

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIELLE J. DUPERRET,
Appellant,
vs.
DONALD E. EMEL, JR.,
Respondent.

No. 53869

FILED

DEC 04 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order denying appellant's motions to modify a California court's child custody and support determinations and dismissing appellant's action. Eighth Judicial District Court, Family Court Division, Clark County; Gloria S. Sanchez, Judge.

Appellant filed, in the Nevada district court, a California judgment regarding child custody and support, along with motions asking the Nevada court to exercise jurisdiction over the matter and to modify the child custody and support awards. After a hearing, at which the California superior court participated telephonically, the Nevada district court denied appellant's motions. In so doing, the court found that California had the most substantial connection with the family and that, as the California court explained, the family had a long history with the California court. Thus, the California superior court judge was familiar with the case and inclined to retain jurisdiction over the custody and support matters. The California court indicated that appellant could refile any motion to modify custody or support in the California court and that any such motion could be heard on an order shortening time. The Nevada district court therefore entered an order on May 11, 2009, declining jurisdiction over the matter and dismissing the action. This appeal followed.


Subject matter jurisdiction is a question of law subject to de novo review. See Harshberger v. Harshberger, 724 N.W.2d 148, 154 (N.D. 2006) (explaining that when the jurisdictional facts are not in dispute, subject matter jurisdiction is a question of law, subject to de novo review); cf. Baker v. Dist. Ct., 116 Nev. 527, 531, 999 P.2d 1020, 1023 (2000) (providing that when facts are undisputed, a district court's determination regarding personal jurisdiction is reviewed de novo). The district court's factual findings are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence. International Fid. Ins. v. State of Nevada, 122 Nev. 39, 42, 126 P.3d 1133, 1134-35 (2006).


A Nevada district court may not modify a child custody determination made by a court of another state unless Nevada is the children's home state and the "court of the other state determines it no longer has exclusive, continuing jurisdiction pursuant to NRS 125A.315 or that a court of this state would be a more convenient forum." NRS 125A.325(1); see NRS 125A.315 (governing jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act and providing that a court that has made custody determinations continues to have exclusive jurisdiction over custody matters until the court determines that the children and the children's parent do not have a significant connection with the state and substantial evidence is no longer available in the state concerning the children's care, protection, training and personal relationships). With regard to child support, absent the parties' consent, a Nevada court may modify a child support order issued in another state only if the following requirements are met: (1) neither the child, nor the obligee, nor the obligor resides in the issuing state; (2) a nonresident of this state petitions for modification; and (3) the

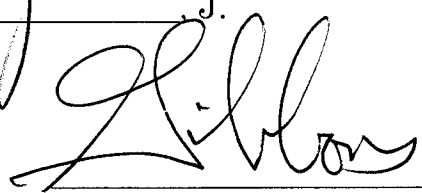
respondent is subject to the personal jurisdiction of a court of this state. NRS 130.611(1)(a) and (b).

Here, respondent continued to reside in California, and he did not consent to the Nevada court modifying the California court's custody and support orders. Telephonically during the hearing and through written correspondence with the Nevada district court, the California court explained that the family had a substantial history with the California court and that the California court was familiar with the case, the parties, and their children. The California court stated that it had presided over extensive hearings and resolved motions to modify custody and support that required substantial fact-finding, including in-chambers interviews with the children and periodic court review of the custody arrangement. In denying appellant's motions regarding jurisdiction and custody and support modification, the Nevada district court determined that California had the most substantial connection with the family and the California court had continued to exclusively exercise jurisdiction and issue ongoing orders in the case. Having considered appellant's proper person appeal statement and reviewed the record, we conclude that the district court's findings of fact are supported by substantial evidence and that its conclusions of law were correct. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Gloria S. Sanchez, District Judge, Family Court Division
Danielle J. Duperret
McFarling Law Group
Eighth District Court Clerk