IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN L. KALDY,
Appellant,
vs.
JENNIFER A. KALDY,
Respondent.

No. 47880

FILED

JUN 08 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Stefany Miley, Judge.

On appeal, we review decisions in divorce proceedings for an abuse of the district court's discretion.[1] If the district court's determinations are supported by substantial evidence, we will not disturb them on appeal.[2] Substantial evidence is that which a sensible person may accept as adequate to sustain a judgment.[3]

Appellant contends that the district court abused its discretion when it concluded that he signed off on, and agreed to, the terms of the parenting plan and the divorce settlement agreement, as incorporated into the divorce decree. Appellant raises concerns that the parenting plan is

[1]Shydler v. Shydler, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998).

[2]Id.

[3]See Schmanski v. Schmanski, 115 Nev. 247, 251, 984 P.2d 752, 755 (1999).

vague and will likely lead to future conflicts. Appellant also contends that omitted marital property requires adjudication.

The district court found that both parties signed the parenting plan, and the court incorporated the agreement into the decree. The record shows that appellant did in fact sign the parenting plan. Thus, the district court did not abuse its discretion when it found that appellant signed and agreed to the terms of the parenting plan.

With regard to any alleged omitted marital assets or debts, in the divorce decree, the district court found that the parties were represented by competent counsel during the settlement negotiations and that both parties signed a "Memorandum of Understanding," which dealt with the distribution of their martial property. The court ordered the distribution of the parties' property in accordance with the settlement agreement.

This court has observed that when neither the district court's decree nor findings mention certain property, the decree does not impinge upon the parties' rights to file an independent action to partition any undivided property.[4] With respect to the undivided property, the parties become tenants in common after the divorce decree is entered.[5] Moreover, "[t]he right to bring an independent action for equitable relief is not necessarily barred by res judicata,"[6] which generally precludes the relitigation of issues that could have been or were litigated in a prior

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[4]Amie v. Amie, 106 Nev. 541, 542, 796 P.2d 233, 234 (1990).

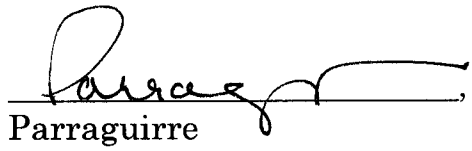
[5]Id.

[6]Id.

action.[7] Thus, appellant's remedy regarding any omitted assets or debts lies in the district court.

As substantial evidence supports the district court's findings that appellant agreed to the terms of the parenting plan and the divorce settlement agreement, we

ORDER the judgment of the district court AFFIRMED.[8]



_____, J.
Parraguirre

_____, J.
Hardesty

_____, J.
Saitta

cc: Hon. Stefany Miley, District Judge, Family Court Division
Carolyn Worrell, Settlement Judge
Adams & Rocheleau, LLC
McFarling Law Group
Eighth District Court Clerk

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[7]Id. at 543, 796 P.2d at 2334-35.

[8]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.