IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIC ANTONIO PERREIRA,
Appellant,
vs.
SAMANTHA EISENBERG,
Respondent.

No. 86792-COA

FILED
MAY 29 2024
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

Eric Antonio Perreira appeals from district court orders in a child custody matter. Eighth Judicial District Court, Family Division, Clark County; Stacy Michelle Rocheleau, Judge.

Eric and respondent Samantha Eisenberg were never married but share a minor child together. Eric initiated the underlying custody proceedings and requested primary physical custody and child support, and the parties engaged in motion practice regarding custody of the minor child. Eventually, the district court set the calendar call and evidentiary hearing to determine child custody and issued notice of the hearings to the parties.

Eric did not attend the calendar call, and the district court minutes reflect that the court stated that the evidentiary hearing would still take place as scheduled, and if Eric failed to appear, it would strike the complaint and enter a custody order for Samantha. Eric did not appear at the evidentiary hearing, and the district court thereafter entered a custody decree in Samantha's favor. The decree stated that Eric did not attend the hearing and had not been participating in the case. As a result, the district court struck the complaint and entered a default against Eric. The court

further noted that Samantha had testified, and thus the court proceeded with a prove-up hearing. In line with the foregoing, the decree awarded Samantha sole legal and sole physical custody of the minor child and ordered that "child support shall be handled by the child support district attorney's office" and shall be retroactive to May 2019.

Following entry of the decree, Eric filed various post-decree motions, including a motion to vacate the custody decree and a motion for a preliminary injunction and related relief. Samantha opposed the motions.[1] The district court entered separate orders denying the motion to vacate the decree and the motion for injunctive relief. This appeal followed.

On appeal, Eric challenges, in relevant part, the validity of the district court's custody determination based on its lack of findings.

"A district court's child custody order is reviewed for an abuse of discretion." *Roe v. Roe*, 139 Nev., Adv. Op. 21, 535 P.3d 274, 284 (Ct. App. 2023). In reviewing a district court's child custody determinations, we focus on whether the district court "reached its conclusions for the appropriate [legal] reasons" and whether its factual findings were "supported by substantial evidence." *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241-42 (2007); *see also Sims v. Sims*, 109 Nev. 1146, 1148, 865 P.2d 328, 330 (1993) (stating that we "must be satisfied that the [district] court's determination was made for the appropriate reasons"). Deference is not,

---

[1]Eric also filed a post-decree motion to modify child custody, which the district court did not resolve, and thus remains pending below. To the extent that Eric presents arguments regarding the motion to modify—which he incorrectly asserts was denied—because that motion was not ruled upon by the district court, his arguments in this regard are not properly before us on appeal.

however, owed to findings "so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015).

In making a child custody determination, the district court's sole consideration is the best interest of the child. NRS 125C.0035(1); *see Davis*, 131 Nev. at 451, 352 P.3d at 1143. This remains true even in the context of default judgments. *See Dagher v. Dagher*, 103 Nev. 26, 28, 731 P.2d 1329, 1330 (1987). In determining the best interest of the child, a district court must consider, and set forth specific findings concerning, the "best interest" custody factors delineated in NRS 125C.0035(4)(a)-(l). *Davis*, 131 Nev. at 451, 352 P.3d at 1143; *see also* NRS 125C.001 (setting forth the State of Nevada's policy for child custody matters).

The district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b). *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 28 P.3d 255, 257 (2018). "Orders refusing to set aside default judgments are normally reviewable only for abuse of discretion." *Dagher*, 103 Nev. at 28, 731 P.2d at 1330. "However, the judicial policy favoring decision on the merits is heightened in domestic relations cases," particularly when child custody is at issue. *Id.*; *accord Price v. Dunn*, 106 Nev. 100, 105, 787 P.2d 785, 788 (1990).

Having reviewed the record before us and the parties' briefs, we conclude that the district court abused its discretion denying the motion to vacate the default judgment given that the court's order failed to make the necessary findings when it awarded sole legal and sole physical custody of the minor child to Samantha. *See* NRCP 60(b)(6) (providing the court may relieve a party from a final judgment or order for any reason that justifies relief); *Davis*, 131 Nev. at 451, 352 P.3d at 1143 (explaining that Nevada law requires "express findings as to the best interest of the child in custody

and visitation matters" and deficient findings leave doubt as to whether the district court's determination was made for appropriate reasons); *Roe*, 139 Nev., Adv. Op. 21, 535 P.3d at 288 (requiring additional written findings and analysis when awarding sole physical custody).

Here, the district court entered a default against Eric and, following Samantha's testimony and a prove-up hearing, the court resolved the custody issues based on the default without analyzing or even mentioning the best interest of the child factors set forth in NRS 125C.0035(4). The district court likewise failed to apply the analysis set forth in this court's opinion in *Roe*, 139 Nev., Adv. Op. 21, 535 P.3d at 281, or make the findings required by that decision in awarding sole physical custody to Samantha. As set forth in *Roe*, when entering an order for sole physical custody, the district court must "first find either that the noncustodial parent is unfit for the child to reside with or make specific findings and provide an adequate explanation as to the reason primary physical custody is not in the best interest of the child." *See id.* Therefore, we conclude that the district court abused its discretion in denying the motion to vacate when the prior judgment making its custody determination and awarding Samantha sole legal and sole physical custody was entered without making the necessary findings.

Eric also generally challenges the district court's denial of his motion for a preliminary injunction and other related relief. However, he does not provide any argument regarding this decision and, thus, he has failed to demonstrate that he is entitled to relief. *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 an appellant's argument that is not cogently argued).

Accordingly, for the reasons set forth above, we reverse the district court's denial of the motion to vacate and remand this matter for the court to vacate its custody determination and for further proceedings consistent with this order.[2] And in light of our reversal of the district court's custody determination, we also reverse the award of attorney fees and costs to Samantha made in the course of awarding her sole legal and sole physical custody. However, we affirm the district court's denial of Eric's motion for a preliminary injunction and related relief.

It is so ORDERED.[3]



_____, C.J.
Gibbons



_____, J.
Bulla



_____, J.
Westbrook

---

[2]We note that the district court did not rule on the issue of child support other than to state that it would be handled by the district attorney's office and would be retroactive to May 2019. However, the district court may not defer the calculation of child support to another entity. *See* NRS 125B.080(1) (providing that "[a] court of this State shall . . . [d]etermine the required support in any case involving the support of children"). Thus, on remand, the district court must make a determination regarding any child support amounts.

[3]Pending further proceedings on remand, we leave in place the custody arrangement set forth in the custody decree, subject to modification by the district court. *See Davis*, 131 Nev. at 455, 352 P.3d at 1146 (leaving certain provisions of a custody order in place pending further proceedings on remand).

cc: Hon. Stacy Michelle Rocheleau, District Judge, Family Division
Eric Antonio Perreira
The Hill Law Group
Eighth District Court Clerk