## MISSOURI COURT OF APPEALS WESTERN DISTRICT

SIDNEY DANIELLE ALLEN By Her Next Friend CAP DUKE ALLEN, Individually,
Respondent,

٧.

**DEENA GATEWOOD,** 

Appellant.

**DOCKET NUMBER WD74799** 

**Date: January 22, 2013** 

Appeal from:

**Dekalb County Circuit Court** 

The Honorable Thomas N. Chapman, Judge

Appellate Judges:

Division Two: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr. and Karen

King Mitchell, Judges

Attorneys:

Christy L. Fisher, Plattsburg, MO, for appellant.

Michele C. Puckett-Burkhead, Cameron, MO, for respondent.

## MISSOURI APPELLATE COURT OPINION SUMMARY COURT OF APPEALS -- WESTERN DISTRICT

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Respondent,

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**DEENA GATEWOOD,** 

Appellant.

WD74799 Dekalb County

Before Division Two: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr. and Karen King Mitchell, Judges

Deena Gatewood (Mother) appeals from the circuit court's judgment sustaining Cap Duke Allen's (Father) motion to prevent her from relocating with their child and finding Mother in contempt. Mother contends the court erred in preventing the relocation because Father's opposition motion was untimely and the evidence supported a finding that relocation was in the child's best interests. Mother also contends the court erred in denying her motion for continuance of the trial setting because Father's notice of hearing for the trial setting was untimely.

AFFIRMED.

Division Two Holds:

(1) The circuit court did not err in sustaining Father's motion to prevent relocation, in that:

- (a) Mother's relocation notice did not strictly comply with Section 452.377 and, therefore, Father's failure to object to the relocation within thirty days did not give Mother an absolute right to relocate.
- (b) The circuit court's finding that relocation was not in the child's best interests was supported by substantial evidence and was not against the weight of the evidence.
- (2) The circuit court did not err in denying Mother's motion for continuance of the trial setting because Mother did not object to Father's untimely notice. Mother was represented at the trial setting and, thus, waived Father's failure to give timely notice of the hearing. Moreover, the notice given was reasonable under the facts and circumstances of the case.

The judgment is affirmed.

Opinion by: Lisa White Hardwick, Judge January 22, 2013

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