

IN THE SUPREME COURT OF THE STATE OF NEVADA

DANIEL HALSETH,
Appellant,
vs.
ELIZABETH HALSETH,
Respondent.

No. 61192

FILED

MAR 13 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Charles J. Hoskin, Judge.

On appeal, appellant first challenges the district court's decision concerning child support.¹ The district court concluded that appellant was willfully underemployed and ordered him to pay \$2,274 per

¹While appellant also challenged child custody and spousal support in his proper person appeal statement, we note that the parties entered into a stipulated order in regard to child custody and spousal support during a temporary remand from this court. As appellant is no longer aggrieved in regard to those issues, we need not address them. *See* NRAP 3A(a) (providing that only a party who is aggrieved by an appealable judgment may appeal from the judgment); *see also Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (providing that a party is aggrieved when a personal or property right is adversely affected by the district court's order).

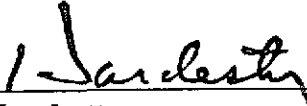
Further, we do not address respondent's request for an order requiring the receiving party to pay the transportation costs for the stipulated visitation because the stipulated order addresses this issue and if she is seeking a modification of that order, she must do so in the district court in the first instance.

month in child support based on his last known income. NRS 125B.080(8) provides that when a court finds that a parent is willfully underemployed to avoid a child support obligation, the court may award child support “based upon the parent’s true potential earning capacity.” Further, “where evidence of willful underemployment preponderates, a presumption will arise that such underemployment is for the purpose of avoiding support . . . [and] the burden of proving willful underemployment for reasons other than avoidance of a support obligation will shift to the supporting parent.” *Minnear v. Minnear*, 107 Nev. 495, 498, 814 P.2d 85, 86-87 (1991). Here, appellant failed to present any evidence demonstrating why he could not attain employment. As appellant failed to rebut the presumption that he was willfully underemployed and the district court properly applied NRS 125B.070 to determine appellant’s child support obligation based on his imputed income, we conclude that the district court did not abuse its discretion in awarding respondent child support. *See Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (providing that this court reviews child support orders for an abuse of discretion).

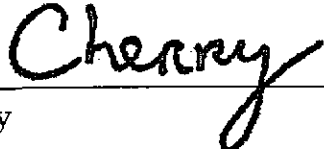
Appellant also challenges the district court’s award of attorney fees to respondent. The record indicates that the district court properly imputed an income to each party and awarded respondent preliminary attorney fees based on the disparity of the imputed incomes under *Sargeant v. Sargeant*, 88 Nev. 223, 226-27, 495 P.2d 618, 620-21 (1972). Further, the district court considered the factors under *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969), when it fashioned the final attorney fees award. Thus, we conclude that the district court did not abuse its discretion in awarding respondent attorney

fees. *See Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005) (recognizing that a district court's decision as to attorney fees in divorce proceedings is reviewed for an abuse of discretion). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Charles J. Hoskin, District Judge, Family Court Division
Daniel Halseth
Elizabeth Halseth
Eighth District Court Clerk