

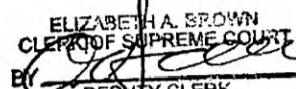
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MONICA SIMS,
Appellant,
vs.
STEPHEN SIMS,
Respondent.

No. 84960-COA

FILED

MAY 18 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Monica Sims appeals from a district court decree of divorce. Second Judicial District Court, Washoe County; Dixie Grossman, Judge.

During the underlying proceeding, Monica and respondent Stephen Sims reached a settlement, which was entered in the district court's minutes in the form of an order. The district court subsequently entered a decree of divorce consistent with the terms of the parties' settlement agreement. The same day, Monica filed a motion for reconsideration in which she essentially sought to demonstrate that the terms of the decree were unfair to her. To do so, Monica presented various allegations relating to Stephen's out-of-court conduct, alleged failure to comply with discovery requirements, and purported misrepresentation of his finances, and further argued that the parties' settlement conference was conducted improperly and that the attorney who represented her during the conference was ineffective.

After Stephen filed his opposition, the district court entered a written order denying reconsideration in which it specifically addressed

Monica's arguments concerning Stephen's finances and her counsel. In particular, the district court determined that relief was unwarranted as to these issues because Monica was orally canvassed concerning the parties' settlement agreement and indicated, among other things, that she was pleased with her counsel who had answered her questions to her satisfaction; that she understood the terms of the parties' settlement agreement and its consequences, which would include the waiver of her rights to further discovery, a trial, and an absolutely equal share of the community estate; and that she was entering into the agreement freely and voluntarily. Moreover, the district court found that, insofar as Monica sought to demonstrate that Stephen misrepresented his finances, the supporting documentation was available to her prior to the settlement conference and did not constitute new evidence to support reconsideration. This appeal followed.

On appeal, Monica challenges the district court's order denying her motion for reconsideration of the decree. We review a district court's decision to grant or deny a motion for reconsideration for an abuse of discretion. *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 589, 245 P.3d 1190, 1197 (2010) (recognizing that the denial of a timely motion for reconsideration of a final judgment may be reviewed, in the context of an appeal from that judgment, for an abuse of discretion). Reconsideration may be appropriate when the district court's decision is clearly erroneous or new issues of fact or law are raised, which support a ruling contrary to the one the court previously reached. *Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

In challenging the order denying her motion for reconsideration, Monica initially argues that the district court improperly placed the burden of establishing that reconsideration was warranted on her. Relief is unwarranted on this basis, however, as it is the party seeking reconsideration who bears the burden of demonstrating that the same is warranted. *See, e.g., In re H.S.*, 114 Cal. Rptr. 3d 898, 901 (Ct. App. 2010) (explaining that the party seeking reconsideration bears the burden of demonstrating that such relief is appropriate); *cf., e.g., Willard v. Berry-Hinckley Indus.*, 136 Nev. 467, 470, 469 P.3d 176, 179-80 (2020) (providing that the party seeking to set aside the district court's decision pursuant to NRCP 60(b)(1) bears the burden of establishing grounds for the same); *Lioce v. Cohen*, 124 Nev. 1, 17, 174 P.3d 970, 981 (2008) (stating the same in the context of a motion for a new trial based on attorney misconduct).

Monica further challenges the district court's denial of her motion for reconsideration by reiterating the various arguments that she presented below with respect to why she believed that the terms of the decree were unfair to her. However, insofar as Monica contends that she demonstrated that Stephen misrepresented his finances below, she fails to address the district court's separate findings concerning her responses to the court's canvass and determination that her supporting documentation did not constitute new evidence, and as a result, she has waived the entire issue. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived). Similarly, while Monica also asserts that Stephen's out-of-court conduct was improper during the pendency of the underlying proceeding and that he failed to comply with discovery requirements, she

makes no attempt to argue or explain why she could not raise these issues at the settlement conference or how they overcome her responses to the district court's canvass. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (declining to consider issues unsupported by cogent argument); see also *In re H.S.*, 114 Cal. Rptr. 3d at 901. And although Monica further argues that Stephen's expert used an improper methodology in appraising Stephen's business, she failed to raise that argument below, and, therefore, has not preserved it for our appellate review. See *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."). Thus, Monica has failed to demonstrate that these issues warrant reversal.

Lastly, insofar as Monica asserts that the district court was biased because it ruled against her, she has failed to demonstrate a basis for relief. Indeed, we presume that district court judges are unbiased, see *Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009), *overruled on other grounds by Romano v. Romano*, 138 Nev., Adv. Op. 1, 501 P.3d 980, 984 (2022), and "rulings and actions of a judge during the course of official judicial proceedings do not establish legally cognizable grounds for disqualification." *In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988). Moreover, based on our review of the record before this court, we discern no basis for concluding that the district court was biased against Monica. See *Rivero*, 125 Nev. at 439, 216 P.3d at 233 (explaining that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification).

Thus, for the foregoing reasons, we conclude that Monica has failed to establish that the district court abused its discretion by denying her motion for reconsideration. *See AA Primo Builders*, 126 Nev. at 589, 245 P.3d at 1197. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Dixie Grossman, District Judge
Monica Sims
Attorney Marilyn D. York, Inc.
Washoe District Court Clerk

¹Insofar as Monica raises arguments that are not specifically addressed in this order, we have considered them and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.