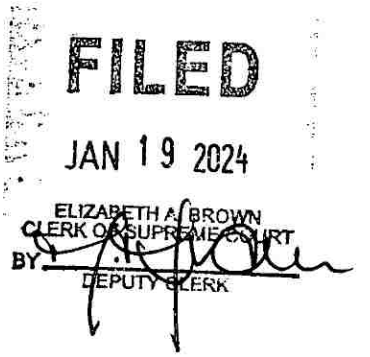
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KIMBERLY WHITE,
Appellant,
vs.
TAMIKA BEATRICE JONES,
Respondent.

No. 86500-COA



ORDER OF AFFIRMANCE

Kimberly White appeals from a district court order regarding grandparent visitation. Eighth Judicial District Court, Clark County; Vincent Ochoa, Judge.

Kimberly is the paternal grandmother of her son Christopher Judson's three minor children with respondent Tamika Beatrice Jones. In the proceedings below, Tamika filed a complaint for custody of the children against Christopher in 2019, and they subsequently stipulated to sharing joint legal and physical custody. The following year Kimberly intervened, without objection from Tamika or Christopher, seeking sole legal and primary physical custody or, in the alternative, third party visitation. Kimberly was awarded temporary grandparent visitation, but the relationship between Kimberly and Tamika worsened and eventually Tamika stopped allowing Kimberly to see the children and relocated with them to Michigan.

The parties thereafter litigated the issue of visitation, and there were changes to custody and visitation over a period of time that need not be recounted in detail.

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In February 2023, the district court held an evidentiary hearing on Kimberly's request for grandparent visitation. Both Kimberly and Tamika testified. Neither party introduced exhibits. Following the evidentiary hearing, the district court entered a written order awarding Kimberly grandparent visitation on Labor Day and Memorial Day weekends, which was to occur in Michigan, and weekly telephonic communication with additional calls on birthdays and certain holidays. It found Tamika and Christopher did not want Kimberly to have visitation with the children and that there was a presumption against awarding grandparent visitation but, after evaluating the NRS 125C.050(6) statutory factors, the district court concluded that it was in the children's best interest to maintain a relationship with Kimberly. This appeal followed.

On appeal, Kimberly challenges the district court's order, apparently seeking additional grandparent visitation, and raises numerous issues with the evidentiary hearing.

A district court decision regarding visitation rights is reviewed for an abuse of discretion. *Ramos v. Franklin*, 129 Nev., Adv. Op. 6, 525 P.3d 1227, 1232 (2023). This court will uphold the district court's factual findings if they are supported by substantial evidence and not clearly erroneous. *Id.* 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).

Grandparents or other persons who have resided with a child and established a meaningful relationship may petition the court for reasonable visitation under delineated circumstances not challenged here. NRS 125C.050(1)-(3). However, if a parent has denied visitation with the child, there is a rebuttable presumption that granting visitation to the

petitioner is not in the child's best interest. NRS 125C.050(4). And to rebut this presumption, the petitioner must demonstrate by clear and convincing evidence that it is in the best interests of the child to grant visitation. *Id.* When determining whether the petitioner has rebutted the presumption, the district court shall consider the factors enumerated in NRS 125C.050(6).

Here, although Kimberly was awarded grandparent visitation, she takes issue with the reduction in time from the prior temporary visitation orders. While her visitation was reduced from prior temporary orders, Kimberly has not provided any cogent argument to demonstrate that the reduction was an abuse of discretion, *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 claims that are not cogently argued). Further, she has not provided this court with the transcript of the proceedings.[1] Thus, we necessarily presume the missing portions of the record support the district court's determination. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007) (explaining that the appellant is responsible for making an adequate appellate record, and when the "appellant fails to include necessary documentation in the record, we necessarily presume that the missing portion supports the district court's decision").

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[1]We note the supreme court issued a notice to Kimberly in which it instructed her that appellants who have not been granted in forma pauperis status and have requested a transcript "must file a copy of the transcript in this court" and cited specifically to NRAP 9(b)(1)(B). While Kimberly filed a transcript request form, and the court reporter notified the appellate courts that the requested transcript had been prepared and filed with the district court, Kimberly did not provide this court with copies of the requested transcript or otherwise take any steps to ensure that this court received the transcript.

Nevertheless, based on our review of the record, the district court properly considered NRS 125C.050 in evaluating Kimberly's motion and made findings relevant to NRS 125C.050(6) in awarding her grandparent visitation. In particular, the district court determined there was a high level of conflict between the parties, specifically finding that Kimberly had attempted to usurp parental responsibility from Tamika and refused to allow the older children to speak with Tamika while they resided with her from November 2021 through January 2022, all of which increased the conflict. Additionally, the district court added that the parties could agree in writing to additional visitation if the conflict between them decreased following litigation. It therefore appears the reduction in visitation time was related to the high level of conflict for which Kimberly was at least partially responsible. Under these circumstances, we cannot conclude that the district court abused its discretion in its award of grandparent visitation. *See Ramos*, 129 Nev., Adv. Op. 6, 525 P.3d at 1232.

Kimberly makes an additional summary argument that her reduction in grandparent visitation was the result of bias following her filing of a prior petition for a writ of mandamus. We conclude that relief is unwarranted on this point because Kimberly has not demonstrated that the court's visitation determination in the underlying case was based on knowledge acquired outside of the proceedings and the court's decision does not otherwise reflect "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Canarelli v. Eighth Judicial Dist. Court*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official

judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); *see In re Petition to Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally "do not establish legally cognizable grounds for disqualification"); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (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). Therefore, Kimberly is not entitled to relief based on this claim.

Next, Kimberly claims that the district court erred during the evidentiary hearing when it failed to (1) investigate her allegations of child abuse, (2) allow her to discuss prior proceedings relating to the allegations of abuse and neglect of the children, and (3) consider child protective services (CPS) reports from Michigan and Nevada as well as a Family Mediation Center child interview with the oldest child from 2022. However, Kimberly has failed to demonstrate these are errors. First, it is not clear to what extent Kimberly's allegations of abuse and neglect were actually raised during the hearing because, as previously noted, she did not provide this court with a transcript of the proceedings. *See Cuzze*, 123 Nev. at 603, 172 P.3d at 135. We note, however, that Kimberly raised allegations of abuse during earlier proceedings, and the district court's order found that the allegations of abuse and neglect were never substantiated. The order further found that neither party introduced exhibits, which undermines her argument that the court should have considered the CPS reports and child

interview. And, although Kimberly makes various factual allegations pertaining to alleged abuse, this court will not second guess a district court's resolution of factual issues involving conflicting evidence or reconsider its credibility findings. *See Ellis*, 123 Nev. at 152, 161 P.3d at 244. Accordingly, we conclude that Kimberly has not raised any issues that warrant relief.[2] We, therefore

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Gibbons

_____, J.
Bulla

_____, J.
Westbrook

cc: Hon. Vincent Ochoa, District Judge
Kimberly White
McGannon Law Office, P.C.
Eighth District Court Clerk

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[2]On January 10, 2024, Kimberly filed a motion for stay pending resolution of the appeal. In light of this disposition, we deny the motion as moot.

Insofar as Kimberly raises 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.