

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DOUGLAS HAHN,  
Appellant,  
vs.  
JENNY L. HAHN,  
Respondent.

No. 67389

**FILED**

**NOV 19 2015**

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

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order modifying child custody and child support. Eighth Judicial District Court, Clark County; Gayle Nathan, Judge.

When the parties divorced, they agreed to joint physical custody of their child with an equal timeshare. Subsequently, respondent moved to modify the custody arrangement to give her primary physical custody of the child, asserting that, because of appellant's work schedule, she had been exercising de facto primary physical custody. Appellant opposed the motion, requesting that the parties maintain the joint physical custody arrangement. After an evidentiary hearing, the district court granted respondent's motion and awarded her primary physical custody. The court also awarded respondent child support based on the new custody arrangement. This appeal followed.

On appeal, appellant argues, among other things, that the district court abused its discretion in modifying the joint custody arrangement to one for primary physical custody with respondent because the modification was not in the child's best interest. Respondent disagrees.

Custody orders are within the district court's discretion and generally are reviewed deferentially. *Davis v. Ewalefo*, 131 Nev. \_\_\_, \_\_\_, 352 P.3d 1139, 1142 (2015). Nevertheless, no deference is owed to a legal error "or to findings so conclusory they may mask legal error." *Id.* In making a custody determination, the district court "must tie the child's best interest, as informed by specific, relevant findings respecting the [statutory] and any other relevant factors, to the custody determination made." *Id.* at \_\_\_, 352 P.3d at 1143. "Specific findings and an adequate explanation of the reasons for the custody determination 'are crucial to enforce or modify a custody order and for appellate review.'" *Id.* (quoting *Rivero v. Rivero*, 125 Nev. 410, 430, 216 P.3d 213, 227 (2009)).


Here, both at the evidentiary hearing and in the written custody order, the district court discussed the testimony and other evidence presented at the hearing and made general findings, such as that appellant had sometimes demonstrated a lack of insight. Further, the court stated that, based on the statutory best interest factors, it was granting respondent's motion to modify custody, noting particularly that the child had experienced a great deal of instability. The court did not, however, tie any of its factual findings regarding the evidence presented to the best interest factors. Nor did the court explain how modifying the parties' custody arrangement would promote the best interest of the child in this case.

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.* Accordingly, we reverse the district court's order granting respondent primary physical custody, and we remand this matter to the district court for a new custody determination based on specific

findings relating to the child's best interest.<sup>1</sup> Because we reverse the custody order, we necessarily also reverse the modification to support, which was based on the change to the physical custody arrangement.

It is so ORDERED.

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

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

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

cc: Hon. David Barker, Chief Judge  
Hon. Charles J. Hoskin, Presiding Family Court Judge  
Eighth Judicial District Court, Department T  
Rosenblum Law Offices  
Jenny L. Hahn  
Eighth District Court Clerk

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<sup>1</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 need not consider appellant's arguments that the district court predetermined the outcome of this case and that the court made findings in the absence of evidentiary support. As to appellant's arguments that the district court abused its discretion by holding an evidentiary hearing, we have considered this argument and conclude that it lacks merit.