

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DONNIE PEARSON,  
Appellant,  
vs.  
TANYA M. HILL,  
Respondent.

No. 65285

**FILED**

OCT 23 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court custody order. Eighth Judicial District Court, Clark County; Kenneth E. Pollock, Judge.

In this appeal, appellant argues that the district court abused its discretion by awarding respondent primary physical custody of the parties' minor child because the court improperly based its decision on its findings that respondent was more involved in the child's religious upbringing, it was important to maintain the relationship between the child and respondent's other child, and respondent had education and training in child development. In the custody order, the district court apparently based its custody decision, at least in part, on these points. But the court did not make specific, relevant findings tying these points to the child's best interest in this case. *See Davis v. Ewalefo*, 131 Nev. \_\_\_, \_\_\_, 352 P.3d 1139, 1143 (2015) (explaining that determining a child's best interest "is not achieved . . . simply by processing the case through the factors that NRS 125.480(4) identifies as potentially relevant to a child's best interest and announcing a ruling").

For example, while the ability to maintain a child's relationship with any siblings is a relevant factor in determining the child's best interest, *see* NRS 125.480(4)(i),<sup>1</sup> the only finding the court made in this regard was that "[i]t is important to maintain the relationship between the minor child and his sibling." The court did not, however, explain how the custody arrangement ordered in this case promoted that relationship or how another arrangement would have inhibited that relationship. Similarly, the court found that respondent "is the parent most involved with the minor child's religious upbringing," and that respondent "has extensive education and training in child development." But the court failed to tie these findings to any of the statutory best interest factors or make specific findings as to how these points otherwise related to the best interest of this child. *See Davis*, 131 Nev. at \_\_\_, 352 P.3d at 1143.

In the absence of such findings, we cannot conclude that the district court properly exercised its discretion in determining custody in this case. *See id.* ("Specific findings and an adequate explanation of the reasons for the custody determination are crucial . . . for appellate review." (internal quotation marks omitted)). Accordingly, we reverse the district court's order granting respondent primary physical custody, and we


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<sup>1</sup>The 2015 Nevada Legislature repealed NRS 125.480, replacing it with a new statute that includes the same best interest factors as those listed in NRS 125.480(4). *See* 2015 Nev. Stat., ch. 445, § 8, at \_\_\_.

remand this matter to the district court for a new custody determination based on specific findings relating to the child's best interest.<sup>2</sup>

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. David Barker, Chief Judge  
Eighth Judicial District Court, Department J  
Legal Aid Center of Southern Nevada, Inc.  
Tanya M. Hill  
Eighth District Court Clerk

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<sup>2</sup>In reversing and remanding on this basis, we express no opinion as to how the district court should ultimately award custody in this case. Moreover, in light of this order, we decline to consider the other issues raised by appellant in this matter, including the constitutional question regarding the extent to which a district court may consider religion in making a custody determination. *See Spears v. Spears*, 95 Nev. 416, 418, 596 P.2d 210, 212 (1979) (providing that an appellate court "will not consider constitutional issues which are not necessary to the determination of an appeal").