FILED
11/18/2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

IN THE MATTER OF THE PETITION BY: JOHNNIE C. CAMPBELL JOHNNIE C. CAMPBELL, Appellant, vs. TRINA RENEE OFFUTT-OSBORNE, Respondent.	No. 91047-COA

ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

Johnnie C. Campbell appeals from a district court order denying a motion for contempt and modification of custody and an order modifying electronic parenting time. Eighth Judicial District Court, Clark County; Hon. Heidi Almase, Judge.

Johnnie and respondent Trina Renee Offutt-Osborne were never married and have one minor child together, T.O., who was born in 2009. Trina has been T.O.'s sole caregiver since his birth. T.O. resides with Trina in Las Vegas while Johnnie lives in Iowa. When T.O. was nine years old, Johnnie filed a complaint to obtain joint legal and physical custody of T.O. and establish a shared out-of-state custody arrangement. In 2019, the district court entered a custody decree in which the parties stipulated that Trina would have sole legal and physical custody of T.O. while Johnnie and T.O. participated in reunification therapy to build their relationship.

After multiple failed attempts to complete reunification therapy and extensive litigation between the parties, Johnnie requested a hearing to address reunification. In May 2023, the district court found that "the

reunification therapy order caused substantial issues for the parties" because Trina and Johnnie "resid[ed] in separate states and need[ed] insurance coverage for the therapy." The court deferred reunification therapy and ordered that Johnnie have electronic parenting time with T.O., with Johnnie initiating phone calls to T.O. and Trina ensuring T.O.'s availability for those calls.

The following month, Johnnie filed a motion to modify custody using a Family Law Self-Help Center form. He argued that modification was warranted because, as relevant here, Trina did not allow T.O. to speak with him privately and would interrupt and end his conversations with T.O. Trina opposed his motion and requested to maintain the current custody arrangement. In her opposition, Trina admitted that she did not let T.O. use the phone Johnnie provided to him and indicated that she listened to Johnnie's conversations with T.O. but denied interrupting them. In September 2023, the district court denied Johnnie's motion and entered an order requiring Johnnie to call T.O. at 5:00 p.m. every Monday and Wednesday and requiring Trina to ensure T.O. was available for Johnnie's calls. The district court also found that Trina did not establish that she had "fully cooperated" with the electronic parenting time order, as she admittedly did not give T.O. privacy during his parenting time with Johnnie and "conceded she does not allow the child access to Johnnie."

In May 2024, Johnnie used a Family Law Self-Help Center form to file a motion for an order to show cause regarding contempt (the "contempt motion"). The form Johnnie used only contained points and authorities regarding contempt and enforcement under NRS Chapter 22; it did not contain any points and authorities related to custodial modification. In the facts and argument section of the form, Johnnie asserted that Trina did "not obey the

custody/visitation schedule" and he sought the following relief: "Custody to be handed over to non[-]custodial parent. Full custody, sole custody and physical custody."

In his form declaration in support of that motion, Johnnie identified the September 2023 order as the order being violated and listed the relevant pages and line numbers of the order that he contended were being violated. Johnnie alleged that Trina was not ensuring T.O. was available for his calls and that Trina had taken the phone he provided T.O. Johnnie further alleged that Trina had interfered with his calls to T.O. by taking the phone and preventing T.O. from using it. Johnnie explained that this conduct caused his electronic parenting time to stop completely, and that it had been months since he last talked with T.O.

Trina filed her opposition to the motion that same day. Trina argued that she should not be held in contempt because Johnnie had only called seven times since the court entered the September 2023 electronic parenting time order. Four days later, Johnnie filed exhibits in support of his motion that included his phone call logs, video call history, and the unreturned text messages he sent to T.O. and Trina. Although the district court initially set Johnnie's contempt motion for a hearing, that hearing was ultimately vacated.

In August 2024, the district court denied Johnnie's motion without holding a hearing. The court found that Johnnie "failed to meet his burden to establish on a prima facie basis" that Trina violated the September order by failing to ensure T.O. was available for electronic parenting time or by interfering with T.O.'s use of the phone. The court further found that "Johnnie did not identify the telephone number of the cell phone he provided for the child and did not demonstrate his compliance by calling that telephone number only

to communicate with the child as ordered each Monday and Wednesday at 5:00 PM." In addition to denying Johnnie's contempt motion, the district court treated Johnnie's request to modify custody as an independent motion, denying it separately because he failed to support it with a memorandum of points and authorities pursuant to EDCR 5.503(a).

Johnnie then filed two, nearly identical NRCP 60(b) motions to set aside the district court's order denying his contempt motion and his related request to modify custody. He argued that the court should set the order aside because he was not served with Trina's opposition to his contempt motion and the court did not review the exhibits he filed. The district court held a hearing on Johnnie's motions in December 2024. After briefly addressing Johnnie's set-aside motions, the court discussed how Johnnie might reestablish a relationship with T.O., recognizing that T.O. was, at the time, almost 16 years old and had not communicated with Johnnie in over a year.

During that discussion, the district court acknowledged that the current order required Johnnie to initiate communication with T.O. and suggested "having [T.O.] call or maybe even start with a text to his dad on Mondays." Both Johnnie and Trina agreed to have T.O. initiate communication with Johnnie, and neither party objected to communication occurring through text messages. Johnnie requested, and the court agreed, to have T.O. send him text messages on both Mondays and Wednesdays. In June 2025, the court entered a written order reflecting Johnnie's proposed parenting time arrangement and ordered: "[T.O.] shall TEXT [Johnnie] via the minor child's mobile device OR [Trina's] mobile device . . . on MONDAYS, and WEDNESDAYS at 6:00 PM." The court implicitly denied Johnnie's motions to set aside, stating that "all prior orders STAND." Johnnie appeals.

On appeal, Johnnie first argues that the district court abused its discretion when it found that he failed to demonstrate a prima facie case of contempt and denied his motion and requested relief—modification of custody—without holding a hearing.

This court "normally review[s] an order of contempt for abuse of discretion." *Lewis v. Lewis*, 132 Nev. 453, 456, 373 P.3d 878, 880 (2016). We likewise review a district court order concerning child custody for abuse of discretion, *Roe v. Roe*, 139 Nev. 163, 169, 535 P.3d 274, 284 (Ct. App. 2023), including orders denying modification of custody without an evidentiary hearing, *Myers v. Haskins*, 138 Nev. 553, 556, 513 P.3d 527, 531 (Ct. App. 2022). A district court abuses its discretion when its decision is clearly erroneous, *Bautista v. Picone*, 134 Nev. 334, 336, 419 P.3d 157, 159 (2018), or is not supported by substantial evidence, *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). "[D]eference is not owed to legal error, or to findings so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (internal citations omitted).

Contempt orders are not independently appealable. *Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000). However, this court has jurisdiction to review a contempt order that is "included in an order that is otherwise independently appealable." *Vaile v. Vaile*, 133 Nev. 213, 217, 396 P.3d 791, 794-95 (2017). In this case, Johnnie filed a contempt motion that sought an inappropriate remedy for relief—modification of custody. *See Sims v. Sims*, 109 Nev. 1146, 1149, 865 P.2d 328, 330 (1993) ("[A] court may not use changes of custody as a sword to punish parental misconduct . . . ."). Although Johnnie's contempt motion improperly sought custodial modification as a sanction for Trina's contempt, the district court treated that request as a stand-alone motion to modify

custody and then denied it in the same order that it denied Johnnie's contempt motion. And because a party may appeal from the denial of a motion to modify custody, *see* NRAP 3A(b)(7), we have jurisdiction to consider Johnnie's appeal of the district court's order denying his contempt motion because it was contained in an order denying modification of custody.

Here, the district court denied Johnnie's request to modify custody because he failed to provide any points and authorities in support of custodial modification as required by EDCR 5.503(a). In challenging that decision, Johnnie contends that the district court abused its discretion because his contempt motion alleged sufficient facts to imply that the best interest factors and "the possibility of a substantial change in circumstances" were at issue. We disagree.

Despite misinterpreting Johnnie's request as a separate motion to modify custody, the district did not abuse its discretion when it denied Johnnie's request for full/sole custody of T.O. for failing to provide points and authorities in support of that custodial modification. A district court has broad discretion to deny a motion based on a party's failure to include a memorandum of points and authorities in support of their requested relief. EDCR 5.503(a) (providing that a failure to include points and authorities "*may* be construed as an admission that the filing is not meritorious, or as cause for its denial" (emphasis added)). And here, Johnnie's motion only provided legal authority for contempt and enforcement and lacked any points and authorities to support his request for full/sole custody of T.O. To the extent Johnnie asks this court to overlook his failure to comply with EDCR 5.503(a), he does not provide any authority demonstrating that the district court abused its discretion when it applied EDCR 5.503(a) to deny his request for modification. *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38

(2006) (providing that this court need not consider claims that lack the support of relevant authority). We therefore conclude that the district court did not abuse its discretion in denying Johnnie's request to modify custody under EDCR 5.503(a).

Johnnie next argues that the district court violated his due process rights when it failed to hold an evidentiary hearing before denying his request for full/sole custody of T.O. To the extent the district court construed Johnnie's request to modify custody as a separate motion, we conclude he failed to demonstrate adequate cause to be entitled to an evidentiary hearing and the court did not violate his due process rights by failing to hold one. A party seeking to modify custody is not automatically entitled to an evidentiary hearing and must first demonstrate adequate cause. *Myers*, 138 Nev. at 556, 513 P.3d at 531. Adequate cause can be established by demonstrating "(1) the facts alleged in the affidavits are relevant to the grounds for modification; and (2) the evidence is not merely cumulative or impeaching." *Rooney v. Rooney*, 109 Nev. 540, 543, 853 P.2d 123, 125 (1993). To establish grounds for modification, the movant 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, 3, 501 P.3d 980, 982 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 404-05, 535 P.3d 1167, 1171 (2023). NRS 125C.0035(4) provides a non-exhaustive list of factors a court must consider when evaluating the child's best interest.

Not only did Johnnie fail to provide points and authorities to support his request to modify custody, but he also failed to allege any facts demonstrating how awarding full/sole custody to Johnnie would be in T.O.'s best interest. Although Johnnie's contempt allegations, coupled with Trina's

prior conduct, could support an *inference* of changed circumstances, *see Martin v. Martin*, 120 Nev. 342, 345, 90 P.3d 981, 983 (2004) (explaining that a "custodial parent's substantial or pervasive interference may constitute changed circumstances"), inferences alone cannot establish grounds to modify custody, *Rooney*, 109 Nev. at 543, 853 P.2d at 125. Critically, Johnnie failed to provide *any* facts, allegations, or arguments demonstrating how awarding him full/sole custody of T.O. would be in T.O.'s best interest.

Ultimately, Johnnie failed to establish adequate cause for an evidentiary hearing on custodial modification under *Myers* and *Rooney* because he did not provide points and authorities in support of modifying custody and did not demonstrate any grounds for modification. *See Rooney*, 109 Nev. at 543, 853 P.2d at 125 (concluding that the appellant was not entitled to a hearing where her affidavits and points and authorities did not establish adequate cause). We therefore conclude that the district court did not abuse its discretion or violate Johnnie's due process rights to the extent that it denied Johnnie's request to modify custody without first holding an evidentiary hearing.

Although the district court did not abuse its discretion in denying Johnnie's request to modify custody, the court did abuse its discretion when it denied Johnnie's contempt motion on the basis that Johnnie failed to make a prima facie case of contempt. Disobeying "any lawful writ, order, rule or process issued by the court or judge at chambers" is contempt. NRS 22.010(3). If a contempt is committed outside the court's view, "an affidavit must be presented to the court or judge of the facts constituting the contempt." NRS 22.030(2). Under the Eighth Judicial District Court Rules, a party seeking an order to show cause for contempt must provide "a detailed affidavit complying with NRS 22.030(2)" and set forth "the specific provisions, pages and lines of

the existing order(s) alleged to have been violated, the acts or omissions constituting the alleged violation, any harm suffered or anticipated, and the need for a contempt ruling." EDCR 5.509(a).

Here, Johnnie used a Self-Help Center form which provided a declaration[1] template containing a blank section for each required element of EDCR 5.509(a). Johnnie filled out the entire declaration and noted how Trina was violating specific lines of the electronic parenting-time order, how her alleged violation harmed his relationship with his son, and why the court needed to hold Trina in contempt. This was sufficient to establish a prima facie case of contempt. *See Bohannon v. Eighth Jud. Dist. Ct.*, No. 69719, 2017 WL 1080066, at *2 (Nev. Mar. 21, 2017) (Order Granting Petition in Part) (holding that an affidavit established a prima facie case for contempt where it "indicated that [the real party in interest] had returned several positive drug tests, in violation of the November 14, 2013, district court order that she remain drug and alcohol free during a three-year period").

The district court denied Johnnie's motion based on two findings: his failure to demonstrate that he complied with the order and his failure to identify the telephone number of the cell phone he provided to T.O. These findings do not demonstrate that Johnnie failed to state a prima facie case of contempt. Neither EDCR 5.509(a) nor NRS 22.030(2) require that amount of specificity in an affidavit or require a party to establish that they have complied with the court order to demonstrate an alleged contempt. Because

[1]Johnnie submitted a form declaration signed under penalty of perjury rather than an affidavit in support of his motion. A party may submit an unsworn declaration signed under penalty of perjury in place of an affidavit. NRS 53.045. And the supreme court has held that a declaration can fulfill a statutory requirement to submit an affidavit. *Buckwalter v. Eighth Jud. Dist. Ct.*, 126 Nev. 200, 202, 234 P.3d 920, 922 (2010).

Johnnie's declaration complied with NRS 22.030(2) and EDCR 5.509(a), it cannot be said that he failed to demonstrate a prima facie case of contempt.

Nevertheless, Johnnie fails to establish that the district court was required to hold a hearing on his contempt motion simply because he stated a prima facie case of contempt. Johnnie relies on *Myers* and *Rooney* to support his argument that such a hearing was required. To the extent Johnnie argues that these cases should be extended to require an evidentiary hearing on a contempt motion, the Nevada appellate courts have never applied *Myers* or *Rooney* in this manner and Johnnie cites no authority suggesting this court should extend those cases to apply in these circumstances. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38 (providing that this court need not consider claims that lack the support of relevant authority). As such, we reject any argument that *Myers* or *Rooney* would require a hearing on a motion for an order to show cause.

Further, whether a hearing is held on a contempt motion is entirely within the district court's discretion. *See* EDCR 5.509(c) ("Upon review of the motion and application, the court may . . . [d]eny the motion and vacate the hearing . . . ."). Even if the district court decides to hold a hearing, the court still retains discretion to decide whether to issue sanctions against the person accused of contempt. *See* EDCR 5.509(e) ("At the first hearing after issuance of an OSC, the accused contemnor may be held in contempt, or not . . . .").

Although we conclude that the district court abused its discretion in finding that Johnnie's declaration failed to demonstrate a prima facie case of contempt, we do not know whether the court would have exercised its discretion and held a hearing on Johnnie's motion had it not made that error. *See In re Guardianship of B.A.A.R.*, 136 Nev. 494, 500, 474 P.3d 838, 844 (Ct.

App. 2020) (reversing the denial of a request to make Special Immigrant Juvenile status findings because the district court applied the incorrect standard of proof and remanding for further proceedings given that it was "not clear that the district court would have reached the same conclusion ... had it applied the correct standard of proof."). We therefore reverse the district court's order to the extent it found Johnnie did not make a prima facie case of contempt and remand this matter for the district court to decide whether a hearing is warranted on Johnnie's contempt motion in light of this decision. 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.[2]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

---

[2]With respect to Johnnie's argument that the district court's June 2025 order lacked sufficient particularity under NRS 125C.010, we conclude that this argument does not provide Johnnie with a basis for relief. The order was not susceptible to different interpretations, *see* NRS 125C.010(2); NRS 125C.0045(5), the parties agreed to have T.O. initiate communication with Johnnie, and Johnnie requested to have T.O. send him text messages on both Mondays and Wednesdays, *see, e.g.*, *Pearson v. Pearson*, 110 Nev. 293, 297, 871 P.2d 343, 345 (1994) (explaining that "a party will not be heard to complain on appeal of error which he himself induced or provoked the court . . . to commit").

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

cc: Hon. Heidi Almase, District Judge
Kainen Law Group
Trina Renee Offutt-Osborne
Barbara E. Buckley, Notice Only
Kelly H. Dove, Notice Only
Elizabeth R. Mikesell, Notice Only
Paul C. Ray, Notice Only
Eighth District Court Clerk