

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SARAH VILLAVERDE, N/K/A SARAH  
MONSOUR,  
Appellant,  
vs.  
JORGE VILLAVERDE,  
Respondent.

No. 71900

FILED

NOV 20 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REMAND*

Sarah Villaverde appeals a district court order modifying the custody of a minor child. Second Judicial District Court, Family Court Division, Washoe County; Frances Doherty, Judge.

Sarah Villaverde (nka Sarah Monsour) and Jorge Villaverde divorced in 2014. The stipulated Divorce Decree awarded the parties joint legal custody, but gave primary physical custody of their only daughter, who was three years old at the time, to Monsour. Shortly thereafter, Monsour accused Villaverde and those around him of subjecting their child to abuse. Those accusations were never substantiated, and Villaverde moved for primary physical custody. The district court granted Villaverde primary physical custody, referring to Monsour's accusations as a substantial change of circumstances that demonstrated it would be in the child's best interest to be in Villaverde's primary physical custody.<sup>1</sup>

On appeal, Monsour argues the court abused its discretion by failing to consider all the statutory best interest factors, by failing to set forth a nexus between Monsour's actions and harm to the child, and by failing to make findings that Monsour acted maliciously, therefore showing that the court punished Monsour for perceived misconduct.

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

We review the district court's decision regarding custody for an abuse of discretion. *Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996). A court may modify a primary physical custody arrangement "only when (1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child's best interest is served by the modification." *Ellis v. Carucci*, 123 Nev. 145, 150, 161 P.3d 239, 242 (2007). A "substantial change" may be one that affects a parent, the child, or the family unit as a whole. *Id.* at 151, 161 P.3d at 243.

NRS 125C.0035(4)<sup>2</sup> sets forth factors a court must consider in determining the best interest of a child. The Nevada Supreme Court has clarified that the district court must make express findings on all of the best-interest factors set forth in NRS 125C.0035(4). *See Lewis v. Lewis*, 132 Nev. \_\_\_, \_\_\_, 373 P.3d 878, 882 (2016) (holding that a district court abused its discretion "by failing to set forth specific findings as to all of [statutory best interest] factors. . ."). Moreover, an order setting forth a custody determination "must tie the child's best interest, as informed by specific, relevant findings respecting the [statutory best interest factors] and any other relevant factors to the custody determination made." *Davis v. Ewalefo*, 131 Nev. \_\_\_, \_\_\_, 352 P.3d 1139, 1143 (2015).


Below, the district court's oral and written findings together addressed some but not all of the NRS 125C.0035(4) best interest factors. Nor did the order specifically tie its findings to any of the best interest factors. Thus, under *Lewis* and *Davis*, the district court abused its


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<sup>2</sup>These factors were originally set forth in NRS 125.480(4). However, that statute was repealed in 2015, 2015 Nev. Stat., ch. 445, § 19, at 2591, and reenacted without substantive changes as NRS 125C.0035(4) (2015).

discretion when it failed to set forth specific findings as to all of the statutorily required best interest factors and we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>3</sup>

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

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

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

cc: Hon. Frances Doherty, District Judge, Family Court Division  
Shawn B. Meador, Settlement Judge  
Evenson Law Office  
Kenneth J. McKenna  
Washoe District Court Clerk

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<sup>3</sup>We need not consider Monsour's remaining arguments in light of our holding. The custody order entered by the district court shall remain in place until a new order is filed.