IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHARLES LOREN MATZDORFF,
Appellant,
vs.
MARISA BILKISS, F/K/A MARISA MATZDORFF,
Respondent.

No. 83870-COA

ORDER OF AFFIRMANCE

Charles Loren Matzdorff appeals from a district court order denying a motion to modify child support. Eighth Judicial District Court, Family Division, Clark County; Dawn Throne, Judge.

Charles and respondent Marisa Bilkiss were divorced by stipulated decree in 2019 and share joint legal and physical custody of their two minor children. The record before this court reflects that both Charles and Marisa are self-employed and have had large fluctuations in income since the divorce and during the COVID-19 pandemic. While the divorce decree awarded child support according to the terms of the parties' agreement—which required Charles to pay Marisa $715 a month—the majority of the subsequent litigation revolved around the parties' disputes regarding the truthfulness of their respective financial disclosure forms (FDFs).

After a period of motion practice, discovery, and hearings, wherein the parties litigated Charles' claims that he was not able to maintain the $715 support obligation due to a decrease in his landscaping

business, and his assertions that Marisa appeared to be manipulating her FDFs to avoid a child support obligation, in November 2019, the district court—in orally resolving Charles' omnibus motion to modify support—directed Charles to provide business and personal bank statements from the date of divorce to the present, and Marisa to provide income updates and a summary of real estate listings every sixty days in an attempt to prevent additional litigation.[1] Although the parties appeared to follow the court's oral ruling, the court did not enter its written order until July 2020.

Later, in September 2020, Charles filed another motion to modify child support, again asserting that Marisa was underreporting her income in her FDF and that, were her disclosures complete, she would owe him child support. Marisa disagreed, countering that Charles misunderstood the nature of real estate brokerage agreements (which often included heavy marketing, licensing, and other costs) and argued that Charles' own financial disclosures were sufficient for the district court to impute income to him. Eventually, at a hearing on November 10, 2020, the parties stipulated to set Charles' child support obligation at $200 a month, and the district court entered a written order confirming that stipulation on May 14, 2021.

Following briefing on whether Charles should pay attorney fees to Marisa in light of his repetitive motion practice, the district court found

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[1]During this time, the district court expressed skepticism regarding the accuracy and sustainability of both parties' financial situations, as it appeared that both parties' monthly expenses exceeded their respective incomes. Nonetheless, the court also temporarily decreased Charles' child support obligation in response to his request.

that Charles has repeatedly relitigated child support and other issues despite the court's indication that its prior rulings on these issues were final. Ultimately, the court awarded Marisa $7,063.75 in attorney fees and costs. Approximately three days after entry of the attorney fees order, Charles filed a "Motion for an Order to Show Cause Regarding Contempt; to Enforce Court Order Regarding Defendant's Income; for Sanctions and/or Attorney Fees and to Modify Child Support Accordingly," which is the motion underlying the instant appeal.

In that motion, Charles requested that the court issue an order to show cause and hold Marisa in contempt as she had failed to comply with the court's November 2019 order to provide real estate listings and income updates every sixty days. Charles further argued that he discovered that Marisa has been substantially underreporting her personal income, and that he detrimentally relied upon those representations when entering into the settlement. Specifically, Charles argued that, based on publicly available sales data, Marisa should have received approximately $330,811 in real estate commissions from April 2020 to July 2021, and that, based on her May 2021 FDF, where she reported $15,620.48 in gross monthly income and $11,382.98 in business expenses, she artificially inflated her business expenses to reduce her income to avoid child support modification. As a result, Charles moved the district court to retroactively modify the support order and for his attorney fees and costs. Finally, Charles sought to reopen discovery for the limited purpose of gathering accurate financial information from Marisa.

After considering Marisa's opposition, Charles' reply, and the arguments of counsel, the district court entered an order that denied

Charles' request to issue an order to show cause, finding that the parties' settlement agreement superseded Marisa's previous obligation to produce recent financial statements as it constituted a settlement of the child support dispute. The court also found that Charles' motion was frivolous, without merit, and vexatious, and awarded Marisa's counsel $2,000 for preparing for the hearing. As to Charles' request to modify his child support obligation, the district court found that Charles had failed to demonstrate that Marisa's income had changed since the entry of the order formalizing the November 2020 settlement agreement, which had been filed only two months prior to Charles' latest motion. The court also expressed its displeasure at the repeated motion practice regarding this issue, noting that the parties had spent more in attorney fees litigating the support issue than Charles will ever pay in child support, and determined that it "will not permit the parties to re-litigate child support every year" and "will not allow the matter to be relitigated again in advance of a three year review." Charles now appeals.

On appeal, Charles argues that the district court abused its discretion when it (1) denied his request to modify child support based upon his assertion that Marisa misrepresented her gross annual income; (2) denied Charles' request to issue an order to show cause against Marisa and impose sanctions against her; (3) entered an award of attorney fees and costs against him under EDCR 7.60; and (4) limited his ability to file motions to modify child support.

Charles first alleges that the district court abused its discretion by purportedly refusing to consider his allegations that Marisa's FDFs were untruthful. Given the extensive litigation history in this matter, and the

closeness in time between Charles' last motion and the parties stipulated order, we conclude that the district court did not abuse its discretion in declining to review child support or reopen discovery in this instance. *See Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018).

Under NRS 125B.145, district courts are required (upon request) to review an order for child support at least every three years. Otherwise—except where the obligor can demonstrate a change in income of 20 percent or more—the decision to review a child support order based on changed circumstances lies within the district court's discretion. NRS 125B.145(4); *Rivero v. Rivero*, 125 Nev. 410, 431-32, 216 P.3d 213, 228 (2009) (recognizing that outside of a change in the obligor's income of 20 percent or more, district courts may review support orders but are not required to do so), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 7-8, 501 P.3d 980, 985-86 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). "[A] court cannot modify a child support order if the predicate facts upon which the court issued the order are substantially unchanged." *Rivero*, 125 Nev. at 431, 216 P.3d at 228. These requirements prevent parties "from filing immediate, repetitive, serial motions until the right circumstances or the right judge allows them to achieve a different result, based on essentially the same facts." *Id.* (alterations omitted).

Here, Charles' motion sought to modify the May 2021 order adopting the parties' stipulation that Charles pay $200 in child support. In rejecting the modification request, the district court concluded that Charles failed to demonstrate changed circumstances requiring modification for two reasons: first, because the allegations Charles presented regarding Marisa's

gross annual income were the same arguments presented during the proceedings that led to the settlement, and second, because Marisa's income had not changed from the November 2020 date when the parties entered into the settlement agreement to June 2021, when Charles filed the instant motion. The district court's conclusions in this regard are supported by the record. Thus, Charles has failed to demonstrate changed circumstances since the prior support determination, and we conclude that the district court did not abuse its discretion when it declined to modify or further review the support order.[2] Under these circumstances, we likewise see no basis to disturb the district court's refusal to reopen discovery. We therefore affirm those determinations.

Next, Charles argues that the district court abused its discretion when it declined to hold Marisa in contempt for failure to comply with the district court's prior order to produce financial disclosures every sixty days. We disagree.

"Whether a person is guilty of contempt is generally within the particular knowledge of the district court, and the district court's order should not lightly be overturned." *Detwiler v. Eighth Judicial Dist. Court*, 137 Nev. 202, 206, 486 P.3d 710, 715 (2021). All findings of contempt for failure to comply with a court order must be based on a valid written order, and "[a] court order which does not specify the compliance details in unambiguous terms cannot form the basis for a subsequent contempt

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[2]We decline Charles' invitation to extend this court's opinion in *Myers v. Haskins*, 138 Nev., Adv. Op. 51, 513 P.3d 527, 532 (Ct. App 2022), to child support matters.

order." *State, Div. of Child & Family Servs. v. Eighth Judicial Dist. Court*, 120 Nev. 445, 454-55, 92 P.3d 1239, 1245 (2004). Here, the district court evaluated Charles' motion and affidavit in support of his motion for an order to show cause, and determined that the settlement agreement and resulting court order superseded the 2019 order directing Marisa to file FDFs every sixty days. We discern no abuse of discretion in the court's determination, and therefore we affirm this portion of the district court's order. *See Detwiler*, 137 Nev. at 206, 486 P.3d at 715.

Next, Charles argues that the district court abused its discretion when it awarded $2,000 in attorney fees against him under EDCR 7.60, contending that there is no factual or legal basis for such sanctions. The decision to award attorney fees rests within the district court's discretion, and we review such decisions for an abuse of discretion. *O'Connell v. Wynn Las Vegas, LLC*, 134 Nev. 550, 554, 429 P.3d 664, 668 (Ct. App. 2018). Under EDCR 7.60(b), the district court may, after providing the nonmoving party with notice and an opportunity to be heard, impose any and all sanctions that may be reasonable, including the imposition of attorney fees. In this case, the district court properly considered the *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), factors and contemplated the disparity in income between the parties as required by *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998). Thus, we discern no abuse of discretion in this regard. And given that Charles does not otherwise challenge the reasonableness of the fee award, he has waived any argument regarding the same. *See 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). Accordingly, we affirm the award of attorney fees in this matter.

Finally, Charles argues that the district court abused its discretion when it found that "it will not permit the parties to re-litigate child support every year" and "will not allow the matter to be relitigated again in advance of a three year review." To the extent that the findings in the district court's order can be construed as a prefiling restriction on the parties' ability to move to modify child support, it would violate NRS 125B.145(4), which mandates that "a change of 20 percent or more in the obligor parent's gross monthly income *requires* the court to review the support order." *Rivero*, 125 Nev. at 432, 216 P.3d at 228 (emphasis added).[3] Thus, we caution the district court to the extent it has expressed its intent in the future to refuse to consider *all* requests for child support modification prior to the three-year review, this would be in conflict with NRS 125B.145(4), as the court is required to consider such requests when predicated on a 20 percent or more change in the obligor's monthly income. *See id.*

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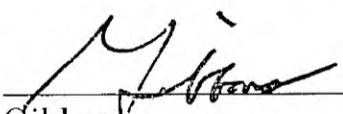
[3]NRS 125B.145(4) states:

> [a]n order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.

Nevertheless, in this case, because the challenged language is only contained within the district court's factual findings, and not specifically ordered by the district court, we conclude that the district court's order does not impose an impermissible restriction in violation of NRS 125B.145(4).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.[4]



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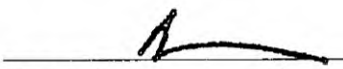
Gibbons



_____, J.
Bulla

_____, J.
Westbrook

cc: Hon. Dawn Throne, District Judge, Family Division
Pecos Law Group
Carman & Price
Eighth District Court Clerk

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[4]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.