

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MICHAEL MASAR,  
Appellant,  
vs.  
KRISTIN MASAR,  
Respondent.

No. 70491

**FILED**

APR 17 2017

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

*ORDER OF AFFIRMANCE*

Appellant Michael Masar appeals from a district court order denying a motion to change venue. Second Judicial District Court, Family Court Division, Washoe County; Cynthia Lu, Judge.

On appeal, Michael argues that the district court was required to transfer the underlying action to Alameda County, California, because it was the proper venue insofar as the parties own real property located in Alameda County that will be addressed in the divorce proceeding. Although the division of real property may be involved, the underlying action is a divorce action, not an action “[f]or the recovery of real property, or an estate, or interest therein, or for the determination in any form of such right or interest, [or] for injuries to real property.” NRS 13.010(2)(a). Thus, the district court properly looked to NRS 13.040 and found that venue was proper in respondent Kristin Masar’s chosen venue of Washoe County because Michael does not reside in the state of Nevada. *See* NRS 13.040 (providing that “if none of the defendants reside in the State . . . the [action] may be tried in any county which the plaintiff may designate in the complaint”).

And because Washoe County was the proper county, the mandatory provision requiring transfer “[i]f the county designated . . . in the complaint be not the proper county” was not implicated, NRS

13.050(1), and the cases cited by Michael for the proposition that the district court was required to transfer venue to the county where he resides were not applicable. See *Stocks v. Stocks*, 64 Nev. 431, 183 P.2d 617 (1947) (concluding that a transfer of venue was required under the mandatory provisions of the predecessor to NRS 13.050(1)); *Duffill v. Bartlett*, 53 Nev. 228, 297 P. 504 (1931) (same).

Finally, while the district court has discretion to change the venue of a proceeding under NRS 13.050(2), see *Mountain View Recreation, Inc. v. Imperial Commercial Cooking Equip. Co.*, 129 Nev. 413, 418, 305 P.3d 881, 884 (2013) (recognizing the district court's "wide discretion" in deciding motions to transfer venue for forum non conveniens), Michael has not demonstrated that the court abused its discretion by denying the motion to transfer venue in this case. See *id.* at 419, 305 P.3d at 885 (explaining that "a plaintiff's selected forum choice may only be denied under exceptional circumstances strongly supporting another forum," and that "[a] motion for change of venue based on forum non conveniens must be supported by affidavits so that the district court can assess whether there are any factors present that would establish such exceptional circumstances"). Accordingly, we affirm the denial of Michael's motion for a change of venue.

It is so ORDERED.



C.J.

Silver



J.

Tao



J.

Gibbons

cc: Hon. Cynthia Lu, District Judge, Family Court Division  
Michael Masar  
Ganz Hauf Carpenter/Reno  
Washoe District Court Clerk