



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SALVATORE CARRERA,
Appellant,
vs.
LORI PETERSON,
Respondent.

No. 91367-COA

ORDER OF AFFIRMANCE

Salvatore Carrera appeals from a district court final order concerning child custody. Second Judicial District Court, Family Division, Washoe County; Sandra A. Unsworth, Judge.

Salvatore and respondent Lori Peterson were not married and share one child in common, N.P, who was born in 2012. In September 2013, Lori filed a petition to establish custody and parenting time. Following mediation, the parties reached a parenting plan which was approved by the district court in an order entered in January 2014. Pursuant to this order, the parties shared joint legal custody of N.P., Lori was awarded primary physical custody, and Salvatore was awarded parenting time. Thereafter, there were several other proceedings not relevant to this appeal.

In August 2023, Salvatore filed a motion to modify custody and parenting time. Following a settlement conference, the parties reached an agreement to continue to share joint legal custody with Lori retaining primary physical custody and Salvatore having parenting time with N.P. in Texas. In August 2024, the district court entered an order containing the parties' stipulated agreement—the most recent order preceding the instant litigation.

In March 2025, Salvatore filed a motion to modify custody and parenting time. The motion was based primarily on an October 2024 incident where Daniel, Lori's ex-husband with whom she had reconciled and was living with, was arrested for domestic violence against Lori. Following an April 2025 preliminary hearing, the district court reopened discovery and ordered Salvatore to file an amended motion to modify custody and a request for permission to relocate N.P. to Texas. Salvatore filed an amended motion and argued that he should be awarded primary physical custody and permission to relocate N.P. to his Texas home based on clear and convincing evidence of domestic violence between Lori and Daniel; Lori's neglect of N.P.; a "continued pattern of instability and danger in [Lori's] home"; and because Salvatore's home was stable, free of conflict, and N.P. would be provided with "access to therapeutic and educational resources" to address N.P.'s autism.

The district court conducted an evidentiary hearing during which Salvatore, Lori, Daniel, Lori's sister Jessica, and three sheriff's deputies testified. Following the evidentiary hearing, the district court entered a written order in which it made detailed findings as to the relevant best interest factors under NRS 125C.0035(4). The court ultimately determined that "[t]here is evidence by a preponderance of evidence that [N.P.] has lived in a home where domestic violence occurs" but that the best interest factors overall weighed in favor of Lori retaining primary physical custody of N.P. In doing so, the court made findings as to how beneficial to N.P. it was to maintain stability, particularly in light of his special needs. Specifically, the district court found Lori and Daniel reconciled their relationship and were planning to remarry, and that N.P. was not unhappy in the couple's home and that "[h]owever dysfunctional this relationship has

been, [Daniel] has been a consistent parental force in [N.P.'s] life.” Acknowledging the couple’s “toxic relationship” issues, including at least one substantiated incident of domestic violence by Daniel, the district court found that “given [N.P.’s] special needs[,] being in the care, custody and control of the parents he knows [Lori and Daniel] wins on balance.” As a result, the district court found that modification of custody was not in N.P.’s best interest and denied Salvatore’s motion to modify custody and permission to relocate N.P. to Texas. This appeal followed.

On appeal, Salvatore contends the district court abused its discretion in denying his motion to modify custody and request to relocate N.P. to Texas.¹ Specifically, Salvatore challenges several evidentiary rulings by the district court; the failure of the district court to apply the NRS 125.0035(5) domestic violence rebuttable presumption or otherwise properly consider domestic violence in relation to its best interest determinations; and the district court’s findings as to several best interest factors. He also asserts that the district court was biased against him.

This court reviews a child custody decision for an abuse of discretion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). 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)). In reviewing child custody determinations, this court will affirm the district court’s factual findings if they are supported by substantial evidence. *Ellis*, 123 Nev. at

¹Salvatore does not present argument concerning the NRS 125C.007 relocation factors and in light of our ruling as to modification of custody, we do not address relocation.

149, 161 P.3d at 242. Substantial evidence is that which a reasonable person may accept as adequate to sustain a judgment. *Id.*

A district court may modify a physical custody arrangement only when the movant demonstrates 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, 5, 501 P.3d 980, 983 (2022) (internal quotation marks omitted), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 404-05, 535 P.3d 1167, 1171 (2023). When making a custody determination, the sole consideration is the best interest of the child. NRS 125C.0035(1); *Davis v. Ewalefo*, 131 Nev. 445, 451, 352 P.3d 1139, 1143 (2015). The NRS 125C.0035(4) best interest factors are non-exhaustive and should be considered along with any other relevant information the district court deems significant. *See Ellis*, 123 Nev. at 152, 161 P.3d at 243. 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). Moreover, “[h]earing and trial procedures, such as . . . the scheduling of hearings, so long as within the parameters of the governing rules, are matters vested in the sound discretion of the trial court.” *Zupancic v. Sierra Vista Recreation*, 97 Nev. 187, 192, 625 P.2d 1177, 1180 (1981); *see also Matter of J.B.*, 140 Nev., Adv. Op. 39, 550 P.3d 333, 339 (2024) (noting a district court “retains broad scheduling powers”).

We first address Salvatore’s evidentiary challenges. Salvatore argues the district court abused its discretion by admitting Lori’s evidence while excluding or “curtailing” his. “We review a district court’s decision to admit or exclude evidence for abuse of discretion, and we will not interfere with the district court’s exercise of its discretion absent a showing of

palpable abuse.” *M.C. Multi-Family Dev., L.L.C. v. Crestdale Assocs., Ltd.*, 124 Nev. 901, 913, 193 P.3d 536, 544 (2008).

Salvatore contends the district court improperly excluded certified copies of audio recordings of 9-1-1 calls. The district court determined the 9-1-1 calls were inadmissible because Salvatore failed to establish who made the calls. Salvatore does not identify on appeal who the callers were or otherwise argue why the district court erred by not admitting the 9-1-1 calls based on a lack of caller identification. Thus, he fails to demonstrate the district court abused its discretion in excluding them. *See Talley v. State*, 141 Nev., Adv. Op. 61, 580 P.3d 101, 108 (2025) (providing that before a court may address relevancy or hearsay, it must “must first determine the authenticity of a proposed piece of evidence”); *see also* NRS 52.015(1) (“The requirement of authentication or identification [i]s a condition precedent to admissibility . . .”).

Salvatore also contends the district court erred by: (1) assisting Lori in admitting an exhibit; (2) allowing Lori and Daniel to testify in narrative form and to hearsay; (3) excluding evidence he offered; and (4) interrupting his witnesses and limiting their testimony. Salvatore merely refers to page numbers from the evidentiary hearing transcript to illustrate these general instances of alleged error and fails to cogently argue this issue on appeal. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider issues that are not cogently argued). Thus, Salvatore fails to demonstrate the district court abused its discretion regarding this evidence.

Salvatore next argues the district court denied him due process by reopening discovery but refusing to deem his request for admissions from

Lori admitted based on Lori's failure to timely respond.² Salvatore contends that discovery rules exist to prevent trial by ambush and ensure fundamental fairness and that the district court abused its discretion by allowing Lori's full participation in the evidentiary hearing where her responses to his requests for admission should have been admitted as a matter of law.

"Due process is satisfied where interested parties are given an opportunity to be heard at a meaningful time and in a meaningful manner," ordinarily in a live hearing. *Mesi v. Mesi*, 136 Nev. 748, 750, 478 P.3d 366, 369 (2020) (internal quotation marks omitted). Discovery matters are within the district court's sound discretion, and we will not disturb a district court's ruling regarding discovery unless the court has clearly abused its discretion. *Matter of Adoption of Minor Child*, 118 Nev. 962, 968, 60 P.3d 485, 489 (2002). Generally, when a party fails to timely respond to requests for admission, as a sanction, "matters contained therein are deemed admitted." *Smith v. Emery*, 109 Nev. 737, 741, 856 P.2d 1386, 1389 (1993) (internal quotation marks omitted); NRCP 36(a)(3). However, discovery sanctions barring the district court's consideration of a party's evidence are disfavored in child custody matters, particularly those "involving allegations of domestic violence where all information of such incidents must be considered." *Soldo-Allesio*, 141 Nev., Adv. Op. 9, 565 P.3d at 852 (internal quotation marks omitted); cf. *Blanco v. Blanco*, 129 Nev. 723, 730, 311 P.3d 1170, 1174 (2013) (stating that child custody issues "must be

²The subject matter of the request for admissions generally related to incidents of domestic violence or arguments involving Lori and Daniel, their mental health, and their drug and alcohol use.

decided on their merits” when addressing a custody case involving case-concluding sanctions).

The district court refused to deem the request for admissions admitted but allowed Salvatore to question Lori on the subject matter of the request for admissions and ultimately decided the child custody matter on its merits after considering the testimony and information presented at the evidentiary hearing. To the extent the court erred by determining that Lori’s admissions were not admitted based on her failure to respond pursuant to NRCP 36(a)(3), Salvatore fails to demonstrate harmful error. *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”); *see also* NRS 125C.0035(1); *Davis*, 131 Nev. at 451, 352 P.3d at 1143.

Salvatore was able to question Lori regarding the subject matter of the request for admissions and Lori provided testimony on those subjects. During the evidentiary hearing, Lori was asked, either by Salvatore or the court, about the incidents of domestic violence, arguments she engaged in with Daniel, her mental health issues, and her substance use. And the district court made specific findings concerning those issues in its custody order, including finding some domestic violence had occurred. While Salvatore may have preferred to rely on the admissions themselves instead of any evidence and information that did not support his allegations for a change in custody or relocation, he fails to demonstrate his substantial rights were affected given the evidence and information presented at the evidentiary hearing and the district court’s analysis of domestic violence

and the other best interest factors. *See Teamer v. Summers*, 89296-COA, 2026 WL 1263877, at *5-7 (Nev. Ct. App. May 7, 2026) (Order of Affirmance) (concluding that any error by the district court in permitting the withdrawal of a request for admissions was harmless because it did not affect appellant’s substantial rights given the court’s findings following an evidentiary hearing where appellant questioned respondent extensively on the subject matter of the admissions). For these reasons, we conclude Salvatore is not entitled to relief based on this claim.

Having considered Salvatore’s evidentiary arguments, we now turn to his challenges to the district court’s findings related to domestic violence and other NRS 125C.0035 best interest factors. As to domestic violence, Salvatore contends the district court explicitly found domestic violence yet failed to apply the mandatory presumption pursuant to NRS 125C.0035(5). He further argues the district court failed to meaningfully address or give due weight to the evidence of domestic violence in its consideration of the best interest factors.

Initially, we recognize that domestic violence is relevant both as a best interest factor under NRS 125C.0035(4)(k) and, if found by clear and convincing evidence, creates a rebuttable presumption against primary or joint physical custody in the person engaging in domestic violence under NRS 125C.0035(5).³ Salvatore’s contention that the rebuttable

³See NRS 125C.0035(4)(k) (specifying that a child’s best interest includes a determination whether “either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child”); NRS 125C.0035(5) (creating a rebuttable presumption that sole or primary physical custody by “either parent or any other person seeking physical custody” who has engaged in domestic violence against the child or someone

presumption applied fails, as the plain language of the statute provides that it only applies when a parent or another person seeking custody has committed the domestic violence, and the district court properly found that Daniel was neither a parent or seeking custody.

Turning to Salvatore's broader challenge that the district court did not properly consider domestic violence in its best interest analysis, this issue was a key focus of the evidentiary hearing, and the district court recounted the evidence presented by Salvatore regarding the incidents of domestic violence and explicitly found by a preponderance of the evidence that domestic violence occurred. Further, the district court properly considered evidence that Daniel committed domestic violence in determining which custody arrangement was in N.P.'s best interest. *See Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) (providing that a district court "must hear all information regarding domestic violence in order to determine the child's best interests" (emphasis omitted)); *see also Myers v. Haskins*, 138 Nev. 553, 560, 513 P.3d 527, 534 (Ct. App. 2022) (relying on NRS 125C.0035(4)(k) to conclude that evidence that the father's current wife "struck a child living with [the parties' child] in front of [the parties' child]" was relevant to whether there existed a change in circumstances warranting a modification of custody). Additionally, the court determined that this best interest factor favored Salvatore.

living with the child is not in the child's best interest); *see also Soldo-Allesio*, 141 Nev., Adv. Op. 9, 565 P.3d at 848 n.5 (explaining that although NRS 125C.0035(5) only explicitly establishes a rebuttable presumption against sole or joint physical custody, it logically follows that there is also a rebuttable presumption against primary physical custody, which is a greater degree of custody than joint).

Ultimately, however, the district court found it was in N.P.'s best interest for Lori to retain primary physical custody of N.P. because she was better suited to deal with N.P.'s special needs, N.P.'s close relationship with Lori and Daniel, and the consistency and predictability they provided in his life. While Salvatore contends this determination was wrong, the factual findings the court made and relied on in making this determination are supported by substantial evidence in the record. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242. Therefore, we conclude Salvatore is not entitled to relief based on this argument.

Next, Salvatore challenges several of the findings as to the best interest factors, arguing the district court either misapplied them or that its findings related to those factors are insufficient or not supported by substantial evidence. Having reviewed the record and the court's findings, we conclude the factual findings made in support of the district court's determinations regarding the best interest factors are supported by substantial evidence in the record. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242. And while Salvatore challenges the district court's determinations and asserts the court should have focused on evidence that was favorable to him, this court is not at liberty to reweigh the evidence or the district court's credibility determinations. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 365-66, 212 P.3d 1068, 1080 (2009); *see also In re J.D.N.*, 128 Nev. 462, 477, 283 P.3d 842, 852 (2012) (explaining that "the family division of the district court is in a better position to weigh the credibility of witnesses"); *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"); *In re Parental Rights as to C.J.M.*, 118 Nev. 724, 732, 58 P.3d 188, 194 (2002) (recognizing that a district court is in the best

position to observe the demeanor of parties and assess their credibility). In light of the foregoing, we conclude no relief is warranted as to this issue.

Finally, Salvatore argues in his opening brief on appeal that the district court demonstrated bias by assisting Lori when the court asked if she wanted an exhibit marked and then later excluding his evidence. However, Salvatore has not shown that the court acted out of improper bias. *See Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (“A judge is presumed to be unbiased, and the burden is on the party asserting the challenge to establish sufficient factual grounds warranting disqualification.” (internal quotation marks omitted)), *overruled on other grounds by Romano*, 138 Nev. at 6, 501 P.3d at 984. Evidentiary rulings are within the district court’s discretion. *M.C. Multi-Family Dev., L.L.C.*, 124 Nev. at 913, 193 P.3d at 544. And the district court’s evidentiary rulings in this matter do not establish improper bias. *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”).

In addition, Salvatore has not demonstrated that the district court’s decisions were based on knowledge acquired outside of the proceedings, and the decisions do 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 reflects deep-seated favoritism or antagonism that would render fair judgment

impossible). Moreover, Salvatore 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, Salvatore is not entitled to relief based on this argument. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴



Bulla, C.J.



Gibbons, J.



Westbrook, J.

cc: Hon. Sandra A. Unsworth, District Judge, Family Division
Salvatore Carrera
Lori Peterson
Washoe District Court Clerk

⁴Insofar as Salvatore raises 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.

Having reviewed Lori's July 19, 2026, motion, we deny the requested relief.