

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LAUREN KAHL,
Appellant,
vs.
SHAWN ZAREK WILLIAMS,
Respondent.

No. 75049-COA

FILED

FEB 20 2019

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

ORDER OF REVERSAL AND REMAND

Lauren Kahl appeals a district court order denying a petition for visitation. Eighth Judicial District Court, Clark County; Lisa Brown, Judge.

Lauren Kahl is the maternal aunt and respondent Shawn Williams is the natural father of the subject minor child (hereinafter referred to as P.K.). In the proceedings below, Lauren, who was previously granted a guardianship over P.K., petitioned for visitation after the guardianship was terminated and P.K. was returned to Shawn's custody. The district court denied Lauren's petition for visitation and this appeal followed.¹

This court reviews a child custody decision, including a visitation schedule, for an abuse of discretion, *Rennels v. Rennels*, 127 Nev. 564, 568, 257 P.3d 396, 399 (2011), but "the district court must have reached its conclusions for the appropriate reasons." *Ellis v. Carucci*, 123 Nev. 145,

¹Lauren also raises arguments contesting the district court's denial of her motion to disqualify Judge Brown, but we do not address those arguments as the post-judgment order denying Lauren's motion to disqualify is not an appealable order. See NRAP 3A(b).

149, 161 P.3d 239, 241-42 (2007). In making a custody determination, the sole consideration is the best interest of the child. NRS 125C.0035(1); *Davis v. Ewalefo*, 131 Nev. 445, 451, 352 P.3d 1139, 1143 (2015).

Pursuant to NRS 125C.050, the district court may grant a non-parent visitation with a minor child if the non-parent has resided and established a meaningful relationship with the child, and a parent of the child has denied or unreasonably restricted visits with the child. However, if a parent denies or unreasonably restricts visitation with the non-parent, there is a rebuttable presumption that granting visitation to the non-parent is not in the child's best interest, and to rebut the presumption, the non-parent must show by clear and convincing evidence that visitation is in the child's best interest. NRS 125C.050(4). When determining whether the non-parent has rebutted such a presumption, the district court must consider the factors enumerated in NRS 125C.050(6).

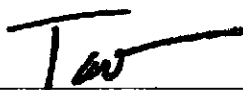
Here, Lauren had guardianship over P.K. for approximately three years, where P.K. lived with Lauren and his two half-siblings, but there is also evidence that suggests the guardianship may have been granted in error. The district court denied Lauren's petition for visitation, finding that Lauren failed to prove by clear and convincing evidence that visitation between P.K. and Lauren was in P.K.'s best interest. However, the district court's order does not address whether Lauren established a meaningful relationship with the child, whether Shawn denied or unreasonably restricted visitation between P.K. and Lauren, or whether the court considered any of the factors set out in NRS 125C.050(6). Indeed, the district court's order does not even cite to, much less make any findings relating to, NRS 125C.050.

Based on the record before us, it is not clear that the district court considered the relevant factors in making its decision; thus, this matter must be reversed and remanded to the district court for consideration of and findings relating to NRS 125C.050, including whether the child had a meaningful relationship with the non-parent, NRS 125C.050(2), whether the parent denied or unreasonably restricted visitation with the non-parent, NRS 125C.050(3), and if the prior questions are answered in the affirmative, for findings related to the factors set out in NRS 125C.050(6). *See Davis*, 131 Nev. at 452, 352 P.3d at 1143 (explaining that without specific findings and an adequate explanation for the custody determination, this court cannot determine whether the determination was appropriate).

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Lisa Brown, District Judge
Lauren Kahl
Warren G. Freeman
Eighth District Court Clerk