



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC PERREIRA,
Appellant,
vs.
SAMANTHA EISENBERG,
Respondent.

No. 91613-COA

ORDER OF AFFIRMANCE

Eric Perreira appeals from a district court amended decree of custody. Eighth Judicial District Court, Family Division, Clark County; Stacy Michelle Rocheleau, Judge.

Eric filed a complaint for custody of the minor child he shares with respondent Samantha Eisenberg, seeking joint legal custody and primary physical custody of the child. Samantha subsequently filed an answer and counterclaim in which she sought sole legal and sole physical custody of the child. Samantha also sought an award of child support.

During the lengthy district court proceedings, the parties raised allegations concerning each party's usage of illegal drugs. The parties underwent testing concerning that issue and, as relevant to this appeal, Eric tested positive for methamphetamine. The district court subsequently issued an order directing Eric to take additional drug tests and issued a temporary order restricting his parenting time to supervised time with the child at Donna's House.

The district court later set this matter for an evidentiary hearing, but Eric did not appear. The court subsequently issued a custody decree, determining Eric's failure to appear constituted a default and

awarding Samantha sole legal and sole physical custody of the child. On appeal, this court determined that the district court failed to make the necessary findings when it awarded sole legal and sole physical custody to Samantha and accordingly reversed that decision and remanded for further proceedings. *Perreira v. Eisenberg*, No. 86792-COA, 2024 WL 2783776, at *2-3 (Nev. Ct. App. May 29, 2024) (Order Affirming in Part, Reversing in Part and Remanding).

The district court subsequently set an evidentiary hearing concerning the outstanding custody matters and issued a notice of the calendar call and evidentiary hearing to the parties. Eric did not attend the calendar call, but the evidentiary hearing took place as scheduled. Eric did not appear at the evidentiary hearing, but Samantha appeared with her counsel.

Samantha testified and presented evidence concerning her relationship with the child and her interactions with Eric. Samantha explained that she suffered issues with substance abuse when the child was very young and that the child was removed from her care for a short time. Samantha further testified that she had participated in a rehabilitation program while the child was out of her care and she had not used illegal substances since then. Samantha explained that the child was returned to her care in 2021 and has been with her since that time. Samantha also testified concerning her experience and knowledge of Eric's issues involving substance abuse. She further expressed her concern that those issues would pose problems for the child if she were in Eric's care and explained that Eric had very little contact with the child despite her efforts to keep him involved. In addition, Samantha testified that Eric pulled her hair during

an argument when she was pregnant with the child and she sustained injuries as a result of that incident.

Samantha also testified concerning child support and explained that she believed Eric worked with and received financial support from his mother and further explained her understanding that he collected rental income from various properties owned by his mother. Samantha and the district court reviewed a financial disclosure form previously filed by Eric in 2021, which indicated he earned income from rents and other sources. Samantha and the court also reviewed information concerning Nevada's average wage.

The district court later issued a written order containing lengthy findings concerning the NRS 125C.0035(4) best interest factors and concluded the substantial majority of the factors favored Samantha. In particular, the court found Eric had little contact with the child since her birth, which occurred due to his actions and not from interference from Samantha. The court further found that the testimony established by a preponderance of the evidence that Eric committed an act of domestic violence and that safeguards were therefore necessary for future contacts. *See Soldo-Allesio v. Ferguson*, 141 Nev., Adv. Op. 9, 565 P.3d 842, 845 (Ct. App. 2025) (“[P]reponderance of the evidence is the standard when evaluating domestic violence as a best interest factor in considering the custody arrangement that is in the best interest of the child.”). The court also found that Eric's substance abuse issues posed a danger to the child such that his parenting time should be supervised.

In light of its findings, the district court determined that Eric was an unfit parent and, based on the court's findings concerning the best interest factors and the related safety concerns, it was in the child's best

interest to award Samantha sole legal and sole physical custody. The court explained the goal was for Eric to work toward a relationship with the child but noted he rarely exercised the previously awarded supervised parenting time. In light of the forgoing, and with the goal of building the parent-child bond while ensuring the child's safety, the court directed Eric to undergo drug testing and participate in reunification therapy in an effort to build that relationship and work toward supervised parenting time. The district court also found that arrangement was the least restrictive means of ensuring the child's safety, mental health, and well-being while helping to preserve Eric's parental rights.

The district court also reviewed the information concerning Eric's income and noted he had not provided a recent financial disclosure form. The court therefore elected to utilize information concerning Nevada's average wage to calculate the child support amount and ordered him to pay \$711 per month plus an additional \$89 toward child support arrears. This appeal followed.

First, Eric challenges the district court's physical custody decision, contending that he should have more time with the child and appears to contend Samantha improperly withheld the child from him. Eric also challenges the district court's findings concerning his substance abuse and that he is a threat to the child's safety, and he argues that the district court should not have considered his past to restrict his access to the child.

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 children. 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).

Here, the district court reviewed the evidence concerning Eric’s contact with the child, and found text messages demonstrated that Samantha informed him about the child and that she tried to ensure his involvement with the child. The court also considered Samantha’s testimony concerning her efforts to encourage Eric’s relationship with the child but found he made little effort to have a relationship with the child and he had not seen the child since December 2021. *See* NRS 125C.0035(4)(c), (e), (h). Moreover, the district court reviewed the information concerning Eric’s use of violence toward Samantha and determined that it constituted an act of domestic violence such that he posed a safety risk to Samantha and the child. *See* NRS 125C.0035(4)(k); *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) (explaining that “domestic violence poses a very real threat to a child’s safety and well-being” and that a district court “must hear *all* information regarding domestic violence in order to determine the child’s best interests”).

In addition, the district court made detailed and specific findings concerning Eric’s drug use and related issues, noting he missed many court-ordered drug tests but when he did take those tests, he tested positive for methamphetamine. The court also found that Eric’s substance abuse issues constituted a safety concern such that he was unfit for the child to reside with and that it was not in the child’s best interest for him to have

unsupervised time with the child. *See* NRS 125C.0035(4)(f); *Roe v. Roe*, 139 Nev. 163, 175, 535 P.3d 274, 288 (Ct. App. 2023) (“[A] district court must only enter an order for sole physical custody if it first finds either that the noncustodial parent is unfit for the child to reside with, or if it makes specific findings and provides an adequate explanation as to the reasons why primary physical custody is not in the best interest of the child.” (internal footnote omitted)).

The district court’s factual findings are supported by substantial evidence. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242. While Perreira appears to challenge the district court’s evaluation of the evidence and states that the court should not have utilized his past behavior in reaching its decisions, the district court was in the best position to evaluate the evidence and this court is not at liberty to reweigh it. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 365-66, 212 P.3d 1068, 1080 (2009); *see also Schwartz v. Schwartz*, 126 Nev. 87, 91, 225 P.3d 1273, 1276 (2010) (providing that the district court is “in the best position to hear and decide the facts of this case”). Moreover, Eric’s past behavior was relevant to evaluate the child’s best interest and Eric’s fitness. *See* NRS 48.015 (“[R]elevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.”). Accordingly, Eric fails to demonstrate the district court abused its discretion in reaching its custody decision.

Second, Eric challenges the district court’s child support award, arguing he is not able to work due to medical issues and that he only made \$1,000 per month in 2025. This court reviews child support orders for an abuse of discretion. *Edgington v. Edgington*, 119 Nev. 577, 588, 80 P.3d

1282, 1290 (2003). This court will not disturb the factual findings underlying a child support order if they are supported by substantial evidence. *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018). A child support award “must be based on the obligor’s earnings, income and other evidence of ability to pay.” NAC 425.100(1). When one party disputes the gross monthly income of the other party, the district court makes the determination of the obligor’s gross monthly income “after considering all financial or other information relevant to the earning capacity of the obligor.” NAC 425.120(1)(b).

Here, Eric did not attend the evidentiary hearing following the remand in Docket No. 86792-COA and did not file updated financial disclosure forms to inform the court concerning his recent income and any medical issues that may bear upon his ability to earn an income. *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 waived and will not be considered on appeal.”). We also note that Eric does not present cogent argument concerning the district court’s findings, based on the information presented at the evidentiary hearing, concerning his ability to pay child support. As a result, we conclude Eric does not demonstrate he is entitled to relief. *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).

Third, Eric argues the district court abused its discretion by denying his request for a continuance of the evidentiary hearing. Eric argues he needed additional time to obtain evidence and prepare evidence

for court. Eric asserts that denial of a continuance violated his right to due process.

“Whether to grant or deny a continuance lies within the district court’s discretion.” *In re M.M.L.*, 133 Nev. 147, 150, 393 P.3d 1079, 1081 (2017). “We will not reverse a district court’s decision to grant or deny a motion for a continuance except for the most potent reasons.” *Id.* at 150, 393 P.3d at 1081 (internal quotation marks omitted). Moreover, “[t]here are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case.” *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964); *see also Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (providing that “[d]ue process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner” (internal quotation marks omitted)).

The record demonstrates that the district court issued an order on June 3, 2025, in which it set the calendar call for August 5, 2025, and the evidentiary hearing for August 11, 2025. The district court also directed the parties to disclose to the opposing party evidence they intended to present at the evidentiary hearing and to present witness lists and exhibits to the court prior to the calendar call. Eric later filed a motion requesting an enlargement of time to disclose evidence, requesting the district court to allow him to disclose evidence until October 2025.

The district court subsequently explained that the evidentiary hearing had been set since June, Eric had notice of the hearing date, and it determined that the evidentiary hearing would proceed as scheduled, thereby effectively denying Eric’s request for a continuance. *See Bd. of Gallery of Hist., Inc. v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150

(2000) (concluding that a district court's failure to rule on a request constitutes a denial of that request).

While Eric contends he needed additional time to obtain evidence and to submit it, he does not present cogent argument concerning these contentions or explain what evidence he would have presented had he been granted a continuance. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. Moreover, Eric had notice of the evidentiary hearing, he had the opportunity to be heard at a meaningful time and in a meaningful manner at that hearing, and he accordingly does not demonstrate that he was deprived of his right to due process. *See Ungar*, 376 U.S. at 589; *Mesi*, 136 Nev. at 750, 478 P.3d at 369. Therefore, we conclude that Eric fails to demonstrate that he is entitled to relief.

Finally, Eric argues that the district court was biased against him. We conclude that relief is unwarranted on this point because Eric 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 and which reflect deep-seated favoritism or antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 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, 6, 501 P.3d 980, 984 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 535 P.3d 1167 (2023). Moreover, Eric fails to demonstrate this is one of the exceedingly rare cases where reassignment is necessary to preserve public confidence and trust in the fairness of a judicial proceeding. *See Williams v. Second Jud. Dist. Ct.*, 142 Nev., Adv. Op. 5, 583 P.3d 223, 230 (2026). Therefore, we conclude that Eric is not entitled to relief based on this argument.

Having considered the foregoing and determined Eric is not entitled to relief, we

ORDER the judgment of the district court AFFIRMED.¹



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Stacy Michelle Rocheleau, District Judge, Family Division
Eric Antonio Perreira
Samantha Eisenberg
Eighth District Court Clerk

¹Insofar as Eric raises other arguments not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.