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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JULIE HAMMER AND GONZALO GALINDO MILAN, Appellants, vs. MARY J. RASMUSSEN, Respondent.	No. 89180-COA

ORDER AFFIRMING IN PART, VACATING IN PART, DISMISSING IN PART, AND REMANDING

Julie Hammer and Gonzalo Galindo Milan appeal from a post-custody decree order adjudicating paternity, custody, and child support. Eighth Judicial District Court, Family Division, Clark County; Hon. Paul M. Gaudet, Judge.

This case has a long history and, at its center, is a dispute concerning the paternity and custody of L.H.[1] Hammer and Milan (collectively appellants) are the biological parents of L.H., and respondent Mary J. Rasmussen is Hammer's ex-girlfriend and was identified as L.H.'s father on L.H.'s birth certificate.[2] In 2012, when L.H. was 6 years old, Rasmussen initiated a custody proceeding against Hammer alleging

[1]Although this litigation commenced when L.H. was 6 years old, the challenged order was issued shortly after L.H. turned 18. L.H. was made a party to the proceedings below because the proceedings concerned parentage. However, the parties did not request L.H. be made a party to the appeal nor did L.H. file her own notice of appeal or otherwise indicate she wished to participate.

[2]The birth certificate identified Murphy Jo Rasmussen as L.H.'s father, and Rasmussen subsequently testified Murphy Jo was her nickname.

Rasmussen was L.H.'s parent because she was identified on the birth certificate, and sought joint physical and legal custody of L.H. Milan, having been made aware of L.H.'s existence for the first time, subsequently filed a competing complaint for custody alleging he was L.H.'s biological father and thus entitled to custody. In 2013, the parties resolved the custody dispute through a stipulation wherein they agreed Rasmussen and Hammer would share joint physical custody of L.H. and all three parties would share legal custody. Milan was also entitled to parenting time, but the record indicates he did not exercise his parenting time. Further, the stipulation stated no party would be required to pay child support.

The dispute in this appeal began with a motion appellants filed in 2014 that requested Milan be added to L.H.'s birth certificate, as the birth certificate only identified Hammer and Rasmussen as L.H.'s parents. Notably, appellants did not request the removal of Rasmussen from L.H.'s birth certificate. The district court subsequently granted the motion and ordered that all three parties would be listed on L.H.'s birth certificate and each would be identified as a parent. Hammer, but not Milan, appealed this order, arguing Milan's name should replace Rasmussen's name on the birth certificate, and in 2017 the supreme court issued an order vacating and remanding the district court's order. *See Hammer v. Rasmussen*, Docket No. 67368, 2017 WL 2819994 (Nev. Jun. 27, 2017) (Order Vacating Judgment and Remanding).

Relevant here, the supreme court concluded the district court "failed to consider whether Nevada law permits a child to have more than two legal parents before entering its order." Accordingly, the supreme court directed the district court to hold an evidentiary hearing to determine whether a child can have three legal parents under Nevada law, and if not,

which two of the three parties were L.H.'s parents. The supreme court's order further required the district court to make L.H. a party to the paternity proceedings with a guardian ad litem (GAL) to represent her, and the district court subsequently complied.[3]

Following the remand order, the parties engaged in substantial litigation concerning a wide variety of disputes, including custody of L.H., Hammer's subsequent abduction of L.H., and various procedural issues regarding jurisdiction. Regarding the abduction, in or around October 2018, Hammer removed L.H. from Nevada and refused to return her to Rasmussen, in violation of the custody order. Law enforcement ultimately located and returned L.H. to Rasmussen, and Hammer was convicted of two counts of conspiracy to commit detention, concealment or removal of a child. The district court subsequently awarded Rasmussen sole physical and legal custody of L.H. following Hammer's abduction of the child. Hammer was additionally required to pay Rasmussen $500 per month in child support. Rasmussen subsequently filed a motion to modify Milan's child support obligation arguing he currently paid no child support despite Rasmussen having sole physical custody. The district court deferred ruling on the motion, finding it would resolve the child support dispute during the evidentiary hearing on parentage.

In 2023, the matter proceeded to an evidentiary hearing. Rasmussen testified as the first witness and stated she and Hammer were in a romantic relationship when Hammer became pregnant with L.H. and

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[3]The supreme court's order identified other issues related to parentage for the district court to consider, including whether it may be appropriate to permit the State Registrar of Vital Statistics to present argument. However, we discuss only the portions of the remand order relevant to our determination.

following L.H.'s birth, Hammer listed Rasmussen on the birth certificate as L.H.'s father. Further, Rasmussen testified she participated in raising and caring for L.H. until 2012 when Hammer cut off contact between Rasmussen and L.H., spurring Rasmussen to seek custody. Rasmussen further testified that, following Hammer's 2018 abduction of L.H., she received sole physical custody and although Hammer paid child support, Milan did not provide any support or make any effort to exercise his parenting time with L.H. following the entry of the stipulated custody agreement.

However, Milan also testified that because he was L.H.'s biological father, he wished to be identified as her parent on the birth certificate. Milan confirmed he was unaware of L.H.'s existence until she was approximately six years old, was unaware of her birth date, and had not provided Rasmussen with any support despite Rasmussen having sole custody of L.H.

As to Hammer's testimony, she denied ever being in a relationship with Rasmussen and asserted Rasmussen must have colluded with a nurse at the hospital to have herself listed as L.H.'s father. Hammer did not otherwise testify as to her relationship with L.H. and instead used her time to assert various legal arguments despite the district court's repeated requests that she provide relevant factual testimony.

After L.H.'s GAL argued it would not be in L.H.'s best interest to testify because she had been placed in the middle of the parties' dispute and was experiencing extreme anxiety as a result, the court allowed the GAL to testify on L.H.'s behalf. The GAL testified that L.H. did not have a preference for who was identified as a parent on her birth certificate. Further, the GAL testified that in her opinion, it made the most sense for

all three parties to be identified as L.H.'s parents on her birth certificate. However, if only two parents could be identified as L.H.'s parents, the GAL recommended it be Rasmussen and Hammer as Milan had largely been uninvolved in L.H.'s life.

Ultimately, the district court entered an order finding Nevada law permits a child to have three legal parents, and the adoption of NRS 126.041 "demonstrates the progression of Nevada with regards to legal parenting." Further, the court found that assuming only two parties could be identified as L.H.'s parents, those parties would be Rasmussen and Hammer based on Milan's lack of interest in L.H.'s life. Further, the court ordered Milan to pay Rasmussen child support and determined he owed arrearages dating back four years because Rasmussen had sole physical custody since that time. When calculating Milan's support obligation, the court applied NAC 425.140(1)'s formula as Nevada law does not contain a separate formula for situations involving three parents. Following entry of this order, appellants filed various post order motions seeking reconsideration of the order, all of which were denied. This appeal followed.

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We begin with the central dispute in this matter, which is whether under Nevada law a child may have three legal parents. On appeal, appellants present numerous arguments in support of their position that Nevada law permits the recognition of only two parents, and when both biological parents have appeared in a parentage or custody proceeding, those individuals must be recognized as the only legal parents. Appellants specifically contend the district court abused its discretion by relying on NRS 126.041 to conclude Nevada law permitted a child to have three legal

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[4]Appellants purport to challenge numerous orders from the underlying proceeding as well as three other district court proceedings. We lack jurisdiction to consider the majority of the challenged decisions, either because appellants did not timely appeal them, they involve matters the supreme court previously resolved or are otherwise not properly before this court. *See Hsu v. County of Clark*, 123 Nev. 625, 629-30, 173 P.3d 724, 728 (2007) (holding the law of the case doctrine precludes a litigant from relitigating a prior issue in a subsequent appeal); *Arnold v. Kip*, 123 Nev. 410, 416-17, 168 P.3d 1050, 1054 (2007) (concluding that an order was properly part of the record on appeal because it was filed before the appellants field their notice of appeal); *Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000) (holding contempt proceedings must be challenged through an original writ proceeding); *Healy v. Volkswagenwerk*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987) (holding an untimely notice of appeal fails to vest jurisdiction in the appellate courts). For clarity, we only have jurisdiction to consider the following orders issued in the underlying action: (1) the May 1, 2024, order adjudicating parentage, entering a permanent custody order, and awarding child support and (2) the July 10, 2024, order denying appellants' motion to alter or amend the May 1, 2024, and June 27, 2024, orders.

However, appellants present no argument regarding the July 10, 2024, order and thus we conclude they have forfeited any challenge to that order. *See Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (Ct. App. 2015) (providing that arguments not raised on appeal are deemed forfeited). Accordingly, we focus on the May 1, 2024, order.

parents because the statute was amended after the 2017 remand order. Instead, appellants argue that because Rasmussen filed her complaint for custody in 2012, the 2012 version of NRS Chapter 126 applies. We disagree. The supreme court previously held when evaluating a paternity action under NRS Chapter 126, appellate courts "review the district court's determinations under the law that was in effect *at the time of its determination*[ ]." *St. Mary v. Damon*, 129 Nev. 647, 649 n.1, 309 P.3d 1027, 1029 n.1 (2013) (emphasis added). Accordingly, we utilize the version of NRS Chapter 126 in effect at the time the district court issued its determination resolving the remand order.[5]

In custody matters, we owe deference to a district court's factual findings, and these findings will not be set aside "unless they are clearly erroneous or not supported by substantial evidence." *Rosie M. v. Ignacio A.*, 138 Nev. 539, 541, 512 P.3d 758, 761 (2022). However, we review questions of law, including those concerning statutory interpretation, de novo. *Waldman v. Maini*, 124 Nev. 1121, 1136, 195 P.3d 850, 860 (2008). Parentage in Nevada is governed by NRS Chapter 126. *Rosie M.*, 138 Nev. at 542, 512 P.3d at 761.

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[5]We recognize that appellants claim the significant delay between the 2017 remand order and the 2023 evidentiary hearing violated their due process rights. The delay in this proceeding was unfortunate as it prolonged the uncertainty in L.H.'s life. However, a review of the record reveals that appellants' own actions were the primary cause of the delay. This included not only Hammer's abduction of L.H., which caused a lengthy delay due to the ongoing criminal proceedings, but also included the filing of numerous motions challenging the district court's impartiality or jurisdiction, which resulted in the evidentiary hearing being repeatedly delayed or rescheduled. And although appellants are not solely to blame for the delay, they have not cogently argued how the delay rose to the level of a due process violation under the circumstances presented here.

We begin and end our analysis with NRS 126.021(3).[6] NRS 126.021(3) defines parent and child relationships for purposes of NRS Chapter 126, and in 2021 it was amended to state, "this subsection does not preclude a determination by a court that a child has such a legal relationship with more than two persons." And the purpose behind this amendment was to authorize courts to recognize that a child can have more than two legal parents. *See* 2021 Nev. Stat., ch. 512, at 3403 (titling the bill as an act "authorizing a court to determine that more than two people have a parent and child relationship with a child"). Accordingly, we conclude the district court did not commit legal error by finding L.H. had three legal parents and ordering her birth certificate to be amended to identify Rasmussen, Hammer, and Milan as her parents.

Appellants rely heavily on *Rosie M.* to support their contention that Milan's biological connection to L.H. overcomes Rasmussen's parentage claim. However, we do not find *Rosie M.* controlling in this matter because the supreme court expressly noted it was *not* addressing the 2021 amended version of NRS 126.021(3) in that case since the statute became effective

[6]Appellants argue NRS 126.021(3) is unconstitutional and thus cannot be relied upon to resolve this dispute. However, appellants did not comply with NRAP 44, which states that if a party challenges the constitutionality of a statute and the state is not a party in the proceeding, the challenging party must give written notice to the clerk of the supreme court "immediately upon the filing of the docketing statement" so that the clerk can certify the challenge to the Attorney General. Although appellants' docketing statement indicated they intended to challenge the constitutionality of the statute, they failed to provide the required written notice under NRAP 44. And the failure to comply with NRAP 44 "is an independent basis upon which to summarily reject [appellants'] constitutional arguments." *In re Candelaria*, 126 Nev. 408, 415, 245 P.3d 518, 522 (2010). Accordingly, we summarily reject appellants' constitutional challenge to NRS 126.021(3).

after the district court rendered its decision. 138 Nev. at 542 n.3, 512 P.3d at 761 n.3; *see also St. Mary*, 129 Nev. at 649 n.1, 309 P.3d at 1029 n.1 (applying the version of NRS Chapter 126 in effect at the time the district court rendered its decision).[7] And although appellants are correct that Milan's biological connection to L.H. creates a conclusive presumption of parentage, this does not mandate the dismissal of Rasmussen's parentage claim in light of NRS 126.021(3). Accordingly, we affirm the district court's findings that Rasmussen has a parent-child relationship with L.H. and decision to recognize her as L.H.'s parent.

We turn now to appellants' challenge to the district court's child support order.[8] We review child support orders for abuse of discretion. *Backman v. Gelbman*, 141 Nev., Adv. Op. 8, 565 P.3d 330, 333 (Ct. App. 2025). While this court gives deference to the district court's factual

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[7]We likewise reject appellants' argument that the district court was required to treat this as an adoption petition pursuant to NRS Chapter 127 because appellants admit Rasmussen and Milan presented competing *parentage* claims and parentage is resolved through the application of NRS Chapter 126. *See Rosie M.*, 138 Nev. at 542, 512 P.3d at 761 (holding paternity disputes are resolved through the application of NRS Chapter 126). Notably, Rasmussen initiated this proceeding through the filing of a complaint for custody and asserted that under NRS Chapter 126 she was L.H.'s parent. Similarly, Milan filed a complaint for custody which asserted he was L.H.'s parent and thus entitled to custodial rights. Thus, no party sought to adopt L.H. and, instead, each asserted that they were L.H.'s parent and entitled to custody. Under the facts presented here, NRS 126.021(3) properly resolves the legal issue before us.

[8]Appellants do not challenge the portion of the order which adjudicated custody of L.H. and provided the basis for the district court to impose a child support obligation on Milan. Instead, appellants challenge the calculation of Milan's support obligation. Accordingly, this court does not address the custody determination and instead turns to the calculation of child support.

findings, we do not owe deference to any legal error. *Id.* at 334. And in Nevada the calculation of a child support obligations is determined by NAC 425.140.

On appeal, appellants present numerous arguments challenging the child support order. Specifically, appellants argue the district court violated NRS 125B.140 by retroactively modifying Milan's child support obligation because the parties previously stipulated that Milan would not pay child support. Further, appellants contend that the court cannot require both Hammer and Milan to pay child support. In particular, appellants observe that in 2018, the court modified Hammer's child support obligation and required her to pay $500 per month. And in 2024, the court ordered Milan to pay $667 per month in child support and awarded Rasmussen arrearages dating back to 2020. Accordingly, appellants argue Rasmussen received duplicative child support in excess of NAC 425.140's statutory maximum. In response, Rasmussen maintains the court properly awarded arrearages as she filed the motion to modify support in 2019, and it was deferred until the court addressed parentage. Rasmussen also contends that Milan is obligated to pay child support because Rasmussen was awarded sole physical custody and Milan had never paid Rasmussen any support for L.H.

We affirm the district court's finding that Milan was required to pay four years of arrearages to Rasmussen. Contrary to appellants' argument, the court did not improperly retroactively modify Milan's child support obligation. Although appellants are correct that a court cannot retroactively increase a child support obligation, a court does not retroactively modify an obligation by using the date the motion to modify was filed as the modification's effective date. *See Ramacciotti v.*

Ramacciotti, 106 Nev. 529, 532, 795 P.2d 988, 990 (1990) (holding Nevada law permits a district court to increase a child support obligation as of the date a motion to modify the decree is filed); *see also Hargrove v. Ward*, 138 Nev. 116, 120-21, 506 P.3d 329, 332-33 (2022) (holding a court may award child support even after the subject child attains the age of majority). Thus, the district court in this matter was permitted to modify Milan's support obligation and set the effective date as the date Rasmussen filed the motion to modify child support at issue. Accordingly, we affirm the court's decision to modify the decree to the date Rasmussen filed her motion to modify support.

As to the calculation of Milan's support obligation, child support in Nevada is governed by NAC Chapter 425 and courts are required to utilize NAC 425.140 to determine the obligor parent's baseline child support obligation. *See Matkulak v. Davis*, 138 Nev. 647, 647, 516 P.3d 667, 669 (2022) (holding NAC 425.140 provides the framework for calculating an obligor's base child support obligation). Indeed, it is presumed that the statutory obligation provided for in NAC 425.140 is sufficient to meet the child's basic needs. NAC 425.100(2). And Nevada law requires that a child's legal parent provide support for the child, even if the child has more than two legal parents. *See* NRS 125B.020 (stating a parent has a "duty to provide the child necessary maintenance, health care, education and support"); Hearing on A.B. 115 Before the Assembly Committee on Judiciary, 81st Leg., at 14 (Nev., Feb. 26, 2021) (Catherine Sakimura, Family Law Director, National Center for Lesbian Rights) (noting that one of the benefits of amending NRS 126.020(3) was there were additional people "available to support that child"). Where the court has awarded a

parent primary physical custody, that parent is entitled to recover support from the non-custodial parent(s). NRS 125B.030.

Here, Hammer was previously required to pay $500 per month, and following the evidentiary hearing, Milan was required to pay $667 per month which appears to result in Mary receiving approximately double the statutory child support amount to which she would be entitled. And although the district court correctly began its analysis with NAC 425.140, it abused its discretion by not considering Hammer's ongoing child support obligation as a factor in determining Milan's obligation. Notably, the court did not make any findings to show it considered Hammer's support obligation in determining the proper support to be paid by Milan, nor did it attempt to apply Nevada's support guidelines in determining Milan's share of child support. Because the district court failed to undertake these considerations, we vacate the portion of the order setting Milan's obligation at $667 as well as the award of arrearages and remand this matter to the district court for further proceedings consistent with this order.[9]

Accordingly, we

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

[9]We have carefully considered appellants' numerous arguments regarding the challenged orders as well as their procedural and evidentiary challenges to the evidentiary hearing and have determined appellants did not raise any additional arguments meriting relief.

cc: Chief Judge, Eighth Judicial District Court
Department N
Gonzalo I. Galindo Milan
Julie Lachell Hammer
Jones & LoBello
Eighth District Court Clerk