

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACEY K. AMMONS,
Appellant,
vs.
GORDON A.J. SOUZA,
Respondent.

No. 39410

FILED

MAR 05 2003

ORDER OF AFFIRMANCE

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

This is a proper person appeal from a district court order denying a post-decree motion concerning child support, arrears, legal costs and sanctions.

The parties were divorced in 1998. They have one minor child. As part of the divorce decree, the parties were awarded joint legal custody. Appellant was awarded primary physical custody. Respondent was awarded liberal visitation. At the time of the divorce, the parties agreed that appellant and the child could relocate to Virginia. Appellant and the child have since moved to Georgia where they currently reside.

In November 2001, respondent was scheduled for Thanksgiving visitation with the child. He did not exercise visitation as scheduled. On December 3, 2001, appellant, proceeding in proper person, filed a motion in the Nevada district court to enforce visitation and child support. The matter was set for hearing on February 19, 2002. Appellant served respondent with a copy of the motion by mail on December 20, 2001. Respondent, who was also proceeding in proper person, did not promptly file an opposition.

On January 15, 2002, appellant filed a request for submission. Appellant contended that since respondent did not timely file an opposition, her December motion should be granted in its entirety. The district court did not rule on appellant's request for submission.¹

On January 28, 2002, respondent filed an opposition to appellant's December 2001 motion to enforce visitation and child support, and a countermotion to change child custody. Before the February 19 hearing, appellant moved the district court to dismiss respondent's opposition for failure to state a claim upon which relief can be granted. She also asked the district court to strike respondent's opposition and dismiss his countermotion as to change child custody on the basis that the court lacked jurisdiction because respondent failed to timely file the opposition. Appellant also sought sanctions against respondent.

During the February 19, 2002 hearing, respondent filed in open court a response to appellant's motion to dismiss and reply. Thereafter, appellant filed a motion to strike respondent's response.

On March 5, 2002, the district court entered an order that denied appellant all relief requested. In addition, the district court denied

¹Under Eighth District Court Rule 5.11(b), the district court must sign an unopposed order upon a request for submission, unless the district court determines, among other things, that the interests of justice or the child's best interest would not be served by granting the request. Here, the district court had discretion to refuse to grant appellant's submission request if it determined that doing so would not serve the child's best interest.

respondent's motion to change child custody. Appellant timely filed this appeal.

Matters of child support are within the discretion of the district court.² The district court also enjoys broad discretionary powers in determining child custody issues, including visitation, and this court will not disturb the district court's judgment absent a clear abuse of discretion.³ Further, a district court's findings of fact will not be set aside unless they are clearly erroneous and not based on substantial evidence.⁴

Here, the district court found that appellant was not entitled to reimbursement of the offset for transportation costs against the child support obligation, due to appellant's conduct concerning respondent's visitation rights. Thus, the court concluded that respondent did not owe child support and appellant's request for reimbursement of the child support offset was denied. Moreover, the court found that appellant was aware that the child was covered under respondent's medical insurance plan, and thus respondent did not owe arrears for medical insurance coverage. Finally, the district court denied appellant's motion for

²Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).


³Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993).


⁴See Gibellini v. Klindt, 110 Nev. 1201, 885 P.2d 540 (1994); see also Hermann Trust v. Varco-Pruden Buildings, 106 Nev. 564, 566, 796 P.2d 590, 591-92 (1990) ("Findings of fact of the district court will not be set aside unless clearly erroneous.").


sanctions and legal costs, as well as all other relief requested. The evidence in the record supports the district court's findings.

Having reviewed the record and appellant's contentions,⁵ we conclude that the district court's findings of fact are not clearly erroneous. Consequently, they will not be overturned on appeal. The district court did not abuse its discretion when it denied appellant's motion to enforce visitation and child support. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Rose


_____, J.
Maupin


_____, J.
Gibbons

cc: Hon. William O. Voy, District Judge, Family Court Division
Tracey K. Ammons
Gordon A.J. Souza
Clark County Clerk

⁵Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from appellant.