

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LINDSAY CORDELL,  
Appellant,  
vs.  
BRENT CORDELL,  
Respondent.

No. 83706-COA

**FILED**

DEC 21 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Lindsay Cordell appeals from a post-decree order awarding attorney fees and costs in a family matter. Second Judicial District Court, Family Court Division, Washoe County; Sandra A. Unsworth, Judge.

In the proceedings below, pursuant to a decree of divorce entered in 2017, the parties were awarded joint legal and joint physical custody of their two minor children. As relevant here, after a hearing in September 2020, respondent Brent Cordell was awarded primary physical custody and the parties retained joint legal custody of their children. As part of that order, the district court also directed the parties to work out a holiday schedule amongst themselves, noting that if they were unable to agree, the court would resolve the matter. In November 2020, when the parties could not agree, the district court set a holiday schedule and allowed Brent's counsel to submit a request for attorney fees. After briefing, the district court granted Brent's request for attorney fees, concluding that Lindsay displayed a pattern of vexatious conduct, wasted judicial resources and increased attorney fees with unreasonable requests, and that she unreasonably delayed and prolonged discovery by failing to timely respond

to discovery requests. Accordingly, the court awarded Brent \$4,500 in attorney fees and \$1,164.46 in costs. This appeal followed.

On appeal, Lindsay challenges the district court's order awarding attorney fees. This court reviews a district court's award of attorney fees for an abuse of discretion. *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). An abuse of discretion occurs when the district court's decision is not supported by substantial evidence. *Otak Nev., LLC v. Eighth Judicial Dist. Court*, 129 Nev. 799, 805, 312 P.3d 491, 496 (2013). Substantial evidence is that which a reasonable person may accept as adequate to sustain a judgment. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007).

First, Lindsay argues that the district court abused its discretion in finding that she delayed discovery by failing to timely respond to Brent's discovery requests and that she failed to negotiate the holiday schedule in good faith. As noted above, the district court granted Brent's request for attorney fees after finding that Lindsay made the holiday schedule negotiations unnecessarily difficult and prolonged; that she unreasonably changed her position multiple times thereby frustrating the parties' ability to reach an agreement; that she attempted to add unreasonable or unrelated provisions; and that she unreasonably delayed discovery. The district court found that this conduct demonstrated that Lindsay displayed a pattern of vexatious conduct, wasted judicial resources, and increased attorney fees. Although Lindsay disagrees with the district court's findings, the findings were within the district court's discretion, based on the argument and evidence before the court. And this court does not reweigh witness credibility or the weight of the evidence on appeal. See *Ellis*, 123 Nev. at 152, 161 P.3d at 244 (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, based on these findings, we cannot conclude that the district court abused its discretion in concluding that attorney fees were warranted based on Lindsay's conduct. See *Ellis*, 123 Nev. at 149, 161 P.3d at 242; *Miller*, 121 Nev. at 622, 119 P.3d at 729.

Second, Lindsay argues that the district court abused its discretion in awarding attorney fees because the district court made findings about the parties' incomes without sufficient evidence supporting the same, asserting Brent makes significantly more than he claims. When awarding attorney fees in a family law case, the district court must consider the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), and must also consider the disparity in the parties' income pursuant to *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998). *Miller*, 121 Nev. at 623, 119 P.3d at 730. "Although this court reviews a district court's discretionary determinations deferentially, deference is not owed to legal error, or to findings so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (internal citations omitted).

Here, in making its attorney fees award, the district court made specific findings as to the *Brunzell* factors and considered the disparity in the parties' incomes pursuant to *Wright*. In considering the parties' incomes, the district court found that Brent's gross monthly income was \$3,333.33. Although Lindsay summarily asserts that Brent makes significantly more than this, she points to nothing in the record to support her assertion. Moreover, to the extent the district court may have heard testimony or taken evidence at the hearing, Lindsay has failed to provide

the transcript of the hearing to this court and we must presume any missing portions of the record support the district court's decision. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (holding that when an "appellant fails to include necessary documentation in the record, we necessarily presume that the missing portion supports the district court's decision"). Thus, we cannot conclude that the district court abused its discretion in making its findings as to the parties' incomes or that reversible error occurred. *See Miller*, 121 Nev. at 622, 119 P.3d at 729.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

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

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

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

cc: Hon. Sandra A. Unsworth, District Judge, Family Court Division  
Lindsay Cordell  
Brent Cordell  
Washoe District Court Clerk

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<sup>1</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.