

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

DANA MARIE MURRAY,

Respondent,

v.

ERICK BRIAN MURRAY,

Appellant.

DOCKET NUMBER WD71381

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: May 18, 2010

APPEAL FROM

The Circuit Court of Platte County, Missouri
The Honorable Daniel M. Czamanske, Judge

APPELLATE JUDGES

Division One: Karen King Mitchell, Presiding Judge, and Lisa White
Hardwick and Cynthia L. Martin, Judges

ATTORNEYS

James D. Boggs and W. Christian Boggs
Kansas City, MO

Attorneys for Respondent,

Jason Davey
Kansas City, MO

Attorney for Appellant.



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

DANA MARIE MURRAY,)
)
) **Respondent,**)
v.)
)
ERICK BRIAN MURRAY,)
)
) **Appellant.**)

WD71381

Platte County

Before Division One Judges: Karen King Mitchell, Presiding Judge, and
Lisa White Hardwick and Cynthia L. Martin, Judges

Erick Murray (“Father”) appeals the trial court’s judgment dissolving the marriage between Father and Dana Murray (“Mother”). Specifically, Father claims that the trial court’s judgment allowing Mother to relocate to Florida with their daughter improperly gave preference to Mother based upon her sex and financial status and upon the age of their child; that it improperly gave undue weight to a non-statutory factor (that Mother would stay home to care for the child); and that Mother’s desire to relocate was not in their daughter’s best interest and not in good faith. Father also claims that the trial court erred in failing to make findings required by the statute and that it erred in its award of child support.

AFFIRMED.

Division One holds:

Although the language used by the trial court in its judgment could be read to evidence that the trial court improperly preferred Mother based upon her sex and based upon the age of the child, the language could also be read to evidence that the trial court found that the age of the child rendered the fact that one of the parents intended to stay home to provide full-time care to the child especially significant in determining the best interests of the child. We find no implicit link between the decision of one parent to stay home with the child and the parent’s financial status that would make the consideration of this factor improper. While this court is concerned that the trial court may have given undue consideration to the fact that Mother planned to stay home to provide full-time care to the child, we affirm the judgment because other evidence was presented to support the trial court’s finding that Mother’s plan was in the child’s best interest.

Finally, because Father did not show that Mother's plan to relocate was for the purpose of preventing frequent and meaningful contact between the child and Father, he did not establish that the request was not made in good faith.

We hold that the trial court failed to make some of the required findings under the statute but that Father failed to preserve this issue for appeal.

We further hold that substantial evidence supports the trial court's award of child support because Father presented no evidence as to what his child-care costs would be during his visitation periods and because the award allows for reasonable travel-related expenses that Father will incur in exercising his visitation, according to the figures that Father submitted to the trial court. Finally, RSMo section 452.340.6, which Father claims dictates that he be allowed to claim the child tax exemption, does not apply when the child is of preschool age.

Opinion by: Karen King Mitchell, Judge

May 18, 2010

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