

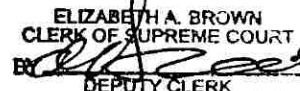
IN THE SUPREME COURT OF THE STATE OF NEVADA

NATALY NATACHA RUCKER,
Appellant,
vs.
RYAN ASHLEY DINGMON,
Respondent.

No. 85211

FILED

AUG 18 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order modifying child custody and permitting relocation. Eighth Judicial District Court, Family Court Division, Clark County; Bryce C. Duckworth, Judge.¹

Appellant Nataly Rucker and respondent Ryan Dingmon are the biological parents of minor child N.R.D. When N.R.D. was born in 2008, Nataly was married to non-party Matt Rucker. At that time the parties agreed that Nataly and Matt would raise N.R.D. After Nataly and Matt divorced in 2011, they split custodial time of N.R.D., and Ryan began sending Nataly child support payments. In 2013, Ryan petitioned for custody and visitation rights. The district court awarded the parties joint legal custody of N.R.D., awarded Nataly primary physical custody, and granted Ryan out-of-state visitation. Despite Nataly having primary physical custody, at some point N.R.D. began residing with Matt, although Nataly contends that she, Matt, and Matt's new wife worked together as a blended family to parent N.R.D. In 2021, Ryan moved for primary physical custody of N.R.D. and for the court's permission to relocate to New York with N.R.D. After an evidentiary hearing, the district court granted Ryan's

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

motion. Nataly sought reconsideration and moved to join Matt as a party. Matt moved separately to intervene and sought custody of N.R.D. for the first time. The district court denied both motions. Nataly now appeals.

We conclude that the district court did not abuse its discretion in granting Ryan’s motion for custody and relocation of N.R.D. *See Micone v. Micone*, 132 Nev. 156, 158, 368 P.3d 1195, 1196 (2016) (reviewing child custody determinations for an abuse of discretion); *see also Flynn v. Flynn*, 120 Nev. 436, 440 n.6, 92 P.3d 1224, 1227 n.6 (2004) (holding that “the appropriate standard of review” for relocation requests is an abuse of discretion). The district court may modify physical custody “only when (1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child’s best interest is served by the modification.” *Romano v. Romano*, 138 Nev., Adv. Op. 1, 501 P.3d 980, 983 (2022) (quoting *Ellis v. Carucci*, 123 Nev. 145, 150, 161 P.3d 239, 242 (2007)). “In determining the best interest of the child, the court shall consider and set forth its specific findings concerning” several factors. NRS 125C.0035(4).

We conclude that substantial evidence supported the district court’s finding that “there has been a substantial change in circumstances affecting the welfare of the child.” *Ellis*, 123 Nev. at 149-51, 161 P.3d at 241-43 (explaining that this court “will not set aside the district court’s factual findings if they are supported by substantial evidence”). Here, there have been two such changes. First, the record contains substantial evidence that Nataly abdicated her parental duties to Matt. Indeed, N.R.D. primarily resided with Matt for several years before Ryan filed his motion and Nataly appears to have delegated her caretaking duties to Matt by, among other things, removing herself from N.R.D.’s school records. Second,

the record also supports the district court's expressed concern for N.R.D.'s declining school grades and attendance.

We are also satisfied that the district court adequately considered the requisite factors for determining whether modifying custody was in N.R.D.'s best interest. *See* NRS 125C.0035(4) (listing factors the district court must consider when determining a child's best interest in custody proceedings). The district court's order discussed and made findings as to each of the factors set forth in NRS 125C.0035. Although N.R.D. expressed a preference to continue living with Matt, *see* NRS 125C.0035(4)(a) (allowing the court to consider the child's wishes), the district court correctly acknowledged that this factor was rendered neutral in light of Matt's status as a non-party. *See Micone*, 132 Nev. at 158, 368 P.3d at 1196 (considering a child custody award to a nonparty and emphasizing that "a court must have jurisdiction over a party before it can enter judgment affecting that party"). We conclude that the district court's findings as to the NRS 125C.0035 factors are supported by substantial evidence, *see Ellis*, 123 Nev. at 149, 161 P.3d at 242, and that those factors weighed in favor of awarding custody to Ryan.²

We also conclude that the district court did not abuse its discretion in granting Ryan's request to allow N.R.D. to relocate to New York to live with him. *See Flynn*, 120 Nev. at 440-43, 92 P.3d at 1227-29 (reviewing a district court's decision concerning relocation for an abuse of

²Because we conclude that the court properly awarded Ryan custody of N.R.D., we need not reach Nataly's arguments regarding whether the district court properly applied the parental preference doctrine. *See* NRS 125C.004(1) (requiring the district court to "make a finding that [awarding] custody to a parent would be detrimental to the child" before it may award custody to a non-parent).

discretion). While we agree with the district court that NRS 125C.006 and NRS 125C.0065 (concerning a parent's request to relocate over the objection of the other parent) did not apply to Ryan's motion, we nonetheless approve of the district court's findings regarding those statutes. Moreover, because substantial evidence supports the district court's findings regarding the factors set forth in NRS 125C.007 (listing factors the district court must weigh when considering whether to grant permission to relocate), we agree that permitting the relocation was in N.R.D.'s best interest. *See Pelkola v. Pelkola*, 137 Nev. 271, 274-75, 487 P.3d 807, 810-11 (2021) (requiring the district court to make findings regarding the NRS 125C.007 factors when considering relocation); *cf.* NRS 125C.007(3) (requiring a parent wishing to relocate a child to prove that relocation is in the child's best interest).

We also conclude that the district court did not abuse its discretion by denying Nataly's post-decision motion to join Matt as a party. *See Cummings v. Charter Hosp. of Las Vegas, Inc.*, 111 Nev. 639, 645, 896 P.2d 1137, 1140 (1995) ("The district court has broad discretion to allow or deny joinder of parties."). First, the district court was within its discretion to deny joinder under NRCP 20. *See* NRCP 20(a)(1)-(2) (authorizing permissive joinder where a party either asserts a right to relief or a right to relief is asserted against them). Matt did not assert any rights in the action, nor did Ryan's motion assert any claims against Matt. Second, we conclude that Matt was not an indispensable party that would require mandatory joinder under NRCP 19 because the district court was able to "accord complete relief among existing parties." NRCP 19(a)(1)(A); *see also Lund v. Eight Judicial Dist. Court*, 127 Nev. 358, 361, 255 P.3d 280, 283 (2011) ("NRCP 19 requires joinder of all parties necessary for an action's just adjudication."). Furthermore, Nataly's motion was untimely.

Finally, we conclude the district court did not abuse its discretion by denying Matt's post-decision motion to intervene as untimely. *See Las Vegas Police Protective Ass'n v. Eighth Judicial Dist. Court*, 138 Nev., Adv. Op. 59, 515 P.3d 842, 846 (2022) (reviewing a district court's decision regarding intervention for an abuse of discretion). Here, Matt filed his motion to intervene in the custody proceeding after the court entered its final written order on Ryan's motion. *See Nalder v. Eighth Judicial Dist. Court*, 136 Nev. 200, 206, 462 P.3d 677, 684 (2020) (providing that a non-party may only intervene if his application is timely); *Las Vegas Police Protective Ass'n*, 138 Nev., Adv. Op. 59, 515 P.3d at 846 (holding that intervention is not permitted after the entry of a final judgment). Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Bryce C. Duckworth, District Judge, Family Court Division
Israel Kunin, Settlement Judge
Willick Law Group
Barnes Law Group, LLC
Eighth District Court Clerk