IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TIMOTHY MICHAEL SHEETS,
Appellant,
vs.
SAMANTHA RIVER SHEETS,
Respondent.

No. 89934-COA

FILED
OCT 29 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Timothy Michael Sheets appeals from a district court order granting respondent Samantha River Sheets' motion for primary physical custody for the purpose of relocation. Eighth Judicial District Court, Clark County; Gregory G. Gordon, Judge.

The parties, who share the same last name but never married, are the parents of P.S., who was born in September 2022. Timothy and Samantha's relationship ended a year after P.S.'s birth but Samantha continued to live with P.S. in a house rented by Timothy. The parties briefly reconciled at the beginning of 2024, and they discussed moving out of Las Vegas, including possibly to Montana where Samantha had friends and family.

In May 2024, in the evening after returning from a trip to Montana, Timothy and Samantha had an altercation, which led to Samantha calling law enforcement. Subsequently, Timothy filed a complaint for custody, seeking joint legal custody and primary physical custody, alleging Samantha had "abducted" P.S. following a verbal altercation. Samantha then filed a counterpetition seeking primary physical custody for the purposes of relocation and alleged she did not

abduct P.S., but instead, Timothy had thrown them out of the family home. Samantha also sought permission to relocate with P.S. to Billings, Montana, because Samantha's extended family lived there, she would have free childcare, she received a more advantageous job offer in Billings, and Billings had cleaner air and water. Further, Samantha argued that P.S. would benefit from a more rural lifestyle, where she would be near parks, farms, and rivers. Timothy opposed relocation, arguing that relocation would harm his relationship with P.S. and that it would further harm P.S.'s relationship with her three half-siblings—Timothy's three children from his prior relationships, who at the time all lived in Las Vegas. Furthermore, Timothy argued Samantha was not seeking to relocate in good faith but instead was attempting to limit his relationship with P.S. and manipulate the court system into obtaining a better custody and child support award. Samantha filed a reply, which argued that Jodi, the mother of two of Timothy's children (D.S. and L.S.) had filed her own motion to relocate to North Dakota and thus it was unclear whether relocation would harm P.S.'s relationship with them in light of their potential relocation much closer to Billings. Samantha further denied her relocation request was pretextual.

The district court subsequently entered a temporary custody order, awarding Samantha primary physical custody. Because of Timothy's work schedule, which required him to work out of state, including in North Dakota, for two weeks per month, the court's order provided that when Timothy was in state, he would have P.S. two days for every one-day with Samantha. Timothy also had the right of first refusal to watch P.S. if Samantha had to work during her custodial day. However, Samantha would have P.S. full-time during the two weeks Timothy was working out of state.

The parties then proceeded to an evidentiary hearing to determine a permanent custody order and whether Samantha would be permitted to relocate with P.S. Numerous witnesses testified at the hearing, including both parties. Testimony included Timothy's potentially unpredictable work schedule and his availability to consistently parent P.S., Samantha's employment opportunities in Nevada and Billings, and allegations that Samantha's relocation was in bad faith, or alternatively, Timothy's opposition to relocation was in bad faith. Relevant here, the testimony supported that both parties loved P.S. Testimony also established that Timothy worked out of state in North Dakota for two weeks per month, and Samantha was offered the opportunity to work for a close friend in Billings where she would have the opportunity for additional training and career opportunities. Further, if Jodi relocated to North Dakota, the children would only be approximately a four-hour drive apart.

Following the evidentiary hearing, the district court entered a detailed written order granting Samantha primary physical custody and permission to relocate to Billings based on its analysis of the NRS 125C.007 factors for relocation, the NRS 125C.0035(4) best interest factors, and the *Schwartz*[1] relocation factors.[2] The court awarded Timothy one week of

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[1]*Schwartz v. Schwartz*, 107 Nev. 378, 382-83, 812 P.2d 1268, 1271 (1991).

[2]As the court correctly noted, NRS 125C.007 does not govern this petition to establish primary physical custody for the purpose of relocation because there was no prior order determining custody entered in this case. *See Druckman v. Ruscitti*, 130 Nev. 468, 472-73, 327 P.3d 511, 514 (2014) (holding that NRS 125C.200, the predecessor to NRS 125C.007, applies only to instances where there is a prior custody determination). Thus, while Timothy challenges the district court's findings concerning the NRS 125C.007 factors, this court will only address those findings to the extent

parenting time per month, which as a default, the court defined as beginning the first Friday of the month and continuing to the second Friday of the month. However, the district court further ordered "[t]he parties are free, by mutual agreement, to adjust any of the dates aforementioned depending upon the parents' work schedules[.]"

Timothy now appeals the district court's order arguing that substantial evidence does not support various findings and that the parenting time schedule does not ensure sufficient contact with P.S.

As this court previously recognized, "[r]elocation of children following the dissolution of the parents' relationship is one of the most difficult issues a court must resolve." *Monahan v. Hogan*, 138 Nev. 58, 58, 507 P.3d 588, 589 (Ct. App. 2022). Courts must consider a pending motion to relocate when making the initial permanent custody determination. *McGuinness v. McGuinness*, 114 Nev. 1431, 1435, 970 P.2d 1074, 1077 (1998). When resolving a motion to relocate and making an initial permanent custody determination, "the district court must base its decision on the child's best interest." *Druckman v. Ruscitti*, 130 Nev. 468, 473, 327 P.3d 511, 515 (2014). The district court enjoys "broad discretionary powers to determine child custody matters, and we will not disturb the district court's custody determinations absent a clear abuse of discretion." *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007). "An abuse of discretion occurs when a district court's decision is not supported by substantial evidence or is clearly erroneous." *Bautista v. Picone*, 134 Nev. 334, 336, 419 P.3d 157, 159 (2018).

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they are otherwise applicable to either the best interest factors or the *Schwartz* relocation factors.

When determining a motion to relocate and a petition to establish an initial permanent custody order, a court must consider "whether it is in the best interest of the child to live with parent A in a different state or parent B in Nevada." *Potter v. Potter*, 121 Nev. 613, 618, 119 P.3d 1246, 1250 (2005). "A court cannot adequately evaluate a child's best interest in the custody determination without considering the circumstances of the relocation request." *Druckman*, 130 Nev. at 474, 327 P.3d at 515. "The circumstances and well-being of the parents are inextricably entwined with the best interest of the child." *McGuinness*, 114 Nev. at 1433, 970 P.2d at 1076. Before addressing the merits of the motion to relocate, a court must determine whether the moving parent established a "sensible, good faith reason for the move." *Druckman*, 130 Nev. at 473, 327 P.3d at 515. Once the moving party has satisfied the initial hurdle, a court must incorporate the *Schwartz* relocation factors into its best-interest analysis. *See id.* at 474, 327 P.3d at 515 (holding a court must consider five additional factors when evaluating custody and relocation); *Ellis*, 123 Nev. at 149, 161 P.3d at 242.

On appeal, Timothy argues substantial evidence does not support the district court's conclusion that Samantha had a sensible, good faith reason for the move. Specifically, Timothy argues the court disregarded evidence suggesting Samantha's motives were pretextual or otherwise based "on exaggerated job offers" that were "strategically planned to distance herself" and P.S. from Timothy. We conclude that despite Timothy's assertions, substantial evidence supports the district court's findings.

Namely, Samantha testified that she wished to relocate to Billings to be near her immediate family, obtain free childcare and rent from

her mother, and pursue greater job opportunities by working at a close friend and mentor's (Dr. Kayla Erickson) animal hospital. Further, both Samantha and Dr. Erickson testified as to the legitimacy of the job, with Dr. Erickson confirming Samantha's job title, rate of pay, and potential schedule options.

Timothy essentially argues that his evidence of Samantha's improper motives was more persuasive and the court improperly ruled against him. However, this court does not reweigh evidence or reevaluate witness credibility on appeal. *See Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (refusing to reweigh the evidence on appeal); *see also Ellis*, 123 Nev. at 152, 161 P.3d at 244 (refusing to reweigh credibility determinations on appeal). Having reviewed the evidence presented and considering the district court's determination that Samantha provided credible testimony, we see no basis to conclude the district court abused its discretion in finding Samantha's desire to live near her family, obtain free childcare and lodging, and explore a greater business opportunity, represents a sensible, good faith basis for relocation. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242 (substantial evidence is "evidence that a reasonable person may accept as adequate to sustain a judgment").

Timothy next challenges the district court's application of the *Schwartz* relocation factors. When evaluating a motion to relocate and determine the parents' custodial rights, the court must incorporate the five *Schwartz* factors into its best-interest analysis:

> (1) the extent to which the move is likely to improve the quality of life for both the child[ ] and the custodial parent; (2) whether the custodial parent's motives are honorable, and not designed to frustrate or defeat visitation rights accorded to the noncustodial parent; (3)

> whether, if permission to remove is granted, the custodial parent will comply with any substitute visitation orders issued by the court; (4) whether the noncustodian's motives are honorable in resisting the motion for permission to remove . . . ; (5) whether, if removal is allowed, there will be a realistic opportunity for the noncustodial parent to maintain a visitation schedule that will adequately foster and preserve the parental relationship with the noncustodial parent.

Schwartz, 107 Nev. at 382-83, 812 P.2d at 1271. Timothy specifically challenges three of the factors.

First, Timothy challenges the district court's finding that substantial evidence supports that relocation would improve Samantha and P.S.'s quality of life. Timothy argues that because Samantha and P.S. enjoyed a good life in Las Vegas, and she was not suffering any financial issues, there would be no improvement in quality of life if they relocated. *See Flynn v. Flynn*, 120 Nev. 436, 443, 92 P.3d 1224, 1229 (2004) (affirming the denial of a motion to relocate because the child and relocating parent's "quality of life would remain essentially the same."). However, the district court concluded that Samantha credibly testified that both she and P.S. would have an improved quality of life because she could live with her mother rent-free, her mother would provide two days of free childcare, Dr. Erickson would provide greater job opportunities through mentorship, and Billings provided a better, more rural, way of life. *See Monahan*, 138 Nev. at 67- 68, 507 P.3d at 595-96 (collecting cases holding that a court can consider economic factors when evaluating a motion to relocate). Again, Timothy essentially requests this court reweigh the evidence and find his evidence more compelling than Samantha's. However, substantial evidence

supports the district court's findings in relation to this factor, and therefore we conclude that the district court did not abuse its discretion. *See Ellis*, 123 Nev. at 149, 161 P.3d at 241 (reviewing custody findings for abuse of discretion).

Second, with respect to the district court's finding that Samantha's motives for relocation were honorable, we conclude that substantial evidence supports the court's decision. We recognize that Timothy believes he presented sufficient evidence to demonstrate that Samantha and Dr. Erickson colluded together to increase Samantha's chances for relocation and that Samantha's true goal was to separate him from P.S. or obtain advantages through Montana's court system. However, as discussed above, Samantha presented her own evidence refuting the allegations and supporting her request for relocation. This court does not reweigh witness credibility nor will it substitute its judgment for that of the district court. *See Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009) (refusing to reweigh evidence and credibility determinations on appeal); *see also, e.g., Nunnery v. State*, 127 Nev. 749, 766, 263 P.3d 235, 247 (2011) ("The question thus is not whether members of this court or other jurists would have [reached the same conclusion], but whether the district court abused its discretion."). Accordingly, relief is unwarranted in this respect.

Third, Timothy argues that his willingness to relocate was always predicated on his children and their two families agreeing to be located in the same city as acknowledged by both Jodi's and Samantha's testimony. And therefore, his opposition to Samantha relocating to Montana was consistent with his good faith belief that any relocation should involve both families. While reasonable minds could have considered this

factor differently regarding his intent, we conclude that the district court's finding that overall the *Schwartz* relocation factors favored relocation, is supported by substantial evidence, and therefore, the district court did not abuse its discretion.

Having addressed the *Schwartz* relocation factors, we next address whether substantial evidence supports the district court's decision that relocation was in P.S.'s best interest. *See Nunnery*, 127 Nev. at 766, 263 P.3d at 247. On appeal, Timothy challenges whether substantial evidence supports the district court's determination that the following NRS 125C.0035(4) factors favored Samantha: (c) which parent is more likely to allow the child to have frequent associations with the noncustodial parent; (g) the parent better suited to support P.S.'s physical, developmental and emotional needs; and (h) the nature of the relationship of the child with each parent. In addition, Timothy argues the court erred by concluding that while NRS 125C.0035(4)(i) (the ability of the child to maintain a relationship with half-siblings) supported Timothy, its weight was mitigated by the uncertainty regarding Jodi's relocation.[3]

Having reviewed the record, we conclude that the district court did not abuse its discretion in making its findings with respect to the best interest factors. In doing so, we recognize that Timothy involved P.S. in various outdoor activities, and even though P.S. could not fully participate

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[3]Timothy asks this court to take judicial notice of the fact that Jodi has allegedly filed a notice in a separate district court matter indicating she no longer wishes to relocate with D.S and L.S. However, because this court's review is limited to the evidence presented before the district court, and Samantha disputes that Jodi no longer wishes to relocate, we decline to do so. *See Mack v. Est. of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009) (stating the general rule that appellate courts do not take judicial notice of records in other cases even when the cases are connected).

in all the activities, she nevertheless enjoyed being outdoors with her siblings and would engage in age-appropriate play. However, the district court also found that Samantha was able to provide a more nurturing consistent relationship with P.S. While we acknowledge that reasonable minds could have found that factor (h) was neutral, we conclude that the district court was in the best position to weigh the credibility of the parties and we discern no abuse of discretion in the district court's finding that this factor favored Samantha.

Further, while Timothy contends that the district court overlooked or failed to properly consider certain evidence applicable to factors (c) and (g), we conclude substantial evidence supports the district court's findings regarding these factors. Specifically, the district court found that Samantha was the party more likely to facilitate a relationship with the noncustodial parent because she testified that she regularly encouraged P.S. to call her father, traveled with P.S. to visit Timothy when he was working, and that Timothy previously threatened to remove P.S. from Samantha while she was visiting family in Montana. *See* NRS 125C.0035(4)(c). Similarly, substantial evidence supports the district court's conclusion that Samantha is the parent better suited to provide for P.S.'s physical, developmental, and emotional needs. NRS 125C.0035(4)(g). Specifically, Samantha testified she is P.S.'s primary caregiver and on at least two occasions, Timothy allowed P.S. to engage in physical activities despite having a broken femur, and that on one occasion this resulted in P.S.'s splint becoming dislocated. Further, Timothy conceded that for two weeks per month, he is out of state and thus presumably unable to care for P.S.'s needs during that time.

Moreover, while the district court determined that factor (i) favored Timothy, in considering the best interest factors overall, the district court found that the impact of P.S.'s relationship with her half-siblings would be "mitigated" in light of the uncertainty regarding their potential relocation. Timothy concedes that this issue has yet to be decided and both Samantha and Jodi testified to their desire to ensure the children maintained a relationship regardless of their physical locations. Because the majority of the best interest factors favored Samantha, while the remaining factors were inapplicable or neutral, we conclude substantial evidence supports the district court's order permitting Samantha to relocate with P.S. to Montana.[4] Thus, we conclude the court did not abuse its discretion in analyzing these factors. *See Quintero v. McDonald*, 116 Nev. at 1183, 14 P.3d at 523 (refusing to reweigh evidence on appeal); *Ellis*, 123 Nev. at 152, 161 P.3d at 244 (refusing to reweigh witness credibility); and *Nunnery*, 127 Nev. at 766, 263 P.3d at 247 (holding the abuse of discretion standard does not ask whether this court would have reached the same result). Accordingly, we affirm the district court's order awarding Samantha primary physical custody and permission to relocate with P.S. to Billings.

Having affirmed the district court's custody and relocation order, we turn now to Timothy's argument that the parenting time schedule

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[4]We note that Timothy's opening brief presents several factual assertions and arguments challenging the district court's findings regarding the best interest factors. Although our order highlights several of these arguments, we do not discuss every factual allegation or argument made because we conclude they lack merit. Nevertheless, we have carefully considered all arguments in the opening brief in reaching our determination.

does not ensure he can maintain his relationship with P.S. This court reviews parenting time schedules for an abuse of discretion. *Rivero v. Rivero*, 125 Nev. 410, 428, 216 P.3d 213, 226 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 3, 501 P.3d 980, 982 (2022). Here, the district court entered a parenting time schedule that provided Timothy with one week of uninterrupted parenting time, to take place either in Billings or Las Vegas. As a default, the court defined this period "as beginning the first Friday of the month and continuing to the second Friday of the month" but the order further states "the parties are free, by mutual agreement, to adjust any of the dates" of the parenting time schedule. On appeal, Timothy argues the district court failed to leverage Samantha's flexible work schedule and instead set a rigid schedule that requires him to begin his visitation on the first Friday of every month, regardless of whether that's during his work time.

As Timothy's opening brief acknowledges, however, the district court found that he failed to present any evidence clarifying whether his work schedule is set, how far in advance he knows his schedule, or whether he is able to set the schedule. Absent that information, it is unclear how the court could have created a parenting time schedule, taking into account Timothy's unclear work schedule, any more appropriately than the one fashioned by the district court. Indeed, Timothy provides no alternative schedule the court could have imposed based on the evidence provided. *See 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 are unsupported by cogent arguments). Instead, Timothy only argues in a conclusory manner that the district court should have "leverage[d] Samantha's flexibility" to create a better parenting time schedule for him,

but again without offering any meaningful alternative. And importantly, the court expressly ordered that the parties could adjust, by mutual agreement, the default schedule to account for Timothy's work schedule. Because substantial evidence supports the district court's decision regarding Timothy's parenting time schedule, which expressly permitted the parties to adjust the schedule as needed, we affirm the court's order.[5]

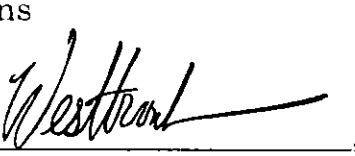
It is so ORDERED.



_____, C.J.
Bulla



_____, J.
Gibbons



_____, J.
Westbrook

cc: Hon. Gregory G. Gordon, District Judge
Nehme-Tomalka & Associates
McFarling Law Group
Eighth District Court Clerk

[5]Insofar as Timothy raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.