

IN THE SUPREME COURT OF THE STATE OF NEVADA

GEORGE O'CONNER BEARD,  
Appellant,  
vs.  
MICHELLE BEARD-QUIMBY,  
Respondent.

No. 40844

FILED

MAY 01 2003

ORDER OF AFFIRMANCE

JANET M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order granting respondent permission to relocate with the children to California.

The district court has broad discretionary power in determining questions of child custody, and this court will not disturb the district court's determination absent a clear abuse of discretion.<sup>1</sup> A parent, who is the minor children's primary physical custodian, can relocate with the children out of state with the written consent of the noncustodial parent.<sup>2</sup> Absent such consent, the custodial parent may petition the district court for permission to move the children.<sup>3</sup>

In reviewing such a petition, the district court must apply a two-step process.<sup>4</sup> The district court must first determine whether the

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<sup>1</sup>See Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

<sup>2</sup>NRS 125C.200.

<sup>3</sup>Id.

<sup>4</sup>Davis v. Davis, 114 Nev. 1461, 1466, 970 P.2d 1084, 1087 (1998).

custodial parent wishing to leave Nevada made a threshold showing of a sensible, good faith reason for the move.<sup>5</sup> If this threshold is met, the district court must next weigh the factors outlined in Schwartz v. Schwartz,<sup>6</sup> focusing on the availability of adequate, alternative visitation.<sup>7</sup> In considering whether adequate, alternative visitation is available, the district court may consider the potential frustration of the noncustodial parent's relationship with the children if relocation is allowed.<sup>8</sup>

Here, the record establishes that respondent first sought appellant's permission to relocate with the children to California. After appellant refused respondent's request, she petitioned the district court for permission to relocate. In her relocation petition, respondent specifically addressed each of the Schwartz factors. The district court, in

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<sup>5</sup>Id.

<sup>6</sup>107 Nev. 378, 383, 812 P.2d 1268, 1271 (1991) (providing that the district court must consider: (1) how likely the move will improve the moving parent and children's quality of life; (2) whether the moving parent's motives are honorable; (3) whether the custodial parent will comply with the court's visitation orders; (4) whether the noncustodial parent's motives for resisting the move are honorable; and (5) whether, if the move is approved, the noncustodial parent will have a realistic opportunity to exercise visitation such that the parent's relationship with the children will be adequately fostered).

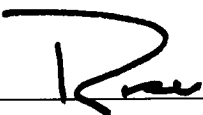
<sup>7</sup>Trent v. Trent, 111 Nev. 309, 315-16, 890 P.2d 1309, 1313 (1995) (emphasizing that the Schwartz factors must be considered in light of the availability of adequate, alternative visitation).


<sup>8</sup>Mason v. Mason, 115 Nev. 68, 70, 975 P.2d 340, 341 (1999).

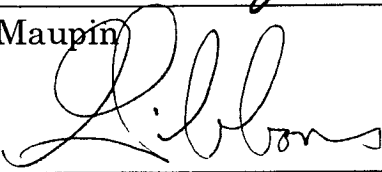
the December 2, 2001 order, expressly found that the threshold showing of good faith had been made, and that adequate, alternative visitation was available. Thus, we conclude that the district court did not abuse its discretion in granting respondent permission to relocate the children to California.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>9</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

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<sup>9</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.

cc: Hon. T. Arthur Ritchie, District Judge, Family Court Division  
George O'Conner Beard  
Michelle Beard-Quimby  
Clark County Clerk