

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

M.P.P.,)	No. ED103390
)	
Respondent,)	Appeal from the Circuit Court of
)	St. Louis County
vs.)	
)	
R.R.E.,)	Honorable John N. Borbonus
)	
Appellant.)	Filed: May 31, 2016

R.R.E. (Mother) appeals the trial court’s judgment on remand in this paternity and child custody action. In her four points on appeal, Mother argues the trial court erred as the parenting plan set forth in the judgment and name change were not in the best interests of B.R.S.E. (the parties’ Minor Child). Because the trial court failed to interpret and follow the mandate of this Court and entered a judgment based upon stale evidence, we reverse the judgment and the cause is remanded for a hearing. On remand, the trial court is to develop a workable visitation schedule taking into account the present circumstances of the parties and the best interests of the Minor Child. As the parties will have the opportunity to reassess the issues of custody and the Minor Child’s name change, we need not reach Mother’s various allegations of error on appeal.

Division 2 holds:

- 1) The trial court’s judgment is not in accordance with our mandate and the result contemplated in our opinion as, on remand, the court reinstated the same custody schedule we previously found to be unworkable. We again conclude the 2-2-3 custody schedule is unworkable because once the Minor Child begins kindergarten, Mother must commute

with her two hours each way every Monday and Tuesday so the Minor Child can attend school in St. Louis.

- 2) The trial court erred as its parenting plan was based solely upon the court's consideration of stale evidence from a hearing that occurred one-and-one-half years prior to entering its judgment.

Opinion by: Angela T. Quigless, J.

Philip M. Hess, P.J., Gary M. Gaertner, Jr., J., Concur.

Attorney for Appellant: Michael L. Jackson

Attorney for Respondent: Deborah C.M. Henry

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
