IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ADYNES PROENZA CHAVEZ,
Appellant,
vs.
JOSE L. RAMOS VENTURA,
Respondent.

No. 90697-COA

FILED
MAR 05 2026
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Adynes Proenza Chavez appeals from a district court order denying a motion to modify child custody. Eighth Judicial District Court, Family Division, Clark County; Stacy Michelle Rocheleau, Judge.

Chavez and respondent Jose L. Ramos Ventura were previously married and share one minor child, to wit: L.R.P., who was born in December 2021. The parties were divorced by a decree entered in February 2025, and the parties were awarded joint legal and joint physical custody of L.R.P., with the custodial timeshare set for L.R.P. to reside with Chavez each week, beginning Monday at 7:30 a.m. and ending Friday at 7:30 a.m., and with Ventura each week beginning Friday at 7:30 a.m. and ending Monday at 7:30 a.m.

Subsequently, in March 2025, Chavez filed a motion to modify child custody seeking sole legal and sole physical custody. She argued that allegations of sexual abuse had been made against Ventura by her 12-year-old daughter from a prior relationship. Chavez alleged that the abuse happened when her daughter was 11 and that the alleged abuse occurred more than once and in front of L.R.P., who was two at the time. Chavez alleged that she was scared that Ventura did or could do the same to L.R.P. Chavez asserted that as a result, there was a current Clark County Child

Protective Services (CPS) case open in March 2025 as well as an investigation by the Las Vegas Metropolitan Police Department (LVMPD). The motion stated the investigation number for the CPS investigation, the LVMPD event number, the name of the LVMPD detective investigating, and asserted that she sought a temporary protection order (TPO). Ventura filed an opposition to the motion to modify, stating that he wanted to maintain the current custodial schedule, and did not address the allegations in Chavez's motion.

Chavez separately filed into the present case as an exhibit a copy of the TPO that was issued on March 14, 2025, and scheduled to expire on April 28, 2025, which gave her temporary custody of L.R.P. with no parenting time for Ventura. She also attached a copy of her motion to extend the TPO in the TPO action, which detailed the allegations as to the sexual abuse as similarly stated in her motion to modify child custody in the present case. She noted that CPS and LVMPD have investigations open for sexual abuse committed by Ventura against her daughter. She purported that the abuse happened more than one time when her daughter visited Ventura in 2024, and that the abuse occurred in front of L.R.P. She reiterated her concerns as to her children's safety.

Subsequently, without a hearing, the district court issued an order denying Chavez's motion to modify child custody. The district court acknowledged the allegations that Ventura "is under investigation by CPS for allegations of sexual abuse against her [12-year-old] daughter who is not of this relationship." However, the district court found that even assuming the allegations were true, the allegations did not demonstrate that there had been a substantial change in circumstances affecting the welfare of L.R.P., a three-year-old boy, and that it was in L.R.P.'s best interest to modify physical custody. The district court further found that Chavez did not demonstrate adequate cause for an evidentiary hearing. Thus, the court

denied the motion and ordered the parties to resume the custodial schedule set forth in the decree after the TPO expired. This appeal followed.

Chavez argues the district court abused its discretion by denying her motion to modify child custody without first holding an evidentiary hearing. This court reviews the denial of a motion to modify custody without an evidentiary hearing for abuse of discretion. *Myers v. Haskins*, 138 Nev. 553, 556, 513 P.3d 527, 531 (Ct. App. 2022). A district court abuses its discretion only when "no reasonable judge could reach a similar conclusion under the same circumstances." *In re Guardianship of Rubin*, 137 Nev. 288, 294, 491 P.3d 1, 6 (2021) (quoting *Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014)).

When a movant seeks to modify physical custody, a district court must hold an evidentiary hearing if the movant demonstrates "adequate cause" for one. *Rooney v. Rooney*, 109 Nev. 540, 542, 853 P.2d 123, 124 (1993). "Adequate cause" arises if the movant demonstrates a prima facie case for modification. *Id.* at 543, 853 P.2d at 125. A prima facie case requires that the movant demonstrate that "(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child's best interest is served by the modification." *Romano v. Romano*, 138 Nev. 1, 3, 501 P.3d 980, 982 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev. 401, 535 P.3d 1167 (2023). To avoid "repetitive, serial motions," "any change in circumstances must generally have occurred since the last custody determination." *Ellis v. Carucci*, 123 Nev. 145, 151, 161 P.3d 239, 243 (2007) (internal citation and quotation marks omitted). "In determining whether a movant has demonstrated a prima facie case for modification of physical custody, the court must accept the movant's specific allegations as true." *Myers*, 138 Nev. at 556-57, 513 P.3d at 532. "[D]emonstrating a prima facie case for modification is a heavy burden on a petitioner which must be satisfied

before a hearing is convened." *Id.* at 560, 513 P.3d at 534 (emphasis in original) (internal citation and quotation marks omitted).

Here, the district court denied Chavez's request to modify physical custody without conducting an evidentiary hearing. Assuming the allegations in Chavez's motion are true, these allegations could show that there has been a substantial change in circumstances affecting the welfare of L.R.P. and that L.R.P.'s best interests could be served by modification. *See Romano*, 138 Nev. at 3, 501 P.3d at 983. Specifically, Chavez alleged facts as to the existence of new CPS and LVMPD investigations and a TPO regarding alleged sexual abuse committed by Ventura against L.R.P.'s half-sibling from a different relationship in front of L.R.P. after the decree was entered, and Chavez expressed her concerns for L.R.P.'s safety. *See* NRS 125C.0035(4) (outlining the best interest factors); *see also, e.g., Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) (holding that pre-decision evidence of domestic violence may constitute changed circumstances "if the moving party or the court was unaware of the existence or extent of the conduct when the court rendered its prior custody decision").

Moreover, in opposing Chavez's motion to modify, Ventura did not conclusively establish Chavez's claims were false such that an evidentiary hearing would be unnecessary. *See Myers*, 138 Nev. at 558-59, 513 P.3d at 533 (recognizing "that nonmovants may allege facts and provide offers of proof that may address the allegations the movant has presented" and that the district court may consider the same in deciding whether to hold an evidentiary hearing on a motion to modify custody if they conclusively refute the moving party's allegations). Given the foregoing analysis, we conclude that the district court abused its discretion in determining that Chavez failed to demonstrate adequate cause for an evidentiary hearing on her motion to modify child custody and denying her

motion on that basis. *See id.* at 556, 513 P.3d at 532. In reaching this result, we express no opinion with respect to the merits of Chavez's motion and merely conclude that an evidentiary hearing is warranted under these facts. Moreover, we note that determining the form of the evidentiary hearing is within the district court's broad discretion. *See Arcella v. Arcella*, 133 Nev. 868, 872, 407 P.3d 341, 346 (2017) ("While these circumstances obligated the district court to conduct an evidentiary hearing, the form of that hearing remains within the district court's discretion.").

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.[1]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Stacy Michelle Rocheleau, District Judge, Family Division
Legal Aid Center of Southern Nevada, Inc.
Michele R. Pontoni
Eighth District Court Clerk

[1]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered these arguments and conclude they do not present a basis for relief or need not be addressed given our resolution of this matter.