

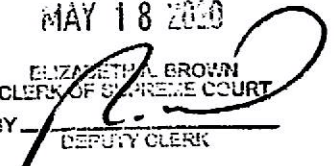
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DREE DECLAMECY,  
Appellant,  
vs.  
WALACE HAWKINS,  
Respondent.

No. 78060-COA

**FILED**

MAY 18 2010

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Dree DeClamecy appeals from a post-decree order in a family law matter. Eighth Judicial District Court, Family Court Division, Clark County; Bill Henderson, Judge.

Dree and respondent Wallace Hawkins were divorced in California by way of a stipulated decree of divorce entered in 2011 and domesticated in Nevada in 2013. The decree provided that Dree would have primary physical custody of the parties' minor child and that Wallace would pay \$1817 per month in child support plus \$2685 per month in alimony until death or Dree's remarriage. In 2014, after Wallace moved to modify his child support and alimony obligations, the parties entered a stipulated order. Pursuant to the order, the parties agreed to modify Wallace's child support payment to \$900 per month and modify his alimony payment to \$1450 per month with the same terms provided in the decree.

In late 2017, Wallace again moved to modify his child support and alimony obligations based on his decrease in income and inability to pay. At the initial hearing on the motion, the court temporarily modified Wallace's child support obligation to \$696 per month and his alimony obligation to \$315 per month. Following an evidentiary hearing, the district court entered an order modifying Wallace's child support obligation to \$696

per month and his alimony obligation to \$315 per month until June 1, 2019, after which the alimony obligation would be \$1 per month until May 2020. This appeal followed.

On appeal, Dree challenges the district court's order modifying child support. In particular, Dree asserts that the district court abused its discretion in modifying the child support obligation downward, in declining to grant her an upward deviation to the child support obligation, and in determining Wallace's gross monthly income and expenses.

This court reviews a child support order for an abuse of discretion. *Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996); *see also Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1227 (2004). An abuse of discretion occurs when the district court's decision is not supported by substantial evidence. *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018) (stating that in child support matters, this court "will uphold the district court's determination if it is supported by substantial evidence" (quoting *Flynn*, 120 Nev. at 440, 92 P.3d at 1227)). Additionally, "[w]e presume that the district court properly exercised its discretion in determining the best interests of the child." *Flynn*, 120 Nev. at 440, 92 P.3d at 1226-27.

The district court may modify a child support order if "there has been a change in circumstances since the entry of the order and the modification is in the best interest of the child." *Rivero v. Rivero*, 125 Nev. 410, 431, 216 P.3d 213, 228 (2009); *see also* NRS 125B.145.<sup>1</sup> Here, the

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<sup>1</sup>We note that several sections of NRS Chapter 125B were amended in 2017, effective February 1, 2020. *See* 2017 Nev. Stat., ch. 371, at 2280-92; Approved Regulation of the Adm'r of the Div. of Welfare & Supportive Servs. of the Dep't of Health & Human Servs., LCB File No. R183-18 (2019);

district court concluded that Wallace's income had decreased since the last custody order such that a modification in child support was warranted. In particular, the court concluded that based on the evidence presented, Wallace's gross monthly income was \$3587 and, pursuant to NRS 125B.070, 18 percent of Wallace's gross monthly income was \$646. But the court maintained the temporary child support amount of \$696, declining to lower it to \$646, on grounds that the additional \$50 per month was appropriate in light of the child's numerous extra-curricular activities.

Moreover, the record demonstrates that the district court considered the child's best interest. For example, in its 39-page order, the district court made numerous findings regarding the parties' incomes and the disparity in income between the parties, and found that it was in the child's best interest to continue participating in her extra-curricular activities, all of which supports the conclusion that modifying child support was in the child's best interest. *See Rivero*, 125 Nev. at 433, 216 P.3d at 229 (concluding that a modified child support order "must be supported by factual findings that a change in support is in the child's best interest"); *see also Fernandez v. Fernandez*, 126 Nev. 28, 36-38, 222 P.3d 1031, 1037-38 (2010) (explaining that more court-ordered child support is not always better for the child and that the obligor parent's financial future should be considered when determining whether child support modification is in the child's best interest).

We also note that the statutory child support amount is presumed to meet the needs of the child, unless the district court finds that a deviation from the statutory amount is warranted. NRS 125B.080(5), (9).

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NAC Chapter 425. Accordingly, we cite the prior version of the statutes herein.


And “the child’s best interest, in the support setting, is tied to the goal of the support statutes generally, which is to provide fair support, as defined [by the statute], in keeping with both parents’ relative financial means.” *Fernandez*, 126 Nev. at 40, 222 P.3d at 1039. Accordingly, here, we cannot conclude the district court abused its discretion in modifying Wallace’s child support obligation. *See Flynn*, 120 Nev. at 440, 92 P.3d at 1226-27; *Wallace*, 112 Nev. at 1019, 922 P.2d at 543.

Dree also asserts that the district court abused its discretion in declining to provide an upward deviation to child support based on her testimony regarding the child’s expenses and the parties’ time with the child pursuant to NRS 125B.080(9). But the district court did provide an upward deviation of \$50 per month based on the cost of the child’s extra-curricular activities. She likewise contends the district court abused its discretion in determining Wallace’s gross monthly income and expenses, asserting that Wallace’s evidence was insufficient to support the district court’s findings. But our review of the record demonstrates that the evidence admitted at trial and testimony support the district court’s findings as to both parties’ income and debt. And both of Dree’s assertions challenge the weight of the evidence presented and the credibility of the witnesses—neither of which can be reweighed on appeal. *See Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007) (refusing to reweigh credibility determinations on appeal); *Quintero v. McDonald*, 116 Nev. 1181, 1183, 14 P.3d 522, 523 (2000) (refusing to reweigh evidence on appeal). Thus, we discern no abuse of discretion as to the district court’s determination regarding deviations to the child support amount pursuant to NRS 125B.080(9) or its conclusions as to the parties’ gross monthly incomes and expenses. *See Miller*, 134 Nev. at 125, 412 P.3d at 1085.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

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

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

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Bill Henderson, District Judge, Family Court Division  
Black & LoBello  
Wallace Hawkins  
Eighth District Court Clerk

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<sup>2</sup>Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.