IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KALEN GODOWN,
Appellant,
vs.
JASMINE OGATA,
Respondent.

No. 89843-COA

FILED

MAR 18 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Kalen Godown appeals from a district court order setting aside an order granting constructive child support arrears. Eighth Judicial District Court, Clark County; Mari D. Parlade, Judge.

Godown and respondent Jasmine Ogata were never married but had one child together, T.K.G., who was born in January 2012. In September 2018, Ogata initiated a child custody action seeking sole legal and primary physical custody. The case was set for an evidentiary hearing in May 2019, but at the evidentiary hearing, the parties indicated that they had resolved the matter and agreed that they would share joint legal and joint physical custody of the minor child. They also agreed that based on the similar earning capacity of each party, neither would pay the other child support and that there were no child support arrears. The minutes from the evidentiary hearing indicate that the parties were sworn in and stated their agreement with the settlement terms placed on the record. The custody decree, entered in September 2019, stated that pursuant to NRS 125B.070 and the similar earning capacity of each party, neither party would pay child support.

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Shortly thereafter, in December 2019, the parties entered into a stipulation and order agreeing that Godown would have sole physical custody of the minor child but that the parties would continue to have joint legal custody. The December 2019 stipulation and order did not address child support.

In June 2023, Ogata filed a motion to modify child custody seeking primary physical custody of the minor child. Godown filed an opposition and countermotion to establish child support and sought constructive child support arrears. Godown argued that he was owed constructive child support arrears dating back to December 2019, as the minor child had solely been in his care and supported by him since that time.

Thereafter, the district court held an evidentiary hearing in August 2024 and awarded Ogata sole legal and physical custody of the minor child, subject to Godown having supervised parenting time with the minor child. The district court ordered Godown to pay Ogata monthly child support in the amount of $441 beginning in August 2024. With respect to Godown's pending request for constructive child support arrears, the court deferred ruling on his request until the next hearing. In a written opposition to Godown's motion for constructive child support arrears, Ogata argued that the court should deny Godown's request because he was delusive when the parties reached their stipulation and order in December 2019 and asserted that the only reason she agreed to Godown having sole physical custody during that time was due to false allegations he made about her family.

Subsequently, in September 2024, Godown's pending motion for constructive child support arrears was heard by a senior judge, who entered

an order finding that Ogata owed $25,778 in child support arrears. The senior judge determined that Godown was entitled to a judgment for $25,778 to be paid as credits towards his current $461 per month child support obligation to Ogata for fifty-six months.[1]

During an October 2024 status check hearing regarding Godown's parenting time, the district court determined that pursuant to NRCP 60(a), it could correct any errors of its own accord. And upon its review of the prior order, the court found that the constructive child support arrears were erroneously credited to Godown, noting that when the parties reached their agreement in 2019, they chose not to address child support. Moreover, the court found that Godown did not seek to modify child support since that time. Thus, the court concluded that Godown had improperly sought to retroactively modify child support, set aside the prior order granting Godown constructive child support arrears, struck the prior order from the record, and determined that Godown was obligated to pay his monthly child support obligation of $441. This appeal follows.

On appeal, Godown first argues that constructive child support can be sought for up to four years of expenses incurred before filing a court action to establish a support obligation, provided the parents were living separately and the child was primarily in the custodial parent's care during that time. From there, Godown contends that he was entitled to support since the minor child was solely in his care from December 2019 until August 2024. He also argues that the district court disregarded the

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[1]The order's reference to Godown's $461 per month child support obligation appears to be a typographical error, as the order does not state that it was modifying Godown's $441 child support obligation established after the August 2024 evidentiary hearing. But regardless, this court need not resolve this issue given the disposition of this appeal.

evidence he presented during the October 2024 hearing. Finally, he asserts that the district court was biased against him.

We review a district court's decision whether to set aside a judgment under NRCP 60 for an abuse of discretion. *Kaur v. Singh*, 136 Nev. 653, 655, 477 P.3d 358, 361 (2020). "Questions of statutory construction, including the meaning and scope of a statute, are questions of law, which we review de novo." *Miller v. Miller*, 134 Nev. 120, 122, 412 P.3d 1081, 1083 (2018) (alterations and internal quotation marks omitted). "[W]hen a statute's language is plain and its meaning clear, [we generally] apply that plain language." *Leven v. Frey*, 123 Nev. 399, 403, 168 P.3d 712, 715 (2007). NRS 125B.030 provides that "where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care . . . provided by the physical custodian." This statute further provides that, in the absence of a prior child support order, "the parent who has physical custody may recover not more than 4 years' support furnished before the bringing of the action to establish an obligation for the support of the child." *Id.*

In this matter, Godown sought constructive child support arrears for the period of December 2019 through August 2024 because the minor child was solely in his care during that time. However, Godown could not use NRS 125B.030 as a basis to seek support because based on the plain and unambiguous language of NRS 125B.030, the statute only applies in the absence of a prior child support order. *See Leven*, 123 Nev. at 403, 168 P.3d at 715. As noted above, the parties already had an existing order pertaining to child support. Specifically, the parties' custody decree set forth that the parties would share joint physical custody of the minor child

with no child support to be paid by either party. Moreover, when the parties subsequently entered into their December 2019 stipulation and order agreeing that Godown would have sole physical custody of the minor child, they did not agree to modify the existing order as to child support. For Godown to have sought child support once the child was in his sole care, he would have needed to file a motion to modify the existing child support order, which he did not do. *See* NRS 125B.145(4) (providing that "[a]n order for the support of a child may be reviewed at any time on the basis of changed circumstances").

Consequently, the district court's order after the September 2024 hearing granting Godown's request for constructive child support arrears for the period of December 2019 through August 2024 was an improper retroactive modification of the existing child support order. *See* NRS 125B.140(1)(a) (stating that a child support order "may not be retroactively modified or adjusted"); *Khaldy v. Khaldy*, 111 Nev. 374, 377, 892 P.2d 584, 586 (1995) ("Nevada case law clearly prohibits retroactive modification of a support order."). Thus, the district court properly set aside the order after the September 2024 hearing granting Godown's motion for constructive child support arrears. *See* NRCP 60(b) (allowing the district court to set aside a final order for various reasons, including mistake or excusable neglect; newly discovered evidence; fraud, misrepresentation, or misconduct by an opposing party; or for any other reason that justifies relief).[2]

[2]We note that the district court's order setting aside the order granting Godown's request for constructive arrears relied on NRCP 60(a) as a basis for relief. *See* NRCP 60(a) (authorizing the district court to "correct a clerical mistake or a mistake arising from oversight or omission whenever

To the extent Godown asserts his due process rights were violated because the district court did not hold an evidentiary hearing on his request for constructive child support arrears and did not allow him to present evidence at the October 2024 hearing, we are unpersuaded by these points. In particular, Godown failed to request a transcript of that hearing or otherwise act to ensure this court received a copy of the transcript. *See* NRAP 9(a)(1), (7) (requiring appellants to request transcripts of district court proceedings that are necessary for consideration of the appeal and to provide certified copies of the transcripts). Because Godown did not provide this court with the transcript of the hearing, we necessarily presume that the transcript supports the district court's decisions. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev, 598, 603, 172 P.3d 131, 135 (2007) (noting that it is appellant's burden to ensure that a proper appellate record is prepared and that, if the appellant fails to do so, "we necessarily presume that the missing [documents] support[ ] the district court's decision").

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one is found in a judgment, order, or other part of the record."). However, NRCP 60(a) applies when a district court's decision includes "a mistake or omission by a clerk, counsel, or judge, or printer which is not the result of the exercise of a judicial function" and "cannot reasonably be attributed to the exercise of judicial consideration or discretion." *Channel 13 of Las Vegas, Inc. v. Ettlinger*, 94 Nev. 578, 580, 583 P.2d 1085, 1086 (1978) (emphasis and internal quotation marks omitted). Nevertheless, because the district court reached the correct result in setting aside the order after the September 2024 hearing for the reasons discussed above, we conclude its error in relying on NRCP 60(a) was harmless. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (explaining that an error is harmless if it does not affect a party's substantial rights); *cf.* NRCP 61 (providing that a court must disregard all errors and defects that do not affect a party's substantial rights).

Indeed, without a copy of the relevant transcript, we are unable to meaningfully review any arguments Godown may have concerning information presented at the relevant hearing and any impact that information may have had on the court's decision to set aside the prior order. Furthermore, despite Godown's allegations concerning the procedure employed here, he has not demonstrated that he was prejudiced as he does not identify what evidence he would have presented during the October 2024 hearing and, as noted above, the district court reached the correct result. *See Wyeth*, 126 Nev. at 465, 244 P.3d at 778; *see also, e.g.*, *Mesi v. Mesi*, 136 Nev. 748, 753, 478 P.3d 366, 371 (2020) (considering whether a due process constitutional error was harmless); *United States v. Hauler*, 155 F.3d 1090, 1092 (9th Cir. 1998) ("A due process violation at a revocation proceeding is subject to harmless error analysis."); *cf.* NRCP 61. Accordingly, we conclude Godown fails to demonstrate a basis for relief.

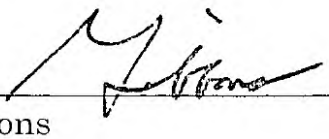
Finally, Godown argues that the district court was biased against him. As noted above, relief is also unwarranted on this point because Godown did not provide this court with the transcript of the hearing. *See Cuzze*, 123 Nev. at 603, 172 P.3d at 135. Moreover, Godown has not demonstrated that the court's 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, which reflects deep-seated favoritism or antagonism

that would render fair judgment impossible); *see In re Petition to Recall Dunleavy,* 104 Nev. 784, 789-90, 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 v. Romano,* 138 Nev. 1, 501 P.3d 980 (2022).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Bulla



_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Mari D. Parlade, District Judge
Kalen Bradley Godown
Jasmine Ogata
Eighth District Court Clerk