FILED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KRISTEN ORTEGA, N/K/A KRISTEN MEDINA, Appellant, vs. AARON ORTEGA, Respondent.	No. 91803-COA

ORDER OF AFFIRMANCE

Kristen Ortega, n/k/a Kristen Medina, appeals from a district court post-decree order modifying child custody. Eighth Judicial District Court, Family Division, Clark County; Hon. Nadin Cutter, Judge.[1]

Medina and respondent Aaron Ortega were married and have one minor child together, who was born in May 2016. The parties divorced in August 2023, and the decree of divorce was the result of a stipulation that was on the record between the parties. The decree provided Medina with primary physical custody of the child subject to Ortega's supervised parenting time every other weekend and every Wednesday, which was to continue for an "indefinite time, and that is not intended to be forever." The decree also set forth that the parties would share joint legal custody, with

[1]The Honorable Nadin Cutter, Judge, presided over the evidentiary hearing in this matter and issued oral findings. The Honorable Cheryl B. Moss, Senior Judge, subsequently entered the written order challenged in this appeal.

Medina to have sole signatory rights during the supervised parenting time period. The decree also noted that the parties must attend mediation before seeking to increase Ortega's parenting time. The decree further referenced mental health and addiction issues as well as the involvement of reunification specialists and explained that, should Ortega file for modification, he should demonstrate proof of "sobriety, mental wellbeing, and the absence of problems."

In December 2024, Ortega filed a motion to enforce the decree and modify custody, claiming that Medina was preventing him from expanding his parenting time. Medina filed an opposition, arguing that expanding Ortega's parenting time would exacerbate the child's ongoing mental health challenges. In January 2025, the district court held a hearing on the motion and ordered Ortega to have supervised parenting time every other Sunday and every other Wednesday during the weeks Ortega did not have Sunday parenting time, and the court referred the parties to mediation and set a return hearing. The parties did not reach an agreement during mediation. Medina then sought the suspension of Ortega's parenting time, arguing that forcing the child to have time with Ortega was not in the child's best interest, and she argued that the child made suicidal statements, was anxious, and in distress because of parenting time with Ortega. Medina also filed a motion for sole legal and physical custody.

After continued proceedings and the issuance of temporary orders, the district court held a multi-day evidentiary hearing on child custody modification in August and October 2025. Ortega sought increased parenting time with the minor child and for it to be unsupervised. However,

Medina argued that Ortega should not have *any* parenting time with the child, as she contended the child was in distress due to parenting time with Ortega.

Subsequently, the district court entered an order modifying Ortega's parenting time. The court found that as of the final day of the evidentiary hearing, Ortega had not seen the child since May 2025 because Medina did not abide by the supervised parenting time provision and had withdrawn the child from the school she had been attending to homeschool her. The court noted that Ortega had completed certain parenting classes and therapy and was clean of drugs and alcohol as evidenced by tests, and that Ortega was credible in his testimony. The court found reports from Family First (a supervised parenting time center) revealed that during the supervised parenting time Ortega did have in March 2025, the child engaged with Ortega, showed affection, expressed excitement about spending time with him, and did not display anxiety or fear. The court noted that one of the mental health experts in the matter, reunification specialist Dr. Kathleen Bergquist, recommended that the next step was for Ortega to have increased parenting time with a target to move toward unsupervised parenting time.

Based on these findings, as well as a detailed analysis of the best interest factors, the district court ultimately ordered that Ortega have unsupervised parenting time with the minor child on the first, third, and fifth Friday of each month, starting at 3:00 p.m. and ending on Sunday at 7:00 p.m., along with a two-hour parenting-time window on Tuesdays

during the second and fourth weeks of each month.[2] However, the court ordered that Ortega have four supervised parenting time visits before his unsupervised parenting time began. The court noted that Ortega had supervised parenting time on November 2, 2025, and ordered that the remaining three supervised parenting time visits occur on November 9, 2025, November 16, 2025, and November 23, 2025. This appeal followed.

On appeal, Medina challenges the district court's decision to expand Ortega's parenting time. This court reviews a custody determination for an abuse of discretion. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). "An abuse of discretion occurs when a district court's decision is not supported by substantial evidence or is clearly erroneous." *Bautista v. Picone*, 134 Nev. 334, 336, 419 P.3d 157, 159 (2018). A district court's factual findings will be upheld so long as "they are supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment." *Ellis*, 123 Nev. at 149, 161 P.3d at 242. When making a custody determination, the sole consideration is the best interest of the child. NRS 125C.0035(1). 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).

[2]While the district court did not expressly state whether there had been a substantial change of circumstances affecting the welfare of the child since entry of the decree, the foregoing findings reflect a determination that such a change had occurred.

To establish that a custodial modification is appropriate, the moving party must show 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, 535 P.3d 1167, 1171 (2023).

Initially, to the extent Medina challenges the modification of Ortega's parenting time by arguing that the district court improperly expanded Ortega's parenting time when Ortega failed to demonstrate that the underlying concerns from the divorce decree were resolved, we are unpersuaded by her argument in light of the court's findings, which are supported by the record. Here, the district court noted that since the entry of the decree, Ortega had submitted to tests which demonstrated he was clean of drugs and alcohol, had undergone therapy, completed a high conflict parenting class, and completed recommendations by Dr. Berquist. As these findings are supported by substantial evidence, relief is unwarranted on this basis.

Medina also argues that the modification was not in the minor child's best interest and that the district court discounted or minimized evidence regarding the minor child's mental health. Conversely, Ortega argues that the district court properly exercised its discretion in expanding his parenting time.

The district court made express, detailed factor-by-factor findings under NRS 125C.0035(4) and tied its determinations to specific

testimony and exhibits. Several factors were found neutral or inapplicable and thoroughly explained. The court found that factors (a), (c), (d), (e), and (g) favored Ortega, while factor (k) slightly favored Medina. On factor (a), the wishes of the child, the court found that reports from the supervised parenting time center stated that the minor child engaged happily with Ortega and expressed excitement about spending time with him. The court found that these reports were the only insights from the minor child which were not presented by or through Medina. The court also noted its concerns that Medina could be coaching the minor child. With respect to factor (c)—which parent is more likely to allow frequent associations with the noncustodial parent—the court found that Medina wanted to parent in isolation and refused to abide by temporary orders of the court for Ortega's parenting time and stopped Ortega's supervised parenting time in violation of the court's orders. Next, under factor (d), the district court found that there was high conflict between the parties due to Medina's actions.

The district court further found Medina was not cooperating with Ortega to meet the needs of the minor child. *See* NRS 125C.0035(4)(e). With respect to the parents' ability to meet the physical, developmental and emotional needs of the child factor—NRS 125C.0035(4)(g)—the court determined that it was critical for the minor child to be supported by both parents, while Medina was preventing Ortega from providing any emotional development and physical support and was instead meeting most of the child's needs in isolation since May 2025.

With respect to factor (j), any history of parental abuse or neglect, the district court acknowledged Medina's testimony as to various

concerns with Ortega, including an April 2022 incident in which Ortega accidentally discharged a firearm and the testimony that the bullet was not found near the minor child or Medina but in a different part of the house, that Ortega was not arrested or cited for the incident, and that Ortega testified that it was an accident. The court found that this isolated incident did not impact the case in 2025, nor should it justify denying Ortega the ability to exercise parenting time with the minor child. The court also considered Ortega's testimony that he was not a part of Medina's decision to homeschool the minor child, which he alleged rose to the level of educational neglect. The court ultimately found that this factor favored both parents under different scenarios and did not favor one parent over the other. As to factor (k), concerning domestic violence, the court noted its findings concerning the April 2022 incident and acknowledged, among other things, Medina's testimony that Ortega was controlling and abusive during their marriage. Thus, the district court found that this factor slightly favored Medina.

After considering all of the best interest factors, the district court found it appropriate to grant Ortega unsupervised parenting time, after he completed four additional supervised parenting time visits. We conclude that the district court's findings as to the above factors are supported by substantial evidence in the record, particularly the testimony presented at the evidentiary hearing. *See Ellis,* 123 Nev. at 149, 161 P.3d at 242.

Although Medina challenges the district court's findings as to factor (c) and argues that she has facilitated and paid for supervised

parenting time and would share information with Ortega, the record supports the court's findings as to this factor given Medina's repeated and consistent failure to comply with the court's directive as to Ortega's supervised parenting time. Insofar as Medina also disputes the court's findings as to factors (j) and (k) and appears to suggest that the court treated her protective conduct as neglect comparable to Ortega's allegedly abusive conduct and that these findings created an unsupported equivalency between the parties, we are not persuaded by these assertions. The court acknowledged her testimony regarding her concerns about Ortega when analyzing factors (j) and (k). To the extent Medina challenges the court's analysis of these factors to suggest that the court should have weighed them differently, Nevada "does not mandate that any factors be given controlling weight, which allows the district court discretion in determining how much weight to assign to the factors based on the facts and circumstances of the case." *Roberts v. Andrino*, No. 89438, 2025 WL 3119014, at *2 (Nev. Nov. 4, 2025) (Order of Affirmance). Moreover, as explained above, there were numerous other best interest factors that favored Ortega, notwithstanding the district court's analysis of these two factors.

Insofar as Medina argues that the district court abused its discretion by rejecting her medical evidence that Ortega's contact with the minor child was harming the child and by relying instead on lay observations of the minor child, we are likewise not persuaded by this argument. The court specifically indicated that it reviewed all the documents and medical records submitted, and while the medical records

Medina provided stated that the minor child was uncomfortable when thinking about seeing Ortega, the court found that these reports did not come from the child directly but were filtered through professionals who had only interacted with Medina. The district court also considered reports of the minor child's positive interactions with Ortega during supervised parenting time as reflective that the minor child enjoyed seeing Ortega and wished to see him.

Thus, the district court properly considered the evidence presented and ultimately found it appropriate to expand Ortega's parenting time to unsupervised parenting time based on its best interest analysis. Although Medina is dissatisfied with how the court weighed the evidence in determining the child's best interest, including by finding that she may be coaching the child, this court does not reweigh the evidence or witness credibility determinations on appeal. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009); *Roggen v. Roggen*, 96 Nev. 687, 689, 615 P.2d 250, 251 (1980) (noting that it "is not the duty of a reviewing court to instruct the trier of facts as to which witnesses, and what portions of their testimony, are to be believed"). Nor will we question a district court's resolution of a factual issue where conflicting evidence was presented. *Morrison v. Rayen Inv., Inc.,* 97 Nev. 58, 61, 624 P.2d 11, 13 (1981) (noting that it is the purview of the trier of fact to resolve conflicts in testimony). Ultimately, the findings set forth in the custody order are express, tied to specific evidence, internally consistent, and each is supported by substantial evidence. *See Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) ("It is presumed that a trial court has

properly exercised its discretion in determining a child's best interest."). Therefore, Medina has failed to establish a basis for relief on these grounds.

Next, in challenging the district court's decision to expand Ortega's parenting time, Medina argues that the court violated S.B. 275, which is now codified at NRS 125C.243 and NRS 125C.245. Ortega argues that the district court correctly concluded that S.B. 275 was not applicable to the facts of this case, but even if it was, the district court's findings satisfied its requirements.

S.B. 275, as enacted, provides in relevant part that a district court order for therapy during a child custody proceeding shall not "remove the child from a parent . . . or restrict contact between the child and a parent" when those actions are taken "for the sole purpose of improving a deficient relationship between a child and the other parent of the child." 2025 Nev. Stat., ch. 414, § 5, at 2657-58; *see also* NRS 125C.243. In addition, SB 275, as enacted, provides that "[t]he court shall, in making any finding relating to an allegation of domestic violence or child abuse, consider all relevant and admissible evidence of past domestic violence or child abuse committed by the parent who is the subject of the allegation." 2025 Nev. Stat., ch. 414, § 6, at 2658; NRS 125C.245.

Here, Medina's argument does not establish a basis for relief, as the reunification therapy in this action arose from the parties' 2023 stipulated decree of divorce, and the order on appeal does not include any additional reunification therapy. Moreover, the district court's order here did not remove the child from Medina's care, but rather, increased Ortega's parenting time from supervised to unsupervised parenting time pursuant

to the court's best interest analysis. And insofar as Medina argues the court was required to address the conduct of the parent whose contact is resisted and to consider relevant evidence of past domestic violence, the court considered this evidence and as noted above, nevertheless found it appropriate to award Ortega increased parenting time pursuant to its best interest analysis. In light of the foregoing, we conclude Medina fails to demonstrate the district court abused its discretion in modifying Ortega's parenting time.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[3]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

cc: Hon. Nadin Cutter, District Judge, Family Division
Kristen Medina

[3]We note that Medina filed a motion to strike or disregard portions of Ortega's answering brief and for sanctions, which Ortega opposed. We deny this motion in its entirety. Insofar as Medina has raised other arguments on appeal that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

TMR Law Group, PC
Eighth District Court Clerk