

MELVIN R. GRIMES, ESQ.
State Bar of Nevada No. 12972
ROBERTS STOFFEL FAMILY LAW GROUP
4411 S. Pecos Road
Las Vegas, Nevada 89121
PH: (702) 474-7007
FAX: (702) 474-7477
EMAIL: efile@lvfamilylaw.com
Attorneys for Appellant

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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAGGIE ROE, N/K/A MAGGIE
COX,

Appellant,

v.

JASON ROE,

Respondent.

Supreme Court No.: 84893

APPELLANT'S MOTION TO REISSUE THE DECISION AS AN ORDER

ATTORNEY FOR APPELLANT
Melvin R, Grimes, ESQ.
Nevada State Bar # 12972
Roberts Stoffel Family Law Group
4411 S. Pecos Road
Las Vegas, Nevada 89121
Attorney for Appellant

ATTORNEY FOR RESPONDENT
Fred Page, ESQ.
Nevada State Bar # 6080
Page Law Firm
6930 S. Cimarron Rd. Suite 140
Las Vegas, NV 89113
Attorney for Respondent

23-16570

I. LEGAL ARGUMENT

Appellant requests that the Court reissue the Order Affirming in Part, Reversing in Part, and Remanding filed May 18, 2023, as an Opinion. Appellant is permitted to make this request pursuant to NRAP 36(f).

Timeliness

A Motion to Reissue and Order as an Opinion must be filed within 15 days after the filing of the Order. *See* NRAP 36(f)(1). Here, the Order was filed on May 18, 2023. The Motion is being electronically filed on May 25, 2023. As such, this Motion is timely.

No Response Required

Pursuant to NRAP 36(f)(2), Respondent is not required to respond to this Motion unless the same is requested by the Court.

Contents

Appellant must base the Motion on one or more of the criteria in NRAP 36(c)(1)-(3). *See* NRAP 36(f)(3).

NRAP 36(c)(1) provides three bases for publishing a disposition, to wit:

- (A) if the disposition presents an issue of first impression;
- (B) if the disposition alters, modifies, or significantly clarifies a rule of law previously announced by the court; or

(C) if the disposition involves an issue of public importance that has application beyond the parties.

NRAP 36(c)(2) discusses that unpublished dispositions do not establish mandatory precedent, save in the case at bar. NRAP 36(c)(3) discusses that a party may cite to an unpublished disposition as persuasive authority.

Here, the disposition discusses an issue of public importance. The Court determined that the district court's Order was effectively sole legal custody. (*See* Order Affirming in Part, Reversing in Part, and Remanding at 10). The Court has effectively defined the definition of Sole Physical Custody and the limits a district court has in issuing orders of that nature. This is of great importance to courts and the public at large.

Here, the disposition clarifies a rule of law. The Court held, "Being a prevailing party alone is not sufficient basis for an award of attorney's fees." (*See* Order Affirming in Part, Reversing in Part, and Remanding at 19). The Court's holding is based on an award of attorney fees and cost pursuant to NRS 18.010. The discussion and holding clarifies an important issue for courts below.

The present matter involves an issue of public importance beyond the parties. As stated, the standard of review on this issue needs to be determined. The district courts need guidance as to the standard of review, as do the Court of Appeals and the Supreme Court.

Decision

The Court has discretion to grant or deny the motion to publish. *See* NRAP 36(f)(4). Publication is disfavored if revisions to the text will result in discussion of additional issues not included in the original decision. *Id.*

Here, the Court thoroughly covered every issue raised by the parties. The disposition reads like a published opinion already. No revision of the text is needed (if any) that would result in necessarily discussing issues not included in the original decision.

Accordingly, the Court should reissue the Order Affirming in Part, Reversing in Part, and Remanding filed May 18, 2023, as an Opinion.

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CONCLUSION

As publication of this disposition will address an important issue of public importance and gives significant direction regarding the award of attorney fees, as it will give guidance to the district courts on two issues of public importance, and as publication will more easily permit others to raise and address on appeal the issue of the standard of review for a minor's name change, the Court should publish the present disposition.

DATED this 25th day of May 2023.

ROBERTS STOFFEL FAMILY LAW GROUP

A handwritten signature in black ink, appearing to read 'M. R. Grimes', is written over a horizontal line.

Melvin R. Grimes, Esq.
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4411 S. Pecos Road
Las Vegas, Nevada 89121
PH: (702) 474-7007
FAX: (702) 474-7477
EMAIL: efile@lvfamilylaw.com
Attorneys for Appellant

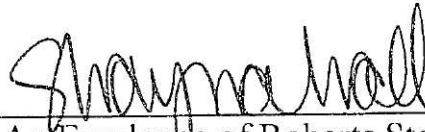
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Appellant's Motion to Reissue the Decision as an Order was filed electronically with the Nevada Supreme Court in the above-entitled matter on May 25, 2023. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Fred Page, Esq.

Email: fpage@pagelawoffices.com

Attorney for Respondent



An Employee of Roberts Stoffel Family Law Group