IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID PATRICK STUCKE,
Appellant/Cross-Respondent,
vs.
CHRISTIE LEEANN STUCKE,
Respondent/Cross-Appellant.

No. 82723-COA

FILED
JUN 27 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

David Patrick Stucke appeals, and Christie Leeann Stucke cross-appeals, from a district court decree of divorce. Eighth Judicial District Court, Family Court Division, Clark County; Denise L. Gentile, Judge.

David and Christie entered a domestic partnership in May 2015.[1] The parties then married in May 2016. They have two minor children together. After approximately two and a half years of marriage, David filed a complaint for divorce.

As described by the district court, the divorce "was hotly contested and litigated with various motions, discovery disputes, [and] numerous hearings in front of the [c]ourt." Much of the litigation that took place before the district court is not subject to this appeal. After nearly two years of pretrial litigation, the parties proceeded to trial. The trial spanned five days, during which the district court heard testimony from David, Christie, and the parties' jointly retained custody expert witness Dr. John Paglini, a psychologist.

[1]We recount the facts only as necessary for our disposition.

As relevant to this appeal and cross-appeal, the district court made the following rulings as to the parties' property: (1) it divided a house located on West Maule Avenue equally as community property between David and Christie, (2) it awarded the proceeds from the sale of a house located on Birkland Court to David as his separate property, (3) it awarded the proceeds from the sale of a house located on Grandview Place to David as his separate property, and (4) it denied David's request that Christie reimburse the community for alleged marital waste. As to the custody of the parties' children, the district court made the following rulings: (1) it awarded the parties joint physical custody with a 4/3 parenting timeshare, with David exercising custody over the children approximately 60 percent of the time; and (2) it set each party's child support obligation at the same amount resulting in a net obligation of zero.

Each party raises two community property issues on appeal. David argues the district court abused its discretion by dividing the West Maule property equally between the parties. He additionally argues the district court abused its discretion by denying his request to have Christie reimburse the community for alleged marital waste. For her part, Christie argues the district court erred in awarding David the proceeds from the sale of the Birkland and Grandview properties as his sole and separate properties.

David additionally raises three issues related to the district court's custody order. First, David argues that the district court abused its discretion by awarding the parties joint physical custody. Second, David argues the district court abused its discretion in designating the parties' timeshare as joint physical custody. Third, David argues the district court

abused its discretion by not imputing income to Christie for the purposes of determining child support.

Standard of review

"[We review] a district court's disposition of community property deferentially, for an abuse of discretion." *Kogod v. Cioffi-Kogod*, 135 Nev. 64, 75, 439 P.3d 397, 406 (2019). We also review a district court's decision on child custody for an abuse of discretion. *Rivero v. Rivero*, 125 Nev. 410, 428, 216 P.3d 213, 226 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev., Adv. Op. 1, 501 P.3d 980 (2022). In divorce proceedings, a district court's "[r]ulings supported by substantial evidence will not be disturbed on appeal." *Williams v. Williams*, 120 Nev. 559, 566, 97 P.3d 1124, 1129 (2004) (internal quotation marks omitted). "Substantial evidence is evidence that a reasonable person may accept as adequate to sustain a judgment." *Rivero*, 125 Nev. at 428, 216 P.3d at 226 (internal quotation marks omitted).

The district court did not abuse its discretion by dividing the West Maule property equally between the parties

David argues the district court abused its discretion by dividing the West Maule property equally between himself and Christie. He acknowledges that domestic partnerships create a community property interest in real property but argues the court should have applied *Malmquist*[2] to divide the couple's respective interests in the property. According to David, he used his separate property to pay the down payment on the home and to conduct repairs on it prior to the family moving in. He also argues that "the intent was for the home to remain his sole and separate property." He explains that he entered into a purchase agreement

[2]*Malmquist v. Malmquist*, 106 Nev. 231, 792 P.2d 372 (1990).

for the home in March 2015. He argues that the home was initially his separate property, despite the fact that the couple entered into their domestic partnership in May 2015, before the purchase of the home was finalized in July 2015. Christie counters that the West Maule property was presumably community property because the purchase of the home was not completed until after the parties had entered their domestic partnership. Christie further argues that the district court's order explains that David did not provide the court with a *Malmquist* calculation at trial and that his pretrial memorandum with a summary of the calculation lacked supporting documentation.

Except for a few limited exceptions, any property acquired during a marriage by either spouse is community property. NRS 123.220. The same is true for domestic partnerships. *See* NRS 122A.200(1)(a) ("Domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties under law . . . as are granted to and imposed upon spouses."). In *Malmquist v. Malmquist*, the supreme court developed formulae for calculating the reimbursement of separate and community property improvements to real property. 106 Nev. 231, 240-41, 247, 792 P.2d 372, 377-78, 382 (1990). A district court may only perform a *Malmquist* apportionment where "either separate property has increased in value through community efforts, or conversely, community property value has been enhanced by separate property contributions." *Kerley v. Kerley*, 111 Nev. 462, 466, 893 P.2d 358, 360 (1995).

Here, we first conclude that the district court accurately determined that the West Maule property was community property. David asserts the sale of the home was finalized in March when he signed the

purchase agreement for it rather than in July when the sale was completed. He provides no relevant authority for that assertion, nor has he cogently argued his point. We therefore decline to consider this argument. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant's argument that is not cogently argued or lacks the support of relevant authority). Nevertheless, we note that the district court found that there was no document indicating that the property was anything other than community property and the property was presumed to be community property. *See* NRS 123.220(1).

Further the district court could not have performed a *Malmquist* apportionment to reimburse David for any separate property contribution he may have made to the West Maule property. David did not argue below, nor does he argue on appeal, that the West Maule property's value was enhanced by his separate property contributions. Instead, David argued before the district court that he should be reimbursed for the down payment ($28,400) he paid with poker winnings he earned prior to the couple's domestic partnership. He further argued he was entitled to the equity the home accrued between March 2015 and May 2016—the period during which David and Christie were domestic partners before they married.

On appeal, David explains that he paid the down payment with his separate property and expended another $6,000 of his separate property to complete repairs before the family moved into the home. He summarily argues that "[a]pplying the *Malmquist* formula," his total interest in West Maule is $167,752.71 and Christie's is $98,172.66. In sum, David has not argued that his separate property contributions enhanced the West Maule

property's value and he identifies nothing in the record to indicate that his contributions did so. Therefore, without the proper evidence and foundation, the district court could have found the evidence insufficient to perform a *Malmquist* apportionment to reimburse David for his separate property contributions. *See Kerley*, 111 Nev. at 466, 893 P.2d at 360. Therefore, the court did not abuse its discretion in equally dividing the property.[3]

The district court did not abuse its discretion by awarding the proceeds from the sale of the Birkland property to David as his separate property

Christie argues the district court erred in awarding David the proceeds from the sale of the Birkland property as his sole and separate property. She argues that all property acquired after marriage is presumed to be community property unless, as could apply here, the couple signed a pre- or post-nuptial agreement. David argues Christie executed documents necessary for title to the Birkland property to vest as David's sole and separate property even though the couple was married when the property was acquired. He argues this court should affirm the district court's ruling because Christie did not provide clear and convincing evidence that the Birkland property was thereafter transmuted into community property.

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[3]Although the district court may have had the discretion to reimburse David for the down payment and any repairs by making an unequal disposition of property under NRS 125.150(1)(b) or (2), David did not ask the district court to do so, nor does he argue on appeal that it should have done so. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (explaining that issues not argued below are "deemed to have been waived and will not be considered on appeal"); *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues not raised on appeal are deemed waived).

Marital property will not be considered community property where "[a]n agreement in writing between the spouses" provides otherwise.[4] NRS 123.220(1). "Transmutation from separate to community property must be shown by clear and convincing evidence." *Sprenger v. Sprenger*, 110 Nev. 855, 858, 878 P.2d 284, 286 (1994).

At trial, David testified that he bought the Birkland property with his friend, John Morrell, as a retirement investment for himself. He testified that he contributed $25,000 to the purchase of the home and that those funds came from his separate property. David testified that he set up an LLC with Mr. Morrell, named JD Investments, to manage the property as an Airbnb rental. He further testified that Christie signed the vesting instructions for the house, which vested title in David as "A Married Man as his Sole and Separate Property," a fact Christie does not dispute.

Here, the district court ruled that the Birkland property was initially David's sole and separate property because it was purchased with separate property funds and Christie executed a document acknowledging that Birkland was David's separate property. The court further ruled that the transfer of the property to JD Investments, LLC, did not transmute the property into community property. On appeal, Christie summarily argues that the Birkland property was transmuted into community property because there was no agreement excluding JD Investments, LLC, from being community property. However, she points to nothing in the record that would prove by clear and convincing evidence that the property was transmuted from separate property into community property. *See Sprenger*, 110 Nev. at 858, 878 P.2d at 286. A reasonable person could

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[4]The statute makes no mention, as Christie argues, that the agreement must be in the form of a pre- or post-nuptial agreement.

accept the evidence as adequate to support the district court's findings. Therefore, the district court's order is supported by substantial evidence, *see Rivero*, 125 Nev. at 428, 216 P.3d at 226, and the district court therefore did not abuse its discretion by awarding David the proceeds from the sale of the Birkland property, *see Williams*, 120 Nev. at 566, 97 P.3d at 1129.

The district court did not abuse its discretion by awarding the proceeds of the sale of the Grandview property to David as his separate property

Christie argues the district court erred by awarding the proceeds from the sale of the Grandview property to David as his sole and separate property. She explains the property was purchased during the couple's marriage but acknowledges that she signed a quitclaim deed on the property during the marriage transferring any interest she may have had to David. She explains that David testified at trial that the property was purchased using contributions he made to a TIAA-CREF retirement account earned prior to the couple's marriage. However, she argues, without authority, that David bore the burden of demonstrating that no community funds were used to pay the mortgage on the property. Because any such evidence is absent from the record, she concludes, the district court erred in awarding David the entirety of the proceeds from the sale of the property.

David counters that he held title to the Grandview property "as a married man as his sole and separate property." He explains that there is no evidence that community funds were used to pay the mortgage on the property and therefore Christie has failed to overcome the presumption that David held title to the property as separate property. David further argues that the proceeds from the sale of the Grandview property were almost $20,000 less than the amount of the separate funds he used as a down payment on the property. He therefore argues in the alternative that his

separate property contributions were entitled to dollar-for-dollar reimbursement under *Malmquist*.

At trial, in response to questioning, David agreed that the Grandview property was titled in his name as "a married man, as his sole and separate property." Christie does not dispute that fact. David further testified—and Christie acknowledges on appeal—that Christie signed a quitclaim deed on the Grandview property in October 2017. The district court found that the property was titled as David's sole and separate property. It also found that there was no evidence presented "that any additional community monies were used to satisfy the debt on the residence, that would have created a claim for community interest." The district court found that David had spent more than $80,000 of his separate funds on the Grandview property while the sales proceeds from the house equaled only $63,077.55. It therefore awarded David the entirety of the proceeds.

On appeal, Christie does not argue that the district court initially erred in designating the Grandview property as David's separate property.[5] Christie has not pointed to anything in the record to contradict the district court's finding that there was no evidence that community funds were used to pay the mortgage on the property. Nor has she provided relevant authority or cogently argued why it was David's burden to demonstrate that community funds had not been used to pay the mortgage. Additionally, in the proceedings below, Christie only argued that the Grandview property was community property and did not argue that it was David's separate property but that she had a community interest in it.

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[5]Christie specifically argues the district court erred "by shifting that burden to" her to prove that the mortgage was paid using community monies "after the Grandview house was purchased."

Therefore, we need not consider Christie's argument. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38; *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

Nevertheless, a reasonable person could accept the evidence described above as adequate to support the district court's findings and conclusions. Therefore, substantial evidence supports the district court's ruling, *see Rivero*, 125 Nev. at 428, 216 P.3d at 226, particularly because Christie signed a quitclaim deed on the property and Nevada law has "consistently held that a spouse to spouse conveyance of title to real property creates a presumption of gift that can only be overcome by clear and convincing evidence," *Kerley v. Kerley*, 112 Nev. 36, 37, 910 P.2d 279, 280 (1996). Further, the district court found there was no evidence that community funds were used to pay the mortgage. Therefore, we conclude that the district court did not abuse its discretion by awarding David the proceeds from the Grandview property. *See Williams*, 120 Nev. at 566, 97 P.3d at 1129.

The district court did not abuse its discretion by declining to order Christie to reimburse the community for alleged marital waste

David argues the district court abused its discretion when it denied his request that Christie reimburse the community for her alleged wasteful spending. He argues the court's ruling contradicted its findings that Christie's testimony lacked credibility and "that there was likely wasteful spending and potential concealment of monies by Christie." David argues the district court declined to make a finding of waste "simply based on [a] lack of expert accounting." Christie counters that David failed to meet his burden of proving that she had committed marital waste. She also argues that David has failed, on appeal, to provide any specifics as to how

the district court erred in denying his claim to be reimbursed for marital waste.

When dissolving a marriage, a district court must make an equal disposition of community property absent "a compelling reason to" make an unequal disposition. NRS 125.150(1)(b). Marital waste can provide a compelling reason for the unequal disposition of community property. *Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996) ("[I]f community property is lost, expended[,] or destroyed through the intentional misconduct of one spouse, the court may consider such misconduct as a compelling reason for making an unequal disposition of community property and may appropriately augment the other spouse's share of the remaining community property."). "Generally, the dissipation which a court may consider refers to one spouse's use of marital property for a selfish purpose unrelated to the marriage in contemplation of divorce or at a time when the marriage is in serious jeopardy or is undergoing an irretrievable breakdown." *Kogod*, 135 Nev. at 75-76, 439 P.2d at 406-07 (internal quotation marks omitted).

The district court heard conflicting testimony as to Christie's gambling habits, which is a basis for the waste claim. David presented Christie's gambling history from various casinos. He further testified that Christie's bank statements showed numerous cash withdrawals from ATMs within gaming establishments during that same time. David testified that on various occasions Christie made multiple withdrawals from the same gaming establishment in one day. According to David, this "would sort of make you think that she lost and then went back to the ATM over and over again." However, David conceded that he could not "say for sure" that those withdrawals were all used for gambling.

Christie testified that while the divorce was pending she would make money by advantage gambling and that she included her gambling winnings in her gross income. She testified that David introduced her to advantage gambling and the couple often took advantage of casino promotions to make money.[6] In instances where her gambling records showed a loss, Christie testified that much of the money lost was promotional money provided by the casino. According to Christie, much of the money lost by gambling was not her own personal money and, by extension, would not be a dissipation of community property. She also testified that she would use cash withdrawn from gaming establishments to pay expenses, including business expenses.

David also asserted that Christie purposefully devalued her businesses, thereby creating waste. David presented and testified at length regarding financial summaries that he had prepared based on Christie's bank statements. However, David testified that he was not directly involved in the businesses during the period they began losing clients and that he therefore did not know the reason for the loss of clients. He also testified that he had no accounting background but nevertheless made judgment calls as to how to classify Christie's expenses. He also conceded that he did not interview Christie to help him create the financial summaries. For her part, Christie testified at length as to the inaccuracies she perceived in David's reports based on her experience as the one operating the businesses. She also provided reasons for why her businesses

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[6]David also testified that the couple participated in advantage gambling and, in fact, ran a business where David would teach others how to make money doing so.

lost clients, including her medical director resigning and the COVID-19 pandemic.

The district court found that some of David's financial summaries "lacked requisite information for the [c]ourt to reach a reasonable conclusion,"[7] and ultimately ruled that David's evidence was not "reliable for purposes of making a finding of marital waste." Although the court specifically found that Christie's credibility as to her financial dealings was "questionable," it further found that it was "impossible" to discern what money Christie used for business expenses, personal expenses, the "venture of advantage gambling, or just recreational gambling." The court found that it was unable to determine an actual amount of waste on Christie's part for both her gambling and the alleged business devaluation. Therefore, the court denied David's claim for a sum certain amount of waste. The district court, however, did order that Christie be responsible for any business expenses and any tax ramifications associated with operating the businesses.

A reasonable person could accept the conflicting testimony and incomplete documentary evidence as evidence adequate to support the district court's findings. Importantly, the district court reviewed Christie's bank statements upon which David relied to create his financial summaries. It therefore would have had the opportunity to cross-reference David's work before rejecting it as not "reliable for purposes of making a finding of marital waste." Therefore, substantial evidence supported the district court's ruling, *see Rivero*, 125 Nev. at 428, 216 P.3d at 226, and the district court

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[7]For example, the court found that some of the summaries purported to show "business profit, but lacked any information relating to business expenses."

therefore did not abuse its discretion in denying David's request for reimbursement for Christie's alleged marital waste, *see Kogod*, 135 Nev. at 75, 439 P.3d at 406; *Williams*, 120 Nev. at 566, 97 P.3d at 1129.

The district court did not abuse its discretion by awarding the parties joint physical custody of their children

David argues the district court "erred" by ordering him to share joint physical custody with Christie despite having made findings which were contradictory to that order. He explains that the district court made findings related to multiple best interest factors that were unfavorable to Christie. David argues the district court relied "solely on Dr. Paglini's report" and that it failed to consider its own best interest findings. Christie counters that district courts are entitled to exercise discretion in setting custody orders. She argues the district court did not abuse its discretion because it made extensive findings and conducted the analysis required by NRS 125C.0035(4) before ultimately agreeing with Dr. Paglini's recommendation that the parents share joint physical custody.

"In any action for determining physical custody of [minor children], the sole consideration of the court is the best interest of the child[ren]." NRS 125C.0035(1). In determining best interest, NRS 125C.0035(4) provides that the district court must "consider and set forth its specific findings concerning, among other things," the factors provided in NRS 125C.0035(4)(a)-(l). However, that list of statutory best interest factors is nonexhaustive, and a district court may consider and set forth findings on factors not specifically enumerated in the statute. *See* NRS 125C.0035(4); *Nance v. Ferraro*, 134 Nev. 152, 158, 418 P.3d 679, 685 (Ct. App. 2018) ("In the course of determining whether a custody modification is in the child's best interest, courts must consider and articulate specific findings regarding the nonexhaustive list of best interest factors set forth

by statute."). "Crucially, the decree or order must tie the child's best interest, as informed by specific, relevant findings respecting the [best interest factors] and any other relevant factors, to the custody determination made." *Davis v. Ewalefo*, 131 Nev. 445, 451, 352 P.3d 1139, 1143 (2015).

The district court heard testimony from the parties' jointly retained expert, Dr. Paglini. Dr. Paglini testified that he had prepared a child custody evaluation report for the parties. In preparing that report, Dr. Paglini indicated that he had spent a lot of time with David and Christie and had reviewed a voluminous amount of documentation related to the divorce. He further testified that both parents were fit parents and "trying to operate . . . in the child[ren's] best interest." Dr. Paglini ultimately recommended that the parents share joint physical custody with an approximate 60/40 timeshare.

As David highlights on appeal, Dr. Paglini also testified as to allegations Christie made during the divorce that David had raped her and/or sexually molested their daughter. As part of his evaluation, Dr. Paglini testified that he reviewed court filings wherein Christie's previous husband, Mr. Hentschl, disclosed to a court that Christie had made unsubstantiated accusations against him of physical child abuse. When Dr. Paglini interviewed Mr. Hentschl, Mr. Hentschl did not report to Dr. Paglini that Christie had accused him of physically abusing the children. He did, however, deny that Christie had ever accused him of sexual abuse.

As to Christie's allegations, Dr. Paglini testified that either Christie was "an overly concerned mother . . . who [was] misreading things," or she was "creating false allegations for secondary gains" (i.e. making false allegations to gain an advantage in the divorce proceedings).

Dr. Paglini recommended in his report that if the court found that Christie had fabricated the allegations for secondary gains, the court should award David primary physical custody. However, Dr. Paglini did not reach a conclusion regarding whether Christie fabricated the claims, and he testified that if he had done so, he would not have made the recommendations he ultimately made for joint physical custody.

David and Christie also each testified as to custody. David testified that he had never touched their daughter in an inappropriate way. He also testified that Christie had never raised concerns regarding his ability to care for the children prior to the divorce proceedings. Christie testified that she had concerns about David touching their daughter inappropriately. Despite those concerns, Christie testified that she was not seeking primary physical custody because she had "been told multiple times that . . . it's 50/50 and that's the way it is and [she has] to deal with that." She further testified that she was willing to participate in anger management classes recommended by Dr. Paglini. She testified that the couple already used the timeshare schedule recommended by Dr. Paglini and that the schedule was working.

The district court largely adopted Dr. Paglini's findings, conclusions, and recommendations related to custody. The court set forth detailed findings related to each of the best interest factors found in NRS 125C.0035(4), only one of which it found directly favored David ((4)(d)—"level of conflict between the parents"). Four of the factors were found to be inapplicable and four were found to be neutral. The court did not state a conclusion as to three of the factors, although its findings suggest that one favored David ((4)(f)—mental health of the parents) and one favored Christie ((4)(i)—sibling relationships), and one appeared to be neutral

((4)(h)—nature of the relationship between the children and each parent). As David correctly states, the court put great weight on a non-numerated factor: the recommendation of Dr. Paglini, whose parenting time schedule had been in place during the pretrial proceedings. The court therefore awarded the parties joint physical custody of the children. The district court also set the parties' timeshare schedule at approximately 60/40, with David having the greater share of time by having the children each week from Monday at 8:00 a.m. to Friday at 8:00 a.m. and the parties sharing time with the children equally during the summer.

We acknowledge that custody determinations are some of the hardest decisions district courts are tasked to make. And while a different court may have reached a different conclusion under the facts of this case, the district court's order was nevertheless not an abuse of discretion. The court heard testimony from Dr. Paglini, a child custody expert, who had spent extensive time with the parties. Dr. Paglini also prepared an 88-page report and recommendations for the court to review. Dr. Paglini testified that both David and Christie were fit parents. The district court also heard testimony from David who explained that Christie had never voiced concerns about his parenting prior to the divorce. And the court heard from Christie who testified that the couple's current custody schedule—the one recommended by Dr. Paglini and ultimately adopted by the court—was working for the parents and the children.

As to Christie's allegations against David, the district court found that neither the allegation that he had raped Christie nor the allegation that he had touched their daughter inappropriately had been substantiated. However, the court found that it could not reach the conclusion that Christie had fabricated the allegations for secondary gains.

This finding goes to the parties' credibility, something we do not reweigh on appeal. *Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007).

In light of the foregoing, a reasonable person could accept the evidence as adequate to support the district court's findings and conclusions and therefore substantial evidence supported the district court's decree. *See Rivero*, 125 Nev. at 428, 216 P.3d at 226. Furthermore, the district court's findings were sufficiently thorough and specific, *see Nance*, 134 Nev. at 158, 418 P.3d at 685, and it tied these findings to its ultimate custody determination, *see Davis*, 131 Nev. at 451, 352 P.3d at 1143. Therefore, we conclude that the district court did not abuse its discretion in awarding the parties joint physical custody.

The district court did not abuse its discretion by designating the parties parenting timeshare as "joint physical custody"

David argues the district court abused its discretion by designating the parents as joint physical custodians even though David has custody of the children during the school week and "Christie gets to be a 'weekend mom.'" He argues that, in light of the district court's findings, this designation is a detriment to the children's best interest. Christie counters that the court's parenting time schedule is in the children's best interest. She argues parenting time cannot be used to punish her for any of the court's negative findings against her.

In determining a custody arrangement, the children's best interest must be the primary consideration. *See* NRS 125C.0035(1); *Bluestein v. Bluestein*, 131 Nev. 106, 109, 345 P.3d 1044, 1046 (2015) (clarifying that a court may still designate a custody arrangement as joint physical custody even if one of the parent's timeshare falls below 40 percent if joint custody is in the child's best interest). Each parent exercising physical custody over the children for 40 percent of the time, equal to at

least 146 days over a calendar year, may be used as a guideline for determining that the parents share joint physical custody. *Bluestein*, 131 Nev. at 112-13, 345 P.3d at 1048-49. We "presume that the district court properly exercised its discretion in determining the best interests of the child." *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1226-27 (2004).

Here, the district court ordered the parents to share joint physical custody with an approximate 60/40 timeshare. On appeal, David has provided no relevant authority, nor has he cogently argued why the district court's order was an abuse of discretion. Rather, David summarily argues that he "is the primary parent responsible for the day-to-day decision making . . . while Christie gets to be a 'weekend mom.'" He repeats the arguments he made as to why Christie should not have been awarded joint physical custody in the first place. Therefore, we need not consider his argument. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38. On the merits, the district court ordered Christie to have the children approximately 40 percent of the time and for more than 146 days each calendar year. This 4/3 schedule was appropriately designated joint physical custody, *see Bluestein*, 131 Nev. at 112-13, 345 P.3d at 1048-49, and we conclude that the district court's order was therefore not an abuse of discretion.

The district court did not abuse its discretion by declining to award David child support

David argues the district court abused its discretion by not imputing income to Christie. He explains that the district court found that Christie had funds in excess of what she represented and that her testimony regarding her finances was not credible. He argues the district court failed to enter a child support order against Christie because it could not discern her exact income. However, David argues the district court had enough

information to impute income to Christie. Christie counters that district courts are only permitted to impute income to individuals who are willfully underemployed for the purpose of avoiding child support—a situation that does not apply to her.

District courts are authorized to impute income to an obligor if the court determines the obligor is underemployed or unemployed without good cause. NAC 425.125; *Rosenbaum v. Rosenbaum*, 86 Nev. 550, 554, 471 P.2d 254, 256-57 (1970) (holding that a district court may impute income to a party that "purposefully earns less than his reasonable capabilities permit").

Here, the district court found that Christie had not accurately reported her income on her financial disclosure forms and that it was "almost impossible to discern" her actual monthly income. Specifically, Christie had submitted multiple figures representing her gross monthly income during the lengthy proceedings ranging from $4,100 to $7,233, all of which were less than David's gross monthly income. The court, however, found that Christie was able to earn at least as much as David and therefore set each party's income at $8,333—David's gross monthly income. The district court therefore ordered equal child support from each party with a net obligation of zero.

Preliminarily, the district court did not reach the issue of whether Christie was underemployed for the purposes of determining child support. Rather, the court only discussed Christie's failure to provide an accurate income to the court in determining its award of child support and implicitly found that Christie was able to earn a greater income than the amount documented. Therefore, the court imputed income to her, contrary to David's argument. And although the court did not provide any further

explanation as to the amount it added to Christie's disclosed income, we need not address this issue in the first instance because David provided no figures or calculations below or on appeal as to the correct amount of monthly income. *See 9352 Cranesbill Tr. v. Wells Fargo Bank, N.A.*, 136 Nev. 76, 82, 459 P.3d 227, 232 (2020) (providing that "this court will not address issues that the district court did not directly resolve").

Nevertheless, we conclude that the district court did not abuse its discretion in ordering equal child support. At trial, Christie testified that her businesses had lost customers during the COVID-19 pandemic and that some of her clients were forced to shut down their businesses. She also testified that she only had a couple customers left and that those customers brought in approximately $7,000 of gross income for the businesses each month. And that income, Christie testified, was already allocated towards a litany of business expenses. Christie also testified that her business income decreased when her medical director resigned.

Finally, Christie testified at length as to the errors she perceived in the summaries of her financials that David and his girlfriend had prepared. David conceded that he never interviewed Christie as to the nature of her financial transactions when he was deciding how to classify each one (e.g., as a business or personal expense). And as discussed above, the district court found that those financial summaries were unreliable and lacking in requisite information. Nor has he argued on appeal how much the district court should have imputed to Christie's income or how the district court should have calculated a specific figure.

Here, the district court added $1,100 to the highest gross monthly income figure Christie provided to equalize the parties' income,

and set the net child support obligation at zero.[8] Under the facts of this case, a reasonable mind could accept the evidence as adequate to support that finding. *See Rivero*, 125 Nev. at 428, 216 P.3d at 226. Therefore, we conclude that the district court's determination was supported by substantial evidence, *see Williams*, 120 Nev. at 566, 97 P.3d at 1129, and the district court did not abuse its discretion in ordering an equal child support obligation. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[9]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Denise L. Gentile, District Judge, Family Court Division
Israel Kunin, Settlement Judge
Rosenblum Allen Law Firm
Page Law Firm
Eighth District Court Clerk

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[8]We note that Christie does not appeal the district court's decision to impute income to her.

[9]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.