

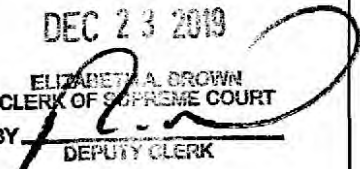
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ANDREW BAPTISTA,
Appellant,
vs.
KRISTY BAUGH,
Respondent.

No. 76649-COA

FILED

DEC 23 2019

ELIZABETH A. CROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Andrew Baptista appeals a final child custody order. Eighth Judicial District Court, Family Court Division, Clark County; Lisa M. Brown, Judge.

Andrew Baptista and Kristy Baugh lived in Missouri and had a daughter in December 2011.¹ Baptista later moved to Las Vegas. In June 2016, the Circuit Court for Jasper County, Missouri (the “Missouri court”), ordered the parties to share joint legal and physical custody of their daughter. This order had a parenting plan that recognized that the daughter would start school in August 2017. Thus, it gave Baptista parenting time during the school year, and gave Baugh parenting time during all vacations. In October 2016—after Baugh informed the Missouri court that she was moving to Las Vegas to be closer to her daughter—the Missouri court held an evidentiary hearing and filed an addendum to its order that gave the parties alternating weeks of parenting time.

In June 2017, Baugh moved to domesticate both orders in the district court. She then moved to modify the parenting plan, and Baptista countermoved, arguing that the initial order from the Missouri court gave

¹We do not recount the facts except as necessary for our disposition.

him primary physical custody, and that the addendum was only temporary. He did not contest the domestication of the orders. In January 2018, the district court issued an order concluding that both orders had been properly domesticated. In June 2018, after an evidentiary hearing regarding physical custody, the district court found that the parties were currently alternating parenting time on a weekly basis, and that both parties testified that this relationship was benefiting their daughter. The district court concluded that both Missouri orders gave the parties joint physical custody, and that no change in circumstances had been shown.

Baptista appeals, arguing that the district court erred because the Missouri court's first order gave him primary physical custody and the second order was only temporary. We disagree.

"Decisions regarding child custody rest in the district court's sound discretion, and this court will not disturb the decision absent a clear abuse of that discretion." *Bautista v. Picone*, 134 Nev. 334, 336, 419 P.3d 157, 159 (2018). "[E]ach parent must have physical custody . . . at least 40 percent of the time to constitute joint physical custody." *Rivero v. Rivero*, 125 Nev. 410, 425-26, 216 P.3d 213, 224 (2009). "*Rivero's* 40-percent guideline should not be so rigidly applied that it would preclude joint physical custody when the court has determined in the exercise of its broad discretion that such a custodial designation is in the child's best interest." *Bluestein v. Bluestein*, 131 Nev. 106, 113, 345 P.3d 1044, 1049 (2015).


Here, the Missouri court's first order expressly stated that the parents would have joint physical custody, but recognized that the daughter would begin school in August 2017. Thus, it gave Baptista custody during the school year. Baugh, however, presented the Missouri court with evidence that she was moving to Las Vegas, and the Missouri court issued

a superseding addendum that gave the parties alternating weeks of parenting time. The district court found that the parties were presently alternating parenting time on a weekly basis, and that both parties testified that this arrangement was benefiting their daughter. Thus, we conclude that the district court did not abuse its discretion in concluding that (1) the Missouri order and addendum both gave the parties joint physical custody of their daughter, (2) Baugh was not required to prove a change of circumstances under *Ellis v. Carucci*, 123 Nev. 145, 150, 161 P.3d 239, 242 (2007), since the parties were already exercising joint physical custody, and (3) it was unnecessary to depart from the Missouri court's extensive findings regarding the daughter's best interests.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

²We also conclude that Baptista has not presented a present basis for relief because he failed to provide legal authority to support his arguments. See NRAP 3E(d)(1)(E) (“[A] fast track statement shall include . . . [l]egal argument, including authorities, pertaining to the alleged error(s) of the district court[.]”); see also *Vaile v. Vaile*, 133 Nev. 213, 217, 396 P.3d 791, 795 (2017) (noting that appellate arguments should be supported with citations to relevant authority).

cc: Hon. Lisa M. Brown, District Judge, Family Court Division
Cramer Law Firm
McFarling Law Group
Eighth District Court Clerk