

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

CHESTER JOE WILMES QUERRY,

Respondent

v.

STEPHANIE JEAN QUERRY.

Appellant

DOCKET NUMBER WD74342

DATE: November 13, 2012

Appeal From:

Circuit Court of Dekalb County, MO
The Honorable Richard Brent Elliott, Judge

Appellate Judges:

Division Four
James Edward Welsh, C.J., Mark D. Pfeiffer, J., and Gary Ravens, Sp. J.

Attorneys:

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Counsel for Appellant,

Attorneys:

Michele Puckett-Burkhead, Cameron, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**CHESTER JOE WILMES QUERRY, Respondent, v.
STEPHANIE JEAN QUERRY, Appellant**

WD74342

Dekalb County

Before Division Four Judges: Welsh, C.J., Pfeiffer, J., and Ravens, Sp. J.

Stephanie Jean Querry (Mother) appeals the circuit court’s judgment modifying the dissolution decree from her marriage to Chester Joe Wilmes Querry (Father). Mother asserts that the court erred when: (1) it failed to appoint a guardian ad litem pursuant to section 452.423, RSMo Cum. Supp. 2011, claiming that Mother clearly alleged abuse and/or neglect in her motion to modify and, therefore, appointment of a guardian ad litem was mandatory; (2) it awarded sole physical custody to Father because its statutory findings under section 452.375.2, RSMo Cum. Supp 2011, were against the weight of the evidence and the evidence did not support that the custody change was in the best interests of the children; and (3) it allowed evidence of facts that occurred prior to the dissolution of marriage judgment, contending that section 452.410.1, RSMo 2000, restricts the court’s consideration to facts that have arisen since the prior decree.

AFFIRMED WITH MODIFICATION OF THE JUDGMENT.

Division Four holds:

- (1) The circuit court did not err in failing to appoint a guardian ad litem. Mother pled no express allegations of abuse or neglect such as would have triggered the mandatory appointment of a guardian ad litem pursuant to section 452.423.
- (2) The circuit court did not err in changing the custodial periods awarded each parent. Both parties agreed that there were substantial and continuing changed circumstances that warranted modification of the parenting schedule. The court’s judgment is modified, however, to denominate Mother as joint custodian and to reference Mother’s time with the children as custodial periods.
- (3) The circuit court did not err in allowing evidence of facts that occurred prior to the dissolution of marriage judgment. There is no indication that the court considered the original trial transcript concerning Mother’s previous positive testimony regarding father and even if the court did, it was not prejudicial.

Opinion by James Edward Welsh, Chief Judge

November 13, 2012

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.