

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATRINA CARTER.
Appellant

vs.

RUNNDLEY DUCKSWORTH,
Respondent

) Supreme Court No. 81966
) District Court No. D35012

DEC 02 2020

) DOCKETING STATEMENT
) CLERK OF SUPREME COURT
) BY  DEPUTY CLERK

GENERAL INFORMATION

All applicants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c) The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to attach documents as requested in this statement, completely fill out the statement, or to fail to file it in a timely manner, will constitute grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of

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ELIZABETH A. BROWN
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sanctions appropriate. See *Moran v. Bonneville Square Assocs.*, 117 Nev. 525, 25 P.3d 898 (2001); *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 810 P.2d 1217 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: EIGHTH Dept: E
County: CLARK
Judge: Charles J. Hoskin District Ct. Case #: D550112
2. Attorney filing this docketing statement: Appellant in Proper Person

NOTE: APPELLANT IS FILING IN PROPER PERSON

Attorney: Telephone:
Firm
Address:
Client:

If this is a joint statement completed on behalf of multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney representing respondent:

RUNNDLEY DUCKSWORTH, in Proper Person
2221 Mediterrean Sea Ave.
N. Las Vegas, NV 89031
rundley100@gmail.com

4. Nature of disposition below: (check all that apply)

X	Judgment after bench trial	___	Grant/Denial of NRCP 60(b) relief
___	Judgment after jury verdict	___	Grant/Denial of Injunction
___	Summary Judgment	___	Grant/Denial of declaratory relief
___	Dismissal	___	Review of agency determination
___	___ Lack of jurisdiction	___	Divorce Decree
___	___ Failure to state a claim	___	original ___ modification
___	___ Failure to prosecute	___	Other disposition (Specify):
___	___ Other (specify) _____		

1 5. Does this appeal raise issues concerning any of the following:

2 ☒ Child Custody

3 ☒ Venue - Jurisdiction

4 ☐ Termination of Parental Rights

5 6. Pending and prior proceedings in this court. List the case name and docket
6 number of all appeals or original proceedings presently or previously pending before
7 this court which are related to this appeal:

8 N/A

9 7. Pending and prior proceedings in other courts. List the case name, number and
10 court of all pending and prior proceedings in other courts which are related to this
11 appeal (e.g. bankruptcy, consolidated or bifurcated proceedings) and their dates of
12 disposition:

13 Clark County District Court, Case No. D550112

14 8. Nature of the action. Briefly describe the nature of the action, and the result below:

15 This was an action relating to a change of custody, for a child of sufficient age
16 and maturity to express his desires, and who has resided in Texas for the past three
17 years. Based upon Respondent's allegations of violation of visitation, the court
18 granted a change of custody. This is punitive to the Appellant (and more so to the
19 minor child), rather than a decision in the child's best interest.

20 Considering the child resided in Texas for three years, the court should have
21 relinquished jurisdiction to Texas in this matter.

22 9. **Issues on appeal.** State concisely the principal issue(s) in this appeal:

23 a. Did the court err by not allowing the minor child to testify given that he was
24 here in Las Vegas and available? And considering that the dad was testifying that the
25 child is a liar.

26 b. Did the court err by failing to admit the child interview?

- 1 c. Did the court err by failing to consider the child interview?
- 2 d. Did the court err when it failed to enter findings of fact based on the child
- 3 interview?
- 4
- 5 e. Was it an abuse of discretion when the court found mom in contempt given
- 6 that she was not personally served with the order to show cause?
- 7 f. Did the court abuse its discretion when it punished Mom by changing
- 8 custody.
- 9 g. Did the court abuse its discretion when it failed to considered the child's
- 10 best interest?
- 11
- 12 h. Did the court abuse its discretion when its findings were not supported by
- 13 substantial or solid evidence? [*Rico v. Rodriguez*, 120 P.3d 812, 121 Nev. 695 (Nev.
- 14 2005). Substantial evidence is evidence that a reasonable person may accept as
- 15 adequate to sustain judgement. *Williams v. Williams*, 97 P.3d 1124, 120 Nev. 559
- 16 (Nev. 2004).]
- 17
- 18 i. Did the court err when it set this matter for an evidentiary hearing
- 19 considering it did not meet the requirements of finding adequate cause under *Rooney*.
- 20 j. Did the court err when it modified custody when there was not a substantial
- 21 change of circumstance affecting the welfare of the child?
- 22
- 23 k. Did the court abuse its discretion when it modified custody in retaliation to
- 24 Mom filing a disqualification affidavit against the Judge?
- 25 l. Did the court abuse its discretion when it failed to solely consider that best
- 26 interest of the child, including the physical, developmental and emotional needs of
- 27 the child?
- 28

1 m. Did the court abuse its discretion when it failed to find “specific factual
2 findings” to justify the modification of custody? *Rivero v. Rivero*, 216 P.3d 213, 125
3 Nev. 410 (2009)

4 n. Did the court err when it failed to consider that Dad is seeking to modify
5 custody for the sole purpose of minimizing his financial exposure. The judge states
6 on the bottom of page 20 that the high conflict was based on child support and then
7 it focused on visitation issues.

8 o. Did the court err when it failed to consider the abuse allegations that the
9 child mentioned in the child interview.

10 p. Did the court err when it failed to consider the evidence where Katrina
11 explained to the court that the child was not comfortable and did not want to stay for
12 an extended period in Las Vegas and this is why the Dad missed his custodial time.

13 q. Did the court err when it failed to apply the best evidence rule when it found
14 that the child’s grades were declining (but dad produced no report cards).

15 r. Did the court err when it failed to inquire as to why the child was not put on
16 the plane during the visits the dad missed and/or failed to consider Katrina’s reasons.

17 s. Did the court err when it failed to admit the child’s medical record under
18 the hearsay exception of statements made to a medical provider

19 t. Did the court err when it said that Katrina provided proper notice to pick up
20 child on July 26 (not July 24).

21 u. Did the court err when it failed to consider the relationship between the dad
22 and the child.

1 v. Did the District Court err by failing to give more weight to the child's desire
2 to remain in Texas where he resided for over three years.

3 w. Was it an abuse of discretion to award Respondent primary physical
4 custody of the minor child, given the facts in this matter.
5

6 x. Did the district court error when it changed custody, which was punitive,
7 rather than in the best interest of the minor child.

8 y. Did the court err failing to relinquish jurisdiction on its own motion, given
9 the child has resided in Texas for over three years, and did not want to live with
10 Respondent in Nevada.
11

12 z. Did the court err by retroactively finding Appellant in contempt of court,
13 from September 19, 2017 - August 4, 2020, when other orders had been entered on
14 the court record.

15 aa. Did the court err by modifying custody in the middle of the school year,
16 during a global pandemic.
17

18 10. Pending proceedings in this court raising the same or similar issues. If you are
19 aware of any proceeding presently pending before this court which raises the same
20 or similar issues raised in this appeal, list the case name and docket number and
identify the same or similar issues raised: **NONE KNOWN**

21 11. Constitutional issues. If this appeal challenges the constitutionality of a statute,
22 and the state, any state agency, or any officer of employee thereof is not a party to this
23 appeal, have you notified the clerk of this court and the attorney general in
accordance with NRAP 44 and NRS 30.130?

24 N/A ☒ YES _____ NO _____

25 If not, explain: _____
26
27
28

12. Other issues. Does this appeal involve any of the following issues?

- ☐ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
- ☐ An issue arising under the United States and/or Nevada Constitutions
- ☐ A substantial issue of first impression
- ☐ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- ☐ A ballot question
- If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstances(s) that warrant retaining the case, and include an explanation of their importance or significance:

Appellant believes it will be assigned to the Court of Appeals.

14. Trial. (a) If this action proceeded to trial, how many days did the trial last?
Approximately 4 hours.
- (b) Was it a bench or jury trial? Bench trial.

15. Judicial disqualification. Did you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which justice?
N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from:
Order filed 9/24/20; Notice of Entry of Order filed 9/24/2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review: N/A

17. Date written notice of entry of judgment or order served: 9/24/20
- Was service by:
- ☐ delivery
- ☒ by mail
- ☐ by fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCp 50(b), 52(b) or 59) N/A

(a) Specify the type of motion, and the date and method of service of the motion, and date of filing.

____ NRCp 50(b) Date of filing

____ NRCp 52(b) Date of filing

____ NRCp 59 Date of filing

Attach copies of all post-trial tolling motions.

NOTE: Motion made pursuant to NRCp 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See *AA Primo Builders v. Washington*, 126 Nev. ___, 245, P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____ (attach copy)

(c) Date written notice of entry of order resolving motion served _____ (attach copy - include proof of service)

was service by:

____ delivery

____ mail

19. Date notice of appeal was filed: **10/16/20**

(a) If more than one party has appealed from the judgment or order, list date each notice of appeal was filed and identify by name the party filing the notice of appeal: N/A

20. Specify statute or rule governing the time limit for filing the Notice of Appeal, eg. NRAP 4(a), NRS 155.190 or other: NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

NRAP 3A(b)(1): X NRS 155.190 (specify subsection):

NRAP 3A(b)(2): NRS 38.205 (specify subsection):

NRAP 3A(b)(3): NRS 703.376 (specify subsection):

Other (specify): _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

Appellant is entitled to Appeal a final decision of the trial court.

22. List all parties involved in the action in the district court:

1 Appellant: KATRINA CARTER
2 Respondent: RUNNDLEY DUCKSWORTH

3 (a) If all parties in the district court are not parties to this appeal, explain in
4 detail why those parties are not involved in this appeal, eg. formally dismissed, not
served, or other: All parties are part of this appeal

5 23. Give a brief description (3 to 5 words) of each party's separate claims,
6 counterclaims, cross-claims or third-party claims, and the trial court's disposition of
7 each claim, and how each claim was resolved (i.e. order, judgment, stipulation), and
the date of disposition of each claim. Attach a copy of each disposition.

8 Appellant: A change of custody was punitive and not in the child's best
9 interest.

10 Respondent: Respondent desires custody of the child solely to continue to
11 avoid child support

12 24. Did the judgment or order appealed from adjudicate ALL the claims alleged
below and the rights and liabilities of ALL parties to the action below:

13 Yes X No

14 25. If you answered "No" to the immediately previous question, complete the
15 following:

16 (a) Specify the claims remaining pending below: None.

17 (b) Specify the parties remaining below: None

18 (c) Did the district court certify the judgment or order appealed from as a final
judgment pursuant to NRCP 54(b):

19 Yes ___ No X.

20 (d) Did the district court make an express determination, pursuant to NRCP 54(b),
that there is no just reason for delay and an express direction for the entry of
judgment

21 Yes No X

22 26. If you answered "No" to any part of question 25, explain the basis for seeking
23 appellate review (e.g. order is independently appealable under NRAP 3A(b):

24 Order is independently appealable under NRAP 3A(b).

25 27. Attach file-stamped copies of the following documents:

26 a. The latest filed complaint, counterclaims, cross-claims, and third-party
claims.

27 b. Any tolling motion(s) and order(s) resolving tolling motion(s)

1 c. Orders of NRCP 41(a) dismissals formally resolving each claim,
2 counterclaims, cross-claims, and/or third party claims asserted in the action or
3 consolidated action below, even if not at issue on appeal.

4 d. Any other order challenged on appeal.

5 e. Notices of Entry for each attached order.

6 **VERIFICATION**

7 I declare under penalty of perjury that I have read this docketing statement, that
8 the information provided in this docketing statement is true and complete to the best
9 of my knowledge, information and belief, and that I have attached all required
10 documents to this docketing statement.

11 
KATRINA CARTER

12
13 11/26/2020
14 Date

Mesquite, TX
State and county where signed

15 **CERTIFICATE OF SERVICE**

16
17 I certify that on the 24 day of November, 2020, I served a copy of this
18 completed docketing statement upon all counsel of record:

19 By personally serving it upon him/her; or

20 X By mailing it by first class mail with sufficient postage prepaid to the following
21 address:

22 RUNNDLEY DUCKSWORTH
23 2221 Mediterrean Sea Ave
N. Las Vegas, NV 89031

24 Dated this 24 day of November, 2020.

25 
26 Person mailing - signature