



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VANESSA PINTO,
Appellant,
vs.
FRANCIS A. PINTO-GUARDADO A/K/A
FRANCIS A. GUARDADO-PINTO,
Respondent.

No. 90603-COA

*ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING*

Vanessa Pinto appeals from a district court post-divorce decree order. Eighth Judicial District Court, Clark County; Hon. David S. Gibson, Jr., Judge.

Vanessa and respondent Francis A. Pinto-Guardado underwent divorce proceedings in 2022. They currently share two children at issue in the underlying proceedings, A.P. (born in August 2013) and J.P. (born in January 2017). The parties were awarded joint legal and physical custody during their divorce.

In July 2024, Vanessa filed a motion to modify physical custody, seeking primary physical custody. Francis filed an opposition and countermotion, which asserted, among other things, that Vanessa was not complying with the joint legal custody provision and that she enrolled A.P. in a different school than the school A.P. was zoned to attend, Charles Silvestri Junior High School (Silvestri). Thus, Francis requested that the minor children be enrolled in schools of his choosing. In a written order from a September 17, 2024, hearing, the district court denied Vanessa's motion and found that there was no change of circumstances to warrant

modifying physical custody. Within that order, the court ordered that A.P. shall be enrolled in the school that she is zoned for, specifically, Silvestri. The court also awarded Francis his attorney fees.

Vanessa filed a motion for reconsideration of the district court's order from the September 17, 2024, hearing with respect to attorney fees, and in Francis's opposition and countermotion, he argued that Vanessa had still refused to enroll A.P. at Silvestri and should be held in contempt. He also sought to have Vanessa deemed a vexatious litigant, arguing that she had repeatedly filed pleadings with the intent to harass and that she refused to comply with the court's orders. He additionally requested that the court enter orders directing that he maintain the minor children's health insurance under his policy, which was now cheaper than Vanessa's plan, and that Vanessa pay him \$234.59 per month, which was half of the health insurance premium.

The district court held a January 2025 hearing on the matter and issued an order denying Vanessa's motion for reconsideration in February 2025. The court also indicated that it would issue an order to show cause against Vanessa as to her failure to enroll A.P. at Silvestri, and as to why she should not be declared a vexatious litigant. The court also ordered that Francis shall maintain the health insurance for the minor children and that the parties split the \$469.18 monthly premium with Vanessa contributing \$234.59 per month towards the health insurance premium.

In March 2025, the district court held a show cause hearing on the pending matters and issued a written order. The court declared Vanessa a vexatious litigant. Specifically, the court found that Vanessa did not file any response to the order to show cause and that she stated at the

show cause hearing that she would not comply with the court's orders. The court then detailed various pleadings by Vanessa, which raised identical issues concerning the modification of custody or reconsideration of custody orders. The court also considered that Vanessa's actions reflected her continued failure to abide by court orders. Thus, the court found that her actions in the matter were harassing and frivolous. Accordingly, the court declared Vanessa a vexatious litigant and ordered that she could not file any new litigation without first obtaining leave of court to do so. The court explained that Vanessa was permitted to submit filings so long as the court first reviews them to ensure that they have arguable merit and are not intended to harass.

With respect to contempt, the district court found Vanessa to be in contempt and ordered that for each day she did not enroll A.P. in Silvestri from the date of the hearing, there would be a finding of indirect civil contempt of \$500 per day, and failure to enroll the child in Silvestri within two weeks from the date of the hearing would result in Vanessa being placed in jail for every day she failed to enroll A.P. in school thereafter. The court also awarded Francis sole legal custody of the minor children.¹ With respect to the health insurance premiums, the court noted that a judgment of arrears for nonpayment by Vanessa for January, February, and March 2025

¹Vanessa's opening brief does not specifically challenge the district court's award of sole legal custody to Francis, and thus, we do not consider that decision on appeal. *See Powell v. Liberty Mut. Fire Ins.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (stating that issues that are not raised in the opening brief are deemed forfeited). To the extent Vanessa attempts to challenge it for the first time in her reply brief, we likewise do not consider these points as parties are not permitted to raise new arguments in reply briefs. *Khoury v. Seastrand*, 132 Nev. 520, 530 n.2, 377 P.3d 81, 88 n.2 (2016).

in the amount of \$234.59 per month shall be enforced through the District Attorney's Office, Family Support Division.² This appeal followed.

On appeal, Vanessa challenges the district court's order declaring her a vexatious litigant and argues that her pleadings were not frivolous. Francis asserts that the court properly declared her a vexatious litigant, given the pattern of Vanessa's pleadings.

This court reviews an order declaring individuals to be vexatious litigants and setting restrictions on their ability to access the courts for an abuse of discretion. *Jordan v. State ex rel. Dep't of Motor Vehicles & Pub. Safety*, 121 Nev. 44, 62, 110 P.3d 30, 44 (2005), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008); *see also Peck v. Crouser*, 129 Nev. 120, 123-24, 295 P.3d 586, 587-88 (2013) (noting that the propriety of such an order is reviewable in the context of an appeal from an independently appealable order).

Under NRS 155.165(1), "[t]he [district] court may find that a person . . . is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit, [or] intended to harass or annoy." Because vexatious litigant orders limit a litigant's right to access the courts, the court must perform the four-factor analysis outlined in *Jordan* in declaring individuals to be vexatious litigants. 121 Nev. at 60-

²While Vanessa argues that the district court's order requires her to contribute towards Francis's health insurance premiums for the minor children without any competent evidence, the district court set forth the health insurance obligation in its February 2025 order denying Vanessa's motion for reconsideration. This issue is not properly before this court, as she should have raised it in a timely appeal from that decision, as the portion of the order addressing the health insurance issue constituted a special order after final judgment.

62, 110 P.3d at 42-44. This analysis requires that: (1) the litigants be “provided reasonable notice of and an opportunity to oppose” the request; (2) the district court “create an adequate record for review,” including an explanation of the reasons it issued the order; (3) the district court find the filings were frivolous or harassing and not simply based on “a showing of litigiousness;” and (4) the order be “narrowly drawn to address the specific problem encountered.” *Id.* (internal quotation marks omitted).

Here, the district court undertook the four-factor analysis and gave Vanessa reasonable notice and an opportunity to oppose the request. Vanessa did not file any response to the order to show cause filed by the court and stated at the show cause hearing that she would not comply with the court’s orders. Additionally, the district court properly made a record to support the vexatious litigant order under factors two and three, detailing that various of Vanessa’s filings raised identical issues concerning the modification of custody or reconsideration of custody orders. The court also considered that Vanessa’s actions reflected her continued failure to abide by court orders. Thus, the court found that her actions in the matter were harassing and frivolous. Furthermore, with respect to factor four, the district court explained that Vanessa was permitted to submit filings so long as the court first reviews them to ensure that they have arguable merit and are not intended to harass. *See, e.g., O’Keefe v. Eighth Jud. Dist. Ct.*, No. 92393-COA, 2026 WL 1153666, at *1 (Nev. Ct. App. Apr. 28, 2026) (Order Denying Petition) (explaining that a vexatious litigant order that permits a litigant to submit filings so long as the district court first reviews them to ensure they have merit does not amount to an abuse of discretion). Given the record before us, and the findings by the district court, we cannot

conclude the court abused its discretion in entering the vexatious litigant order. *Jordan*, 121 Nev. at 62, 110 P.3d at 44.

Next, Vanessa challenges the district court's contempt determination. Specifically, Vanessa asserts that she is being held financially responsible and threatened with incarceration for failing to enroll A.P. at Silvestri, which is an order that she cannot comply with given that Francis was awarded sole legal custody. In response, Francis argues that Vanessa has continued to defy the court's order with respect to A.P.'s enrollment at Silvestri, and thus, the court properly found her in contempt.³

This court reviews contempt orders for an abuse of discretion. *Lewis v. Lewis*, 132 Nev. 453, 456, 373 P.3d 878, 880 (2016); *see also Vaile v. Vaile*, 133 Nev. 213, 217, 396 P.3d 791, 794-95 (2017) (explaining that, while orders of contempt are not appealable, this court has jurisdiction to review contempt findings when included in an order that is otherwise independently appealable). NRS 22.010(3) provides that disobedience to any lawful order issued by a court is contempt. Contempt may be imposed in a civil proceeding upon notice and an opportunity to be heard. *Matter of Hughes*, 136 Nev. 399, 404, 467 P.3d 627, 631 (2020). A party accused of indirect contempt has a due process right to confront witnesses and offer

³Insofar as the parties' briefing refers to subsequent actions and proceedings that took place concerning contempt and changes in the minor children's enrollment in school after the March 2025 show cause hearing, those issues are not properly before this court as they occurred after entry of the March 2025 order challenged on appeal. *See Carson Ready Mix, Inc. v. First Nat'l Bank of Nev.*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (providing that this court lacks the "power to look outside of the record of a case" and "cannot consider matters not properly appearing in the record on appeal").

testimony. *Dep't of Health & Hum. Servs., Div. of Pub. & Behav. Health v. Eighth Jud. Dist. Ct. (Aliano)*, 139 Nev. 254, 257, 534 P.3d 706, 711 (2023) (citing *Awad v. Wright*, 106 Nev. 407, 411, 794 P.2d 713, 716 (1990), *abrogated on other grounds by Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000)).

Here, after holding a show cause hearing, the district court ordered that for each day Vanessa did not enroll A.P. in Silvestri from the date of the hearing, there would be a finding of indirect civil contempt of \$500 per day, and failure to enroll at Silvestri within the next two weeks from the date of the hearing would result in Vanessa being placed in jail for every day she failed to enroll A.P. in school thereafter. However, as noted above, the court's order simultaneously awarded Francis sole legal custody. *See Rivero v. Rivero*, 125 Nev. 410, 420, 216 P.3d 213, 221 (2009), (explaining that sole legal custody vests the basic legal responsibility for a child, including decisions pertaining to the child's health, education, and religion, with one parent), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022).

By virtue of awarding Francis sole legal custody, he was now the only parent empowered with making all legal decisions for the children, including their school enrollment. Thus, the district court's order that it would find Vanessa in indirect civil contempt for her failure to enroll A.P. at Silvestri within two weeks from the date of the hearing, penalize her \$500 per day for each day the child was not enrolled, and ultimately jail her for noncompliance, was not consistent with its award of sole legal custody to Francis within the same order. The court did not explain how Vanessa would legally have the ability to comply with its directive to enroll A.P. at Silvestri, given the sole custody determination. While the court could have

restricted Vanessa from interfering with Francis’s ability to enroll A.P. at Silvestri, it could not require her to enroll the child herself, considering the sole custody determination. Under these circumstances, we conclude that the district court abused its discretion with its contempt determination and necessarily reverse this portion of the court’s order. *See Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142-43 (2015) (“[D]eference is not owed to legal error.”).

Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.⁴



Bulla, C.J.



Gibbons, J.



Westbrook, J.

⁴Vanessa also argues on appeal that the district court failed to conduct an evidentiary hearing regarding school choice pursuant to *Arcella v. Arcella*, 133 Nev. 868, 872-73, 407 P.3d 341, 346 (2017), before ordering that A.P. be enrolled at Silvestri. She also argues that A.P. is not zoned for Silvestri. Because Vanessa did not timely appeal from the order following the September 2024 hearing, in which the court ordered that A.P. be enrolled at Silvestri, we conclude that her arguments concerning A.P.’s school is not properly before this court, as she should have raised them in a timely appeal from that decision.

Insofar as Vanessa 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.

cc: Hon. David S. Gibson, Jr., District Judge
Vanessa Pinto
Bellon Law Group Ltd.
Eighth District Court Clerk