

Fox v. Manzella, No. 68999, Order Affirming in Part and Reversing and Remanding in Part (Unpublished Disposition, Aug. 10, 2016)
COA unpub

Under Rooney, the district court abused its discretion in striking exhibits in deciding whether Fox had demonstrated a prima facie case for modification to warrant an evidentiary hearing. Thus, the district court's order summarily denying Fox's motion for a change of custody is reversed, with this matter remanded to the district court for consideration of the exhibits.

Furthermore, pursuant to Rivero and NRS 125B.145(4), to demonstrate that a modification of child support is warranted, one is required to show, among other things, that a change in circumstances had occurred since the entry of the order, such as by showing a change in earning capacity. Here, Fox did not demonstrate such a basis for modification.

Lastly, the district court did not improperly defer the child support issues to the hearing master. The district court's finding is binding on the hearing master because it is the law of the case, thus the hearing master is required to conform its orders to the district court's order denying modification based on the court's finding of willful unemployment. Here, pursuant to NRS 425.382(2)(b)(1), nothing prevents Fox from presenting any changed circumstances to the hearing master.