

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANE A. CERINI,
Appellant,
vs.
COLLEEN D. BOLOGNA,
Respondent.

No. 68869

FILED

MAY 06 2016

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

ORDER OF AFFIRMANCE

This is a fast track child custody appeal from a district court order denying two motions to modify child custody. Second Judicial District Court, Family Court Division, Washoe County; Chuck Weller, Judge.

The parties have joint physical custody of their minor child. Approximately one year after the original custody order was entered, appellant filed a motion seeking to modify custody based on allegations of misconduct by respondent, and shortly after that, filed an additional emergency ex parte motion to temporarily modify custody. After an evidentiary hearing, the district court denied both motions and this appeal followed.


In denying appellant's motions, the district court found that modification would not be in the best interest of the child. *See Rivero v. Rivero*, 125 Nev. 410, 422 n.4, 216 P.3d 213, 222 n.4 (2009) (providing that joint physical custody may be modified if modification would be in the best interest of the child). Appellant argues that the district court's conclusion is not supported by substantial evidence, and, therefore, its decision was an abuse of discretion. *See Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241-42 (reviewing decisions on child custody matters for an abuse of discretion and further stating that an appellate court should not disturb a


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“district court’s factual findings if they are supported by substantial evidence, which is evidence that a reasonable person may accept as adequate to sustain a judgment”).

Having reviewed appellant’s arguments and the record on appeal, we conclude that the district court did not abuse its discretion in refusing to modify custody. *See id.* Although appellant raised concerns about the police being called to respondent’s home on three occasions, the parties’ child sustaining injuries while in respondent’s care, and an incident that occurred during a custodial exchange, the district court addressed all of these concerns in its order. Specifically, the district court found that the police were called due to the actions of another person, not respondent; that respondent acted responsibly when the child was injured; and that appellant’s testimony regarding the custodial exchange was not credible. These findings are all supported by substantial evidence in the record, namely respondent’s testimony, and this court will not reweigh a witness’s credibility on appeal. *See id.* at 152, 161 P.3d at 244 (“[W]e leave witness credibility determinations to the district court and will not reweigh credibility on appeal.”). Because the district court’s findings are supported by substantial evidence, we conclude that it did not abuse its discretion in declining to modify child custody. *See id.* at 149, 161 P.3d at 241-42. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Chuck Weller, District Judge, Family Court Division
Law Offices of Roderic A. Carucci
Colleen D. Bologna
Washoe District Court Clerk