

IN THE SUPREME COURT OF THE STATE OF NEVADA

EMMANUEL WASHINGTON,  
Appellant,  
vs.  
LYNN R. WASHINGTON,  
Respondent.

No. 40503

FILED

FEB 05 2003

ORDER OF AFFIRMANCE

JANET T. S. BOON  
CLERK OF SUPREME COURT  
S. J. Richards  
CLERK

This is a proper person appeal from a district court order denying appellant's NRCP 60(b) motion to set aside the portion of the divorce decree concerning child custody and support.

Under NRCP 60(b)(2), the district court may relieve a party from a final judgment, for fraud, whether intrinsic or extrinsic. "Motions under NRCP 60(b) are within the sound discretion of the district court, and this court will not disturb the district court's decision absent an abuse of discretion."<sup>1</sup>

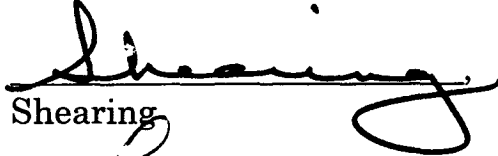
Having reviewed the record on appeal, we conclude that the district court did not abuse its discretion when it denied appellant's NRCP

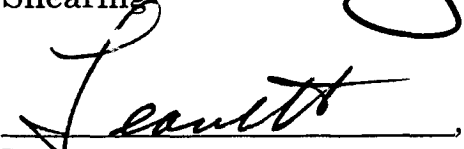
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<sup>1</sup>Carlson v. Carlson, 108 Nev. 358, 361, 832 P.2d 380, 382 (1992).

60(b) motion. There is no evidence that respondent fraudulently concealed the child's parentage from appellant.<sup>2</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

 J.  
Shearing

 J.  
Leavitt

 J.  
Becker

cc: Hon. T. Arthur Ritchie, District Judge, Family Court Division  
Paul M. Gaudet  
Emmanuel Washington  
Clark County Clerk

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<sup>2</sup>See Love v. Love, 114 Nev. 572, 959 P.2d 523 (1998) (concluding that res judicata does not preclude ex-husband from challenging paternity if he can show that ex-wife fraudulently concealed the child's parentage in the divorce proceeding); Libro v. Walls, 103 Nev. 540, 746 P.2d 632 (1987) (recognizing that ex-wife's failure to disclose circumstances of child's conception to ex-husband, that he might not be child's father, was extrinsic fraud). See also Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (stating that matters of child custody rest in the sound discretion of the district court and it is presumed that the district court properly exercised its discretion in determining a child's best interest).

<sup>3</sup>Although 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.