IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICIA HANSON,
Appellant,
vs.
DENNIS HANSON,
Respondent.

No. 44547

FILED

MAY 19 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Robert W. Lueck, Judge.

In her civil proper person appeal statement and reply, appellant first challenges the district court's decision to award sole legal and primary physical custody of the parties' son to respondent. Having reviewed the record, we conclude that the district court did not abuse its discretion.[1] During the proceedings below, the parties stipulated that their minor son would live with respondent and their then-minor daughter would live with appellant. Moreover, the district court encouraged a relationship between appellant and her son by setting forth a reasonable visitation schedule.

Appellant next challenges the district court's characterization of certain property as separate or community. First, because appellant stipulated in the district court that she would keep the Tiburon, California home as her separate property and respondent would keep the Las Vegas,

[1]Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (stating that child custody matters are within the sound discretion of the trial court).

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Nevada home as his separate property, appellant is not aggrieved by the district court's rulings as to these properties.[2] As for appellant's contention that respondent failed to disclose in the district court that he had purchased property in South Dakota in 1998, that issue should be addressed to the district court in the first instance.[3]

As for the Oxnard, California home, the district court determined that the property remained respondent's separate property, despite appellant's claim that community funds contributed to the mortgage. The trial court record indicates that appellant did not make a claim to the Oxnard property before trial, and we cannot determine appellant's position at trial because she failed to ensure that the record contained the necessary trial transcripts. We have held that it is the appellant's responsibility to provide this court with an adequate appellate record,[4] and that "'when evidence on which the lower court's judgment rests is not included in the record on appeal, it is assumed that the record supports the district court's findings.'"[5] Thus, we conclude that the record in this case supports the district court's decision.

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[2]See NRAP 3A(a); Vinci v. Las Vegas Sands, 115 Nev. 243, 984 P.2d 750 (1999).

[3]See NRCP 60(b); see also Huneycutt v. Huneycutt, 94 Nev. 79, 575 P.2d 585 (1978).

[4]M & R Investment Co. v. Mandarino, 103 Nev. 711, 718, 748 P.2d 488, 493 (1987).

[5]Schouweiler v. Yancey Co., 101 Nev. 827, 831, 712 P.2d 786, 789 (1985) (quoting Bates v. Chronister, 100 Nev. 675, 679, 691 P.2d 865, 868 (1984)); see also Carson Ready Mix v. First Nat'l Bk., 97 Nev. 474, 635 P.2d 276 (1981).

Appellant also challenges the district court's conclusion that her excessive gambling constituted a waste of the community assets and warranted an unequal distribution of community property through elimination of her $1,000 per month share of respondent's pension.

NRS 125.150(1)(b) provides that while the district court must make an equal disposition of community property to the extent practicable, it may make an unequal distribution if it finds, and states in writing, compelling reasons for doing so. This court has recognized that compelling reasons may include financial misconduct by a spouse that resulted in the loss or expenditure of community funds,[6] negligent loss or destruction of community property, unauthorized gifts of community property, and loss resulting from marital breakup.[7] Further, other courts have upheld an unequal division of community property where one spouse dissipated marital assets through gambling activities.[8] Having reviewed the record, we conclude that the district court did not abuse its discretion in determining that appellant's admitted gambling of community assets constituted a compelling reason to offset her share of the community property.[9]

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[6]Lofgren v. Lofgren, 112 Nev. 1282, 926 P.2d 296 (1996) (upholding unequal distribution of community property where a husband committed intentional financial misconduct by transferring community funds to himself and his father in violation of a preliminary injunction).

[7]Putterman v. Putterman, 113 Nev. 606, 939 P.2d 1047 (1997).

[8]See Kittredge v. Kittredge, 803 N.E.2d 306 (Mass. 2004); Carrick v. Carrick, 560 N.W.2d 407 (Minn. Ct. App. 1997); Wilner v. Wilner, 595 N.Y.S.2d 978 (N.Y. App. Div. 1993).

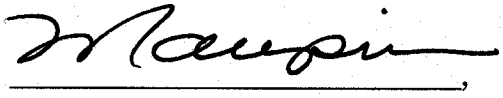
[9]See Wolff v. Wolff, 112 Nev. 1355, 929 P.2d 916 (1996) (providing that an appellate court will not interfere with the trial court's disposition of community property absent an abuse of discretion).

As for appellant's specific challenges to the amount of waste found by the court, the expert appointed by the court to calculate the amount of waste, and the alleged judicial bias against gambling, we must assume that the record supports the district court's judgment because appellant has not provided this court with a trial transcript.[10]

Finally, appellant challenges the district court's failure to award her alimony. Having reviewed the record, we conclude that the district court did not abuse its discretion.[11]

Accordingly, we affirm the district court's order.

It is so ORDERED.



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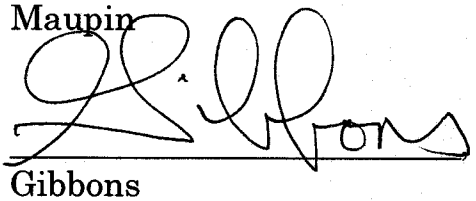

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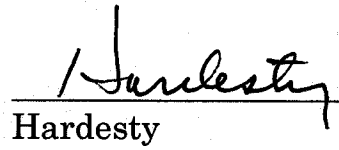

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[10]Schouweiler, 101 Nev. at 831, 712 P.2d at 789.

[11]See NRS 125.150(1)(a) (stating that the court may award alimony if it appears just and equitable); see also Kerley v. Kerley, 111 Nev. 462, 893 P.2d 358 (1995) (providing that the district court enjoys wide discretion in determining whether to award alimony); Sprenger v. Sprenger, 110 Nev. 855, 878 P.2d 284 (1994) (setting forth factors to consider in determining an appropriate alimony award).

cc: Eighth Judicial District Court Dept. E, District Judge, Family Court Division
Patricia Hanson
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