007) (alteration in original) (internal quotation marks omitted). “In determining whether a movant has demonstrated a prima facie case for modification of physical custody, the court must accept the movant’s specific allegations as true.” *Myers*, 138 Nev. at 556-57, 513 P.3d at 532. “[D]emonstrating a prima facie case for modification is a *heavy burden* on a petitioner which must be satisfied before a hearing is

convened.” *Id.* at 560, 513 P.3d at 534 (emphasis in original) (internal citation and quotation marks omitted). And the district court may review “the facts and evidence underpinning its prior rulings or custody determinations in deciding whether the modification of a prior custody order is in the child’s best interest.” *Nance v. Ferraro*, 134 Nev. 152, 153, 418 P.3d 679, 681 (Ct. App. 2018).

Here, Vartanpour alleged that since entry of the custody decree there has been a substantial change in circumstances based on the mental changes, growth, and improvement he has undergone as the result of attending college and mental health education classes. Vartanpour argues on appeal that these classes helped him better himself as a parent and as an active member of society. Vartanpour contends he possesses a better thought process and cognitive awareness and that his progress in these areas since the entry of the initial custody decree weigh in favor of finding that his contact with the minor child is in her best interest

The district court considered Vartanpour’s arguments as to the changed circumstances factor and found that Vartanpour’s allegations were insufficient to demonstrate there had been a substantial change in circumstances warranting modification of the existing custody arrangement. *See Myers*, 138 Nev. at 560, 513 P.3d at 534 (noting the heavy burden a movant faces to demonstrate “a prima facie case for modification” and that burden “must be satisfied before a hearing is convened” (quotation marks omitted)). Although Vartanpour’s participation in classes while incarcerated, as alleged, is commendable, the changes he asserted he experienced as the result of his participation in the classes were too vague and attenuated to demonstrate they affected the welfare of the minor child for the purpose of modifying custody as opposed to Vartanpour’s own self-

improvement. Thus, Vartanpour does not demonstrate that no reasonable judge could have reached a similar conclusion given the circumstances at issue in this matter. *See Rubin*, 137 Nev. at 294, 491 P.3d at 6.

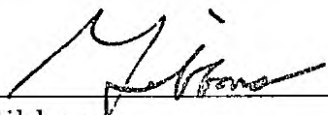
Further, the district court properly relied on its prior custody decree in deciding Vartanpour's motion, *see Nance*, 134 Nev. at 153, 418 P.3d at 681, and because the court found that Vartanpour failed to make a prima facie showing of a substantial change in circumstances, it was not required to make best interest findings, *see Romano*, 138 Nev. at 3, 501 P.3d at 982. Considering the heavy burden Vartanpour bears to establish a prima facie case for modification, the discretionary review standard applicable to a district court's determination regarding a motion to modify custody, and the circumstances of this case, we conclude Vartanpour fails to demonstrate the district court abused its discretion by declining to modify custody to allow parenting time without first conducting an evidentiary hearing. *See Myers*, 138 Nev. at 556, 513 P.3d at 531.


Vartanpour also argues the district court erred by failing to arrange his appearance at the hearing held on his motion. Vartanpour contends it is not within his power to arrange his appearance because he is incarcerated and that the district court's failure to arrange his appearance effectively denied him access to the courts because he has not been able to provide testimony. A person incarcerated in the state prison system may be examined as a witness in the district court but only upon the motion of a party supported by an affidavit. NRS 50.215(1). Thereafter, if requested to do so by the district court, the Nevada Department of Corrections will make the inmate "available on the date scheduled for his or her appearance to provide testimony by telephone or by video." NRS 209.274(2)(a).

Here, Vartanpour failed to move for his appearance at the hearing held on his motion pursuant to NRS 50.215(1). Therefore, we conclude the district court did not err by failing to sua sponte arrange Vartanpour's appearance at the hearing held on his motion. Further, because Vartanpour failed to show he was entitled to relief on his motion, he is likewise unable to demonstrate that his right to access the courts was violated. *See Lewis v. Casey*, 518 U.S. 343, 349 (1996) (explaining that in order to state a claim for denial of access to the courts, one must be able to demonstrate some actual injury from the denial of access to the courts). Therefore, we conclude Vartanpour fails to demonstrate he is entitled to relief based on this claim, and we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

cc: Hon. Regina M. McConnell, District Judge, Family Division
Rafik Vartanpour
Christiana Gwyn Lloyd
Eighth District Court Clerk