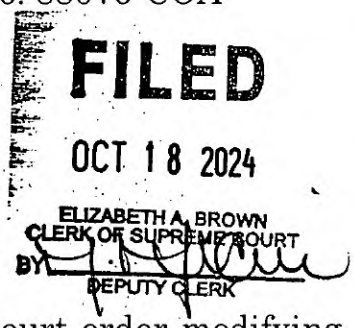
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NEREIDA COBIAN,
Appellant,
vs.
ARMANDO EMMANUEL RAMIREZ,
Respondent.

No. 88076-COA



ORDER OF AFFIRMANCE

Nereida Cobian appeals from a district court order modifying child custody and resolving related issues. Eighth Judicial District Court, Clark County; Gregory G. Gordon, Judge.

Cobian and respondent Armando Emmanuel Ramirez began a relationship in 2014, and their child L.R. was born in Utah in October 2015.[1] Nine months later, Cobian and Ramirez initiated custody proceedings and submitted a letter[2] to the Utah district court,[3] and the court awarded sole

[1]We recount the facts only as necessary for our disposition.

[2]The letter reads that Ramirez voluntarily "relinquish[ed] his parental rights." This language was crafted by the parties without aid of counsel, but Ramirez did not fully waive his parental rights when the parties submitted it to the Utah district court. Rather, the court purported to award Cobian sole physical custody, which, in practice, acted as a primary physical custody award as the court also awarded Ramirez standard parenting time. *See, e.g., Roe v. Roe*, 139 Nev., Adv. Op. 21, 535 P.3d 274, 286-87 (Ct. App. 2023) (defining the types of physical custody).

[3]Ramirez later claimed he signed the letter because Cobian told him she had a terminal illness and wanted to spend as much time as possible with L.R. Cobian claimed that Ramirez wanted nothing to do with L.R. and refused to be involved in L.R.'s life.

legal and physical custody to Cobian, who then moved to California with the help of Ramirez. Ramirez was also required to pay child support to Cobian under the order. Thereafter, Ramirez, depending on where he was stationed as a member of the United States Air Force, would drive hundreds of miles—monthly or even weekly—to visit L.R. on weekends.

In 2018, Ramirez became employed as a civilian contractor at Nellis Air Force Base and moved to Las Vegas. In 2019, Cobian also moved to Las Vegas with L.R. seeking employment. This allowed Ramirez to see L.R. more often, but conflict between the parents began to surface. Cobian restricted Ramirez's parenting time with L.R., including limits on where and when Ramirez could see the child. A year and a half later, Cobian informed Ramirez she was moving out of Nevada. He asked her to re-evaluate the parenting time schedule and offered to go to mediation. She rejected the offer and relocated to California with L.R. in June 2021 without his consent or a court order.

Ramirez petitioned to register the Utah custody order in Nevada and for custody adjustments because Cobian refused Ramirez's offer to go to mediation after she told him she was moving out of state. The district court subsequently found that L.R. had lived in Nevada for a year and a half, and therefore concluded it had subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) to determine custody issues relating to L.R. The district court accordingly registered and enforced the Utah custody order in Nevada over Cobian's opposition in July 2021. While the case was pending before the district court, Cobian restricted Ramirez's access to L.R. by refusing to allow Ramirez to take L.R. to Nevada during his scheduled parenting time.

Ramirez then moved to modify custody to joint legal and physical custody in November 2021. Cobian's countermotion sought to transfer jurisdiction to California as a more convenient forum, which the district court summarily denied because Ramirez still lived in Nevada. Three months later, Cobian reported Ramirez to the California Department of Child and Family Services (CFS) for physical and sexual abuse. California asserted emergency jurisdiction under the UCCJEA and issued a Temporary Emergency Order against Ramirez until the CFS investigation finished. The CFS ultimately concluded that the allegations were either unsubstantiated or inconclusive, and California ceded jurisdiction back to Nevada in July 2022 after the judges in the two states conferred pursuant to the UCCJEA.

The district court scheduled an evidentiary hearing for December 2022 to consider Ramirez's request to modify the custody arrangement, but that hearing would ultimately be rescheduled four separate times. The first continuance was caused by the CFS investigator's unavailability. The second delay happened because Cobian failed to complete L.R.'s forensic interview. The third delay happened because Cobian moved to disqualify Judge Gordon, the new judge assigned to the case, for bias a week before the hearing. The fourth reschedule happened because Cobian went to the emergency room on the day of the hearing—after the judge denied a continuance—complaining of medical complications due to her pregnancy. During this period, Cobian alleged that CFS had started a second investigation against Ramirez and asked for another no-contact order, which was denied. Regardless, she prevented Ramirez from seeing L.R. during his mandated parenting time, most notably during the 2023 Thanksgiving weekend.

The hearing eventually took place in January 2024. Afterwards, the district court entered a written order awarding Ramirez primary physical custody finding a substantial change in circumstances and that the best interest factors under NRS 125C.0035(4) supported a modification of custody. The court found that, among other things, Cobian violated the Utah custody order when she moved to California with L.R. and prevented Ramirez's Thanksgiving parenting time. It found that she unreasonably sought to control and restrict Ramirez's relationship with L.R. through manipulation. It found that she engaged in a pattern of false accusations and allegations against Ramirez—including allegations of physical and sexual abuse that the court found not credible.[4] And the district court found that she consistently refused to cooperate with Ramirez for the best wellbeing of L.R.

The district court also awarded the parties joint legal custody, ordered L.R. to be returned to Las Vegas, and ordered Ramirez to enroll him in a Las Vegas school in time for the spring semester. The court terminated Ramirez's child support obligations because of the modification of primary physical custody, and it found Cobian in contempt because she restricted Ramirez's Thanksgiving parenting time with L.R. without legal justification. Lastly, the district court held that Ramirez was entitled to attorney fees. This appeal followed.

[4]Cobian provided no evidence before or during the evidentiary hearing establishing this second CFS investigation, and the CFS agent who testified was unaware that the second investigation occurred.

First, we consider Cobian's contentions that the district court erred by registering the Utah custody order.[5] Cobian's argument implicates subject matter jurisdiction, which we review de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009). "The district court's factual findings, however, are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence." *Id.* at 668, 221 P.3d at 704. The UCCJEA, which Nevada has codified as NRS Chapter 125A, exclusively governs subject matter jurisdiction over child custody issues. NRS 125A.305(2); *Friedman v. Eighth Jud. Dist. Ct.*, 127 Nev. 842, 847, 264 P.3d 1161, 1165 (2011). Pursuant to NRS 125A.305(1)(a), Nevada courts have jurisdiction over a child custody determination if Nevada was "the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this State but a parent . . . continues to live in this State." NRS 125A.305(1)(a).

Here, the district court held a hearing and found that L.R. resided in Nevada for a year and a half before the commencement of the proceeding and that Ramirez still lived in Nevada as the proceeding

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[5]Ramirez argues this challenge is untimely because Cobian failed to file a notice of appeal within 30 days of the registration's notice of entry. Cobian responds that she is challenging the jurisdiction of the district court to enter the order under appeal. NRS 125A.465 and NRS 125A.475 authorize the district court to register, establish jurisdiction, and enforce an order from a different state. Cobian fails to cogently argue why the district court did not have jurisdiction and we decline to consider her argument. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider a party's argument that is not cogently argued or lacks the support of relevant authority). Ramirez's argument need not be considered in light of our disposition. *See Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 315 n.1, 774 P.2d 1047, 1048 n.1 (1989) (declining to resolve an issue in light of the court's disposition).

progressed. None of the parties contested these facts and the district court's factual findings are supported by substantial evidence. *See Ogawa*, 125 Nev. at 668, 221 P.3d at 704. As the district court found that L.R. resided in Nevada for more than six months prior to the commencement of the proceeding, and had not lived elsewhere for six months, Nevada is the child's home state pursuant to NRS 125A.305(1)(a). Therefore, we conclude that the district court had subject matter jurisdiction concerning L.R.'s custody. *See* NRS 125A.305(1)(a); *Ogawa*, 125 Nev. at 667, 221 P.3d at 704. Because Nevada was the child's home state and the Nevada district court had jurisdiction over this matter, Cobian fails to demonstrate that the district court erred by registering the Utah court order. *See* NRS 125A.465(6). Accordingly, Cobian is not entitled to relief based on this argument.

Cobian next argues that the district court should have declined to exercise jurisdiction on the grounds that California was a more convenient forum, and that the district court failed to make findings on this issue. Ramirez argues that the court properly asserted subject matter jurisdiction. As stated previously, this court reviews subject matter jurisdiction de novo. *Ogawa*, 125 Nev. at 667, 221 P.3d at 704. A district court that holds exclusive, continuing jurisdiction has discretion to decline its jurisdiction if it determines that Nevada is an inconvenient forum. *See* NRS 125A.365(1). But this rule is permissive, not mandatory. *See Sengbusch v. Fuller*, 103 Nev. 580, 582, 747 P.2d 240, 241 (1987) ("'May' is to be construed as permissive, unless the clear intent of the legislature is to the contrary."); *see also* SCR 2(9) (defining "may" as permissive); DCR 2(6) (same). And, pursuant to NRS 125A.315, the district court has exclusive,

continuing jurisdiction until certain findings regarding the parties' contacts with the state or residences are made.

Here, Cobian is correct that the district court did not make individualized findings under NRS 125A.365(2). However, the only record cite she provides to support her factual argument is her summary affidavit alleging that she and L.R. had lived in California for many months and traveling to Nevada would be inconvenient for her.[6] As to her argument, she does not explain why Nevada was an inconvenient forum under the factors in NRS 125A.365(2) or why the district court should have reversed its original determination, made less than five months before her countermotion was filed, that this state had exclusive, continuing jurisdiction under NRS 125A.305(1)(a). *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

The district court explicitly retained jurisdiction and declined Cobian's motion to transfer to California because Ramirez still lived in Las Vegas. The record shows substantial information was present in this forum related to the custody issues and the district court was familiar with the facts and issues in the pending litigation. *See* NRS 125A.365(2)(f), (h). Further, Cobian had moved from Nevada to California only months before, and California did not have jurisdiction. *See* NRS 125A.365(2)(b). Thus, Cobian fails to show how the court abused its discretion because she does not argue what findings the court should have made and how that would have changed the result. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) ("To establish that an error is prejudicial, the movant must show that the error affects the party's substantial rights so that, but for the

[6]She was present during this hearing via video through BlueJeans.

alleged error, a different result might reasonably have been reached."). Therefore, we discern no error in the district court's determination that it had exclusive, continuing jurisdiction over the matter or that its denial to transfer that jurisdiction to California was a reversible error due to the alleged inconvenient forum. *See Friedman*, 127 Nev. at 847, 264 P.3d at 1165.

Next, Cobian argues the district court abused its discretion when it awarded Ramirez primary physical custody and ordered L.R. to be returned to Las Vegas. She argues her actions in accusing Ramirez of child abuse were done to protect L.R. and were mischaracterized by the judge. Ramirez argues that the district court made factual findings supported by substantial evidence that the best interest of L.R. would be to reside with him, and the court did not abuse its discretion when it awarded Ramirez primary physical custody.

Appellate courts "will not disturb the district court's custody determination 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). Further, this court "must also be satisfied that the district court's determination was made for appropriate reasons." *Rico v. Rodriguez*, 121 Nev. 695, 701, 120 P.3d 812, 816 (2005). A district court's factual findings will be upheld so long as "they are supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment." *Ellis*, 123 Nev. at 149, 161 P.3d at 242 (footnote omitted). Further, we presume the district court properly exercised its discretion in

determining the child's best interest. *Flynn v. Flynn*, 120 Nev. 436, 440, 92, P.3d 1224, 1226-27 (2004).

A district court may modify a physical custody arrangement only if (1) there has been a substantial change in circumstances affecting the welfare of the child and (2) the modification serves the best interest of the child. *Romano v. Romano*, 138 Nev. 1, 3, 501 P.3d 980, 982 (2022) (citing *Ellis*, 123 Nev. at 150, 161 P.3d at 242), *abrogated on other grounds by Killebrew, Tr. of Killebrew Revocable Tr. v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167 (2023). A court may award one parent primary physical custody if it determines that joint physical custody is not in the best interest of the child. *See* NRS 125C.0035(1).

The district court entered a comprehensive and detailed written order finding there was a substantial change in circumstances affecting the welfare of L.R. and that the best-interest factors under NRS 125C.0035(4) warranted granting Ramirez primary physical custody. Specifically, the court found a substantial change in circumstances because neither party lived in Utah, the child and parents had relocated numerous times, and L.R. was considerably older compared to the time of the issuance of the Utah order. Further, the court found that Cobian substantially and pervasively interfered with Ramirez's parenting time, which is grounds to find a substantial change in circumstances. *See Martin v. Martin*, 120 Nev. 342, 343, 90 P.3d 981, 981-82 (2004) (providing that one parent's pervasive interference with another parent's parenting time can constitute a substantial change in circumstances), *abrogated on other grounds by Ellis*, 123 Nev. 145, 161, P.3d 239. Thus, the district court did not abuse its discretion when it found a substantial change in circumstances.

The district court considered and applied the best-interest factors and concluded that six of the NRS 125C.0035(4) factors favored Ramirez, and all other factors were either neutral or inapplicable. It also found that none favored Cobian. Specifically, the district court found: (1) Ramirez was more likely to allow Cobian frequent association with L.R. because of her extensive history of restricting Ramirez's parenting time; (2) Ramirez was more likely to cooperate to meet the needs of L.R. because Cobian restricts information about L.R., is hostile towards Ramirez, and has made false accusations against Ramirez; (3) Cobian is primarily responsible for the conflict between her and Ramirez; (4) Ramirez is more likely to meet the physical, developmental, and emotional needs of L.R. because he and his spouse plan to provide adequate schooling and exercise while Cobian portrayed Ramirez in a bad light to L.R.; and (5) both Ramirez and Cobian love L.R., but Cobian conflates her emotions and opinions with L.R.'s, which is unhealthy. *See* NRS 125C.0035(4)(c), (d), (e), (g), (h).

In addition, concerning Cobian's allegations of physical and sexual abuse, the district court found Cobian not credible because of the discrepancies in her and her mother's testimony about the abuse, her inconsistent actions after her allegations, her continuous history of restricting Ramirez's access to L.R., and the CFS investigator testifying that Cobian's allegations were either unsubstantiated or inconclusive. Conversely, the district court found that Cobian had emotionally abused her son due to her unfounded accusations against Ramirez which subjected L.R. to multiple forensic interviews. The court accordingly found that this factor favored Ramirez. *See* NRS 125C.0035(4)(j).

The district court's factual findings made in support of these determinations are supported by substantial evidence in the record, *see*

Ellis, 123 Nev. at 149, 161 P.3d at 242, and we will not second guess a district court's resolution of factual issues involving conflicting evidence or reconsider its credibility findings, *see Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009); *see also Yamaha Motor Co., U.S.A. v. Arnoult*, 114 Nev. 233, 238, 955 P.2d 661, 664 (1998) (noting that appellate courts are "not at liberty to weigh the evidence anew, and where conflicting evidence exists, all favorable inferences must be drawn towards the prevailing party"). Here, the district court adequately weighed all the factors listed in NRS 125C.0035(4) and, with specific findings supported by the record, concluded the evidence favored awarding Ramirez primary physical custody of L.R. Finally, Cobian has not demonstrated that if there was an error in any of the district court's findings, the result would have been different but for that error when none of the factors favored her. *See Wyeth*, 126 Nev. at 465, 244 P.3d at 778. Thus, based on these findings, we discern no abuse of discretion by the district court.[7]

Next, Cobian asserts that the district court abused its discretion by directing L.R. to relocate to Nevada with Ramirez. Cobian contends that the relocation would uproot L.R. and that the court did not adequately weigh the sexual abuse allegation against Ramirez. Ramirez responds that the opposition to the relocation was not properly raised below

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[7]Cobian also challenges the district court's decision to terminate Ramirez's child support obligation. However, Cobian's challenge to the child support issue relies on the reversal of Ramirez's award of primary physical custody. Since we affirm that order, and because Cobian presents no other argument why the district court's decision was error, we need not consider it further. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38 (explaining that this court need not consider an appellant's argument that is not cogently argued or lacks the support of relevant authority).

and that the court did not abuse its discretion when it analyzed the relocation factors and ordered L.M. to relocate to Nevada.[8]

This court reviews a district court's decision regarding relocation for an abuse of discretion, *Flynn*, 120 Nev. at 440, 92 P.3d at 1227, and the district court's factual findings will be upheld so long as they are supported by substantial evidence, *Ellis*, 123 Nev. at 149, 161 P.3d at 242. When evaluating a request to relocate to another state "and determining the parents' custodial rights, the court must decide whether it is in the best interest of the child to live with parent A in a different state or parent B in Nevada." *Druckman v. Ruscitti*, 130 Nev. 468, 474, 327 P.3d 511, 515 (2014) (internal quotation marks omitted). When making its determination as to relocation, the district court must weigh the factors listed in NRS 125C.007.

Under NRS 125C.007, there is a two-step analysis to determine whether a relocation across states is appropriate. The first step requires the relocating parent to demonstrate that: (1) there exists a sensible, good-faith reason for the move, and the move is not intended to deprive the non-relocating parent of their parenting time; (2) the best interests of the child are served by allowing the relocating parent to relocate with the child; and (3) the child and the relocating parent will benefit from an actual advantage as a result of the relocation. NRS 125C.007(1). If the first step is met, then the court must consider: (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

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[8]Under NRS 125C.006(1) and 125C.007, a parent with primary physical custody who intends to relocate from Nevada with a child must satisfy the elements within NRS 125C.007. Here, Ramirez did not have primary physical custody, and he already resided in Nevada. However, because the child resided with Cobian in California at the time Ramirez's motion was filed, the court applied the relocation statute, which we analyze.

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 relocate is granted, the custodial parent will comply with any substitute visitation orders issued by the court; (4) whether the non-custodian's motives are honorable in resisting the motion for permission to relocate or to what extent, if any, the opposition is intended to secure a financial advantage in the form of ongoing support obligations or otherwise; (5) whether, if relocation 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; and (6) any other factor necessary to assist the court in making its determination. NRS 125C.007(2).

Here, the district court considered the factors under NRS 125C.007(1) and found that Ramirez had a sensible, good faith reason to move, that L.R.'s best interest would be served if he were relocated to Nevada, and that he would benefit from an actual advantage if he lived in Nevada. Then it considered the six factors listed under NRS 125C.007(2) and found that all six weighed in favor of L.R. relocating to Las Vegas with Ramirez. Specifically, the court found that relocation would improve the quality of life for L.R. because Ramirez's family could provide support; Ramirez's intentions were honorable and not meant to frustrate Cobian's parental rights; and Ramirez will comply with the court's visitation orders. Moreover, the court found that Cobian's opposition to Ramirez's request for L.R. to relocate was honorable, but her restriction of Ramirez's parenting time was not appropriate, and it found that L.R. will have a realistic opportunity to maintain a custody schedule with Cobian if he relocated to Nevada.

Again, the district court's factual findings in support of its decision that the best interest of L.R. would be served by relocation to Nevada are supported by substantial evidence. *See Ellis*, 123 Nev. at 149, 161 P.3d at 242. While Cobian challenges the court's findings concerning her allegations of sexual abuse and its findings that she was not credible, we decline to re-visit those findings here. *See Grosjean*, 125 Nev. at 366, 212 P.3d at 1080; *see also Yamaha Motor Co.*, 114 Nev. at 238, 955 P.2d at 664. In light of the district court's findings, we conclude that the relocation decision was supported by substantial evidence, and the district court did not abuse its discretion when it ordered L.R.'s relocation.[9]

Next, Cobian argues that the district court abused its discretion when it held her in contempt and fined her $500 for violating the domesticated Utah custody order by blocking Ramirez's parenting time during the 2023 Thanksgiving weekend. "Whether a person is guilty of contempt is generally within the particular knowledge of the district court, and the district court's order should not lightly be overturned." *Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 650, 5 P.3d 569, 571 (2000). Accordingly, this court "normally review[s] an order of contempt for

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[9]Cobian also argues that the district court abused its discretion when it ordered Ramirez to enroll L.R. in a school for the spring semester. However, that issue is moot because the judicial order was only for the 2024 spring semester. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (stating "a controversy must be present through all stages of the proceeding" and later events may render a case moot). Even if it was a live controversy, Cobian fails to specify which school she wanted or how she was prejudiced by the district court's decision, and so the error, if any, is harmless and provides no basis for relief. *See Wyeth*, 126 Nev. at 465, 244 P.3d at 778.

abuse of discretion." *Lewis v. Lewis*, 132 Nev. 453, 456, 373 P.3d 878, 880 (2016).

A district court has contempt power to address "[d]isobedience or resistance to any lawful writ, order, rule or process issued by the court." NRS 22.010(3). "An order on which a judgment of contempt is based must be clear and unambiguous and must spell out the details of the compliance in clear, specific and unambiguous terms so that the person will readily know exactly what duties or obligations are imposed on [her]." *Div. of Child & Fam. Servs. v. Eighth Jud. Dist. Ct.*, 120 Nev. 445, 454-55, 92 P.3d 1239, 1245 (2004) (internal quotation marks omitted). If an act of contempt happens outside the presence of the court, an affidavit must be filed describing the contempt. EDCR 5.509. The facts must be established at a hearing by clear and convincing evidence. *In re Battaglia*, 653 F.2d 419, 422 (9th Cir. 1981) (holding the federal statute codifying the common law civil contempt requires clear and convincing evidence).

Here, Ramirez filed an affidavit and testified during the hearing that Cobian restricted his parenting time during the 2023 Thanksgiving weekend by refusing to allow L.R. to be with him despite the court order. Cobian did not deny the allegation, but claimed that she restricted Ramirez's access to L.R. on the advice of police and CFS. However, the court did not credit Cobian's explanation, and it found by clear and convincing evidence that she was in contempt of the custody order for withholding L.R. without legal justification. On appeal, Cobian argues that she restricted parenting time because of the CFS investigation, but she failed to communicate to Ramirez about any ongoing investigation and she cites no evidence provided to the court that CFS or law enforcement demanded that she prevent Ramirez from exercising his holiday parenting

time. Thus, we conclude that the court did not abuse its discretion and affirm the order of contempt.

Lastly, Cobian argues that the case should be reassigned to a new judge on remand because of the current judge's purported bias. We review a decision concerning a request to disqualify a district court judge for an abuse of discretion. *Ivey v. Eighth Jud. Dist. Ct.*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013). Judges are presumed to be impartial, and the burden is on the party asserting bias to show otherwise. *Ybarra v. State*, 127 Nev. 47, 51, 247 P.3d 269, 272 (2011); *see also Roe v. Roe*, 139 Nev., Adv. Op. 21, 535 P.3d 274, 291 (Ct. App. 2023) ("Ultimately, a judge should be disqualified if a reasonable person, knowing all the facts, would harbor reasonable doubts about the [judge's] impartiality." (internal quotation marks omitted)).

Further, the rulings made by a court during official proceedings generally "do not establish legally cognizable grounds for disqualification." *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). "The personal bias necessary to disqualify must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case." *Id.* at 790, 769 P.2d at 1275 (internal quotation marks omitted). Permitting an allegation of bias partially founded upon a judge's performance of their constitutionally mandated responsibilities would nullify the court's authority and permit the manipulation of justice. *Id.*

When evaluating whether a case should be reassigned on remand, this court considers three factors: (1) whether the original judge would reasonably be expected upon remand to have substantial difficulty in putting out of their mind previously expressed views or findings determined

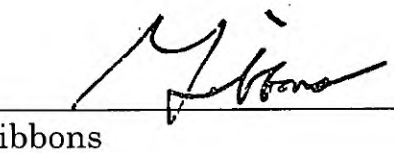
to be erroneous or based on evidence that must be rejected, (2) whether reassignment is advisable to preserve the appearance of justice, and (3) whether reassignment would entail waste and duplication out of proportion to any gain in preserving the appearance of fairness. *Roe*, 139 Nev., Adv. Op. 21, 535 P.3d at 291.

Because we affirm the district court's custody order, the reassignment issue is moot. However, even if these parties were to appear before the district court again, reassignment would not be required. Cobian has already filed a motion to disqualify Judge Gordon for bias. That motion was heard by the Chief Judge of the Eighth Judicial District, and he denied it because it was both procedurally and substantively deficient. That order was supported by substantial evidence and was not an abuse of discretion.

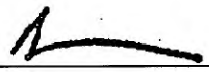
On appeal, Cobian argues again that the district court judge is biased (during the hearings as she originally alleged and the bias remained throughout the proceedings even after the denial of her initial bias motion) because he found that Cobian was not credible after weighing the evidence from the evidentiary hearing. She provides no other argument to rebut the presumption that the district judge is unbiased, does not address the *Roe* factors, and she has not established any "deep-seated favoritism or antagonism" or that the judge was unwilling to consider evidence that painted Ramirez in a negative light. *See Cameron v. State*, 114 Nev. 1281, 1283, 968 P.2d 1169, 1171 (1998) (noting that, generally, a judge's remarks "made in the context of a court proceeding are not considered indicative of improper bias or prejudice unless they show that the judge has closed his or her mind to the presentation of all the evidence"). Thus, Cobian has not met her burden, and we conclude that reassignment to a new judge is not warranted.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[10]



_____, C.J.
Gibbons



_____, J.
Bulla



_____, J.
Westbrook

cc: Hon. Gregory G. Gordon, District Judge
McFarling Law Group
Nevada Family Law Group
Eighth District Court Clerk

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[10]Cobian also challenges the district court's decision to award Ramirez attorney fees. However, the attorney fees issue is not properly raised on appeal. The challenged order does not award attorney fees; it only found that Ramirez was entitled to attorney fees. To the extent that the district court later awarded attorney fees, Cobian must appeal that order because an order granting attorney fees and costs is independently appealable as a special order after final judgment when it is not included in the judgment. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). Accordingly, we do not have jurisdiction to consider this issue.

Additionally, insofar as Cobian has raised 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.