

IN THE SUPREME COURT OF THE STATE OF NEVADA

VIAOWN WAY MICHEV,
Appellant,
vs.
STILIYAN MICHEV,
Respondent.

No. 41951

FILED

DEC 22 2004

BY *[Signature]*
JANE T. ASH, CLERK
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER AFFIRMING IN PART,
REVERSING IN PART AND REMANDING

This is a proper person appeal from a divorce decree. Eighth Judicial District Court, Clark County; Robert W. Lueck, Judge, Family Court Division.

During the underlying divorce proceedings, appellant was awarded temporary physical custody of the parties' minor child, and respondent was granted weekend visitation. In April 2003, before granting the divorce, the district court entered an order that changed the temporary child custody arrangement. Specifically, the district court awarded respondent sole physical custody and denied appellant any visitation with the child because appellant "repeatedly violated" the district court's orders concerning respondent's visitation rights.

In August 2003, the parties were granted a divorce. Without explanation, the divorce decree awards respondent sole legal and physical custody of the parties' minor child. The decree further provides that because of appellant's "transient life style [sic] there shall be NO OVERNIGHT visitations until [appellant] has a stable residence." The

decree does not specifically provide for appellant's visitation privileges, however. Thus, the decree is inconsistent because it awards respondent sole physical custody yet suggests that appellant has some (non-overnight) visitation privileges.

On June 8, 2004, we directed respondent to file a response explaining why the district court's order concerning child custody and visitation should not be reversed and the matter remanded as to the custody issues. Respondent has filed his response.

As set forth in NRS 125.480(1), when determining the custody of a minor child in a divorce proceeding, "the sole consideration of the court is the best interest of the child." Nevada's policy concerning child custody is also expressed in NRS 125.460(1) and (2), which "ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have become separated or have dissolved their marriage; and . . . encourage such parents to share the rights and responsibilities of child rearing." The district court has broad discretionary power in determining questions of child custody and visitation, and this court will not disturb the district court's determination absent a clear abuse of discretion.¹


In the present case, the district court's decree is internally inconsistent, and the district court made no findings to support its award of sole legal and physical custody to respondent and denial of any specific visitation to appellant. As noted, under NRS 125.460, a court should attempt to ensure that a child has consistent contact with both parents after a divorce. Here, the district court's decree makes no provisions for

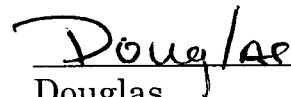
¹See Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996).

the child's contact with appellant, for reasons that are not apparent from the record. Consequently, although we affirm the decree with respect to the divorce and property distribution, we are compelled to reverse the portion of the decree pertaining to child custody. We remand this matter to the district court for further proceedings with respect to child custody.

It is so ORDERED.²


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Robert W. Lueck, District Judge, Family Court Division
Elliott D. Yug
Viaown Way Michev
Clark County Clerk

²Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered the proper person documents received from her. We direct the clerk to return, unfiled, the submissions received by appellant on October 14, 2003, and October 6 and 8, 2004.