IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ERIK DOUGLAS WARD,
Appellant,
vs.
SVETLANA RITZA VILLAFLOR,
Respondent.

No. 81210-COA



*ORDER OF REVERSAL AND REMAND*

Erik Douglas Ward appeals from a district court order denying NRCP 60(b) relief in a child custody matter. Eighth Judicial District Court, Family Court Division, Clark County; Charles J. Hoskin, Judge.

Appellant Erik Ward and respondent Svetlana Villaflor have one minor child in common. In December 2019, the district court entered a final decree of custody awarding Villaflor primary physical custody of the child subject to Ward exercising supervised parenting time until such time that he submitted a psychological evaluation demonstrating he was not a danger to the child. Ward then filed a motion to reconsider, which the district court denied in an order entered in March 2020.

Ward subsequently filed a motion to set aside the March 2020 order, pursuant to NRCP 60(b)(1), (2), and (3). The district court denied Ward's motion for NRCP 60(b) relief, concluding that Ward failed to demonstrate a basis for relief under NRCP 60(b) as Ward's arguments did not show mistake, inadvertence, surprise, or excusable neglect that would support setting aside the court's prior order. The district court went on to address some of Ward's procedural arguments, concluding that his arguments lacked merit, and concluding that Ward's disagreement with the

court's prior orders was not a basis to continually re-litigate the issues or to set aside the prior orders. This appeal followed.

The district court has broad discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b), and this court will not disturb that decision absent an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996).

Under NRCP 60(b)(1) the district court may relieve a party from a final judgment or order on grounds of "mistake, inadvertence, surprise, or excusable neglect." When determining whether grounds for NRCP 60(b)(1) relief exists, the court must consider four factors: "(1) a prompt application to remove the judgment; (2) the absence of an intent to delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good faith." *Yochum v. Davis*, 98 Nev. 484, 486, 653 P.2d 1215, 1216 (1982), *overruled on other grounds by Epstein v. Epstein*, 113 Nev. 1401, 1405, 950 P.2d 771, 773 (1997).

Our supreme court has recently held "that district courts must issue explicit and detailed findings, preferably in writing, with respect to the four *Yochum* factors to facilitate this court's appellate review of NRCP 60(b)(1) determinations." *Willard v. Berry-Hinckley Indus.*, 136 Nev., Adv. Op. 53, 469 P.3d 176, 180 (2020). And the appellate courts' review of NRCP 60(b)(1) determinations "necessarily requires district courts to issue findings pursuant to the pertinent factors in the first instance." *Id.* (citing *Jitnan v. Oliver*, 127 Nev. 424, 433, 254 P.3d 623, 629 (2011)). Here, while the district court considered the merits of Ward's motion, it failed to make explicit and detailed findings with respect to the four *Yochum* factors. *See id.* We note that, at the time the district court entered its order, it did not have the benefit of the supreme court's recent opinion in *Willard*.

Nonetheless, in light of *Willard*'s mandatory language, we are constrained to reverse and remand this matter to the district court to make the required findings in the first instance. *See id.* Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.[1]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Charles J. Hoskin, District Judge, Family Court Division
Erik Douglas Ward
Svetlana Ritza Villaflor
Eighth District Court Clerk

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[1]Although this court generally will not grant a pro se appellant relief without first providing the respondent an opportunity to file an answering brief, *see* NRAP 46A(c) (stating the same), in light of the basis for our reversal, the filing of an answering brief would not aid this court's resolution of these issues, and thus, no such brief has been ordered. We likewise note that, in light of our disposition, we need not reach appellant's remaining arguments raised on appeal.