

IN THE SUPREME COURT OF THE STATE OF NEVADA

WASEF T. HAJBEH,
Appellant,
vs.
ELBA SWEET,
Respondent.

No. 39089

FILED

FEB 11 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
SREIF DEPUTY CLERK

This is an appeal from a district court order that modified a child custody arrangement.

After two years of ongoing visitation and custody problems between appellant Wasef Hajbeh and respondent Elba Sweet, the district court accelerated its prior order that required a review of the joint physical custody arrangement when the child reached school age. The district court conducted a multi-day evidentiary hearing and determined that joint physical custody was no longer in the child's best interest and awarded primary physical custody to Elba.

Wasef appeals, arguing that the district court did not properly evaluate all relevant factors before awarding primary physical custody to Elba. Wasef also argues abuse of discretion and procedural incorrectness by the district court. We conclude that all of the claims lack merit.


Any order for joint physical custody may be modified by the court on its own motion, if it is shown that a modification is in the child's best interest.¹ "When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the

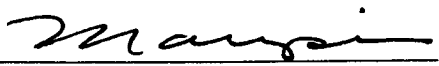
¹NRS 125.510(2).

child to have frequent associations and a continuing relationship with the noncustodial parent.”² This court will not disturb a district court’s child custody determination absent a clear abuse of discretion.³

The record reflects that the district court properly noticed the parties of its intent to conduct an evidentiary hearing to determine which party would have primary physical custody of the child. The multi-day evidentiary hearing consisted of testimony from Wasef and Elba and multiple other witnesses, including a court-appointed social worker. Based on the evidence presented at that hearing, the district court concluded that a modification in the child custody arrangement was in the child’s best interest. Moreover, the court found that Elba was more likely than Wasef to foster a relationship with the noncustodial parent. We conclude that the record supports the district court’s findings and that the district court did not abuse its discretion when it modified the child custody arrangement. Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁴


_____, J.
Rose


_____, J.
Maupin

²NRS 125.480(3).

³Hayes v. Gallacher, 115 Nev. 1, 4, 972 P.2d 1138, 1140 (1999).

⁴This matter was submitted for decision by a panel of this court comprised of Justices Rose, Leavitt, and Maupin. Justice Leavitt having died in office on January 9, 2004, this matter was decided by a two-justice panel.

cc: Hon. William O. Voy, District Judge, Family Court Division
George R. Carter
Fitzgibbons & Anderson
Clark County Clerk