

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

AUG 02 2021

THOMAS CASS,
Appellant,
vs. CHRISTA CLASSON,
Respondent.

Supreme Court No. 83297
District Court No. D-17-554355-D

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

PRO SE CHILD CUSTODY FAST TRACK STATEMENT

1. Name of party filing this fast track statement:

THOMAS CASS

2. Name, address, and telephone number of person submitting this fast track statement: THOMAS CASS

1752 YELLOW ROSE ST.

LAS VEGAS, NV 89108

3. Judicial district, county, and district court docket number of lower court proceedings: EIGHTH JUDICIAL DISTRICT COURT OF CLARK COUNTY
DEPT. P D-17-554355-D

4. Name of judge issuing judgment or order appealed from:

PERRY

5. Length of trial or evidentiary hearing. If the order appealed from was entered following a trial or evidentiary hearing, then how many days did the trial or evidentiary hearing last?

NONE

6. Written order or judgment appealed from:

DENIAL OF MOTION FOR SCHOOL SELECTION FOR MINOR CHILD AND CLAIMING ON TAXES

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

21-22434

7. Date that written notice of the appealed written judgment or order's entry was served: JULY 25TH, 2021

8. If the time for filing the notice of appeal was tolled by the timely filing of a motion listed in NRAP 4(a)(4),

(a) specify the type of motion, and the date and method of service of the motion, and date of filing:

(b) date of entry of written order resolving tolling motion:

9. Date notice of appeal was filed:

JULY 26TH, 2021

10. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a), NRS 155.190, or other: NRAP 3E

11. Specify the statute, rule or other authority, which grants this court jurisdiction to review the judgment or order appealed from:

NRAP 3A(7)

12. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which involve the same or some of the same parties to this appeal: D-17-554355-D

13. Proceedings raising same issues. If you are aware of any other appeal or original proceeding presently pending before this court, which raise the same

legal issue(s) you intend to raise in this appeal, list the case name(s) and docket number(s) of those proceedings: ARCELLA v. ARCELLA 407 P.3d 341(2017),

JONES v JONES No. 76693-COA

14. Procedural history. Briefly describe the procedural history of the case (you are encouraged, but not required, to support assertions made in this fast track statement regarding matters in the record by citing to the specific page number in the record that supports the assertions):

07/20/2020 MOTION AND NOTICE OF MOTION FOR SCHOOL SELECTION FOR MINOR CHILD; Application to Proceed in Forma Pauperis; 08/06/2020 Opposition to Motion; Plaintiff's Order to Proceed in Forma Pauperis; 08/14/2020 Notice of Rescheduling of Hearing; 08/29/2020 Pltfs Reply to Opposition/Counter-motion; 8/29/2020 Exhibits; 09/09/2020 Plaintiff's Motion and Notice of Motion for School Selection for Minor 02/25/2021 Pre-trial Memorandum; 02/25/2021 Order After Hearing 09/09/2020; 02/26/2021 Evidentiary Hearing; 06/22/2021 Motion SCHOOL SELECTION FOR MINOR CHILD AND CLAIMING ON TAXES; 06/22/2021 Application to Proceed in Forma Pauperis; Opposition to Motion for School Selection and to Claim Tax Credit; 07/05/2021 Exhibit to Opposition to Motion for School Selection and to claim Tax Credit; 07/13/2021 Ex Parte Motion; 07/13/2021 Opposition to Ex Parte Motion for an Order Shortening Time; 07/14/2021 Notice of Telephonic Hearing; 07/15/2021 Order; Order (May 6, 2021 Hearing); 07/15/2021 Order Shortening Time; 07/19/2021 Exhibits; 07/22/2021 Motion Opposition to Motion for School Selection and to Claim Tax Credit; 07/22/2021 All Pending Motions Defendant: Classon, Christa Rose; 07/23/2021 Order

15. Statement of facts. Briefly set forth the facts material to the issues on appeal (you are encouraged, but not required, to support assertions made in this fast track statement regarding matters in the record by citing to the specific page number in the record that supports the assertions):

On 2/26/2021 there was an evidentiary hearing to determine the best school for my son, Kendall Cass. His mother, Christa Classon, wanted him to attend a public school near her parents' house with whom she currently resides. I wanted Kendall to attend either a traditional curriculum charter school or a STEM magnet school. The hearing found that it was in Kendall's best interest to attend the STEM or charter school, but that I was responsible for providing transportation during my week of custody and during Christa's week of custody. I was tasked with writing the Order after the hearing. After the Order was complete, I attempted to have Christa sign it, but she refused. After several more failed attempts I submitted the Order on 3/22/2021 with the form attesting to the other Party's refusal to sign. I was unaware that Christa had filed an Order on 2/25/2021 fraudulently stating we had agreed that Kendall could attend the public school of her choice, and the Court had accepted this Order despite it being filed a day prior to the hearing and by the wrong party.

The three STEM schools I applied Kendall to did not accept him. Legacy Charter School, a charter school with an accelerated, traditional curriculum, accepted Kendall's application. Legacy has three campuses in town, and one what is close to Christa's house, and another was close to my house. Also, Christa and I share 50/50 custody of Kendall exchanging every week on Saturday. Because I was responsible for Kendall's transportation both during my weeks of custody and Christa's weeks of custody, I asked if Kendall could attend a school near my house. Christa would not need to provide transportation, pay for any of the extra expenses associated with going to the school, and she would not lose anytime with Kendall, and it would save me \$3000 a year in transportation costs. Christa refused. She also planned to have Kendall attend public school she wanted without informing me, which I found out by checking Kendall's enrollment. I filed a motion to have Kendall attend school that we had already determined was in his best interest at the evidentiary hearing, only the location near my house rather than Christa's because I was providing the transportation. If not, and I had to provide transportation to the campus near her home, I requested that I get to claim Kendall on my taxes each year to offset some of the transportation costs. Judge Perry was extremely hostile admonishing me for "trying to disrupt my child's life because I was unstable and moved away from his school." I tried to explain that I had gotten married and purchased a house to which she cut me off and said I should have bought one near his school. I tried explaining that where I lived had no bearing on which school was in Kendall's best interest, but she again cut me off saying that the public school was "just fine and had a STEM program." I said that was not true, Kendall was ineligible for the GATE program there, and I asked to see the proof of these program's Christa says exists that I cannot find, and the judge replied, "do some research." I tried bringing up the fact that the evidentiary hearing found the STEM and Charter schools were in Kendall's best interest, and it should not matter where they are located, and she ended the hearing.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

16. Issues on appeal. State concisely the principal issue(s) in this appeal:

I believe the District Court erred in not upholding the decisions made during the evidentiary hearing and accepting the Order filed the day prior to the hearing by the wrong party. The District Court erred in basing the school choice on location rather than any of the following factors: (1) The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference;(2) The child's educational needs and each school's ability to meet them;(3) The curriculum, method of teaching, and quality of instruction at each school;(4) The child's past scholastic achievement and predicted performance at each school;(5) The child's medical needs and each school's ability to meet them;(6) The child's extracurricular interests and each school's ability to satisfy them;(7) Whether leaving the child's current school would disrupt the child's academic progress;(8) The child's ability to adapt to an unfamiliar environment;(9) The length of commute to each school and other logistical concerns;(10) Whether enrolling the child at a school is likely to alienate the child from a parent. The district court failed to support its order with specific findings.

17. Legal argument, including authorities:

A district court must hold an evidentiary hearing on a request to modify custodial orders if the moving party demonstrates "adequate cause." *Rooney v. Rooney*, 109 Nev. 540, 542, 853 P.2d 123, 124 (1993). "Adequate cause arises where the moving party presents a prima facie case" that the requested relief is in the child's best interest. *Id.* at 543, 853 P.2d at 125 (internal quotation marks omitted). To demonstrate a prima facie case, a movant must show that "(1) the facts alleged in the affidavits are relevant to the [relief requested]; and (2) the evidence is not merely cumulative or impeaching."

The district court failed to support its order with specific findings

A district court has wide discretion when determining issues related to child custody, but it is this court's duty to examine whether a district court's "determination was made for the appropriate reasons." Sims, 109 Nev. at 1148, 865 P.2d at 330. We cannot fulfill our duty if the district court neglects to make "[s]pecific factual findings" on the record. Rivero, 125 Nev. at 430, 216 P.3d at 227. That is why we require a district court's order to "tie the child's best interest, as informed by specific, relevant findings . . . to the custody determination made." Davis v. Ewalefo, 131 Nev., Adv. Op. 45, 352 P.3d 1139, 1143 (2015); Jordan, 212 P.3d at 928, the following factors will likely be relevant to a court's determination: (1) The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference; (2) The child's educational needs and each school's ability to meet them; (3) The curriculum, method of teaching, and quality of instruction at each school; (4) The child's past scholastic achievement and predicted performance at each school; (5) The child's medical needs and each school's ability to meet them; (6) The child's extracurricular interests and each school's ability to satisfy them; (7) Whether leaving the child's current school would disrupt the child's academic progress; (8) The child's ability to adapt to an unfamiliar environment; (9) The length of commute to each school and other logistical concerns; (10) Whether enrolling the child at a school is likely to alienate the child from a parent. Arcella v. Arcella, 133 Nev. Adv. Op. 104 (Dec. 26, 2017)" (2017)

~~We stress that these factors are illustrative rather than exhaustive; the district court is in the best position to determine which factors are most relevant to the child's best interests.~~

18. Issues of first impression or of public interest. Does this appeal present a substantial legal issue of first impression in this jurisdiction or one affecting an important public interest: Yes ___ No X If so, explain:

Pro Se Child Custody Fast Track Statement October 2015

VERIFICATION

I recognize that under NRAP 3E I am responsible for timely filing a fast track statement and that the Supreme Court of Nevada may impose sanctions for failing to timely file a fast track statement, or failing to raise material issues or arguments in the fast track statement. I therefore certify that the information provided in this fast track statement is true and complete to the best of my knowledge, information, and belief.

DATED this ____ day of JULY, 2021



Signature of Appellant

THOMAS CASS
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed child custody fast track statement upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

CHRISTA CLASSON
2335 WEYBURN CT
HENDERSON, NV 89074

DATED this 27TH day of JULY, 2021



Signature of Appellant

THOMAS CASS
Print Name of Appellant

1752 YELLOW ROSE ST.
Address

LAS VEGAS, NV 89108
City/State/Zip

702-530-1874
Telephone