

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**IN THE MATTER OF A.L.R.;**

**K.R.**

**v.**

**A.L.S.**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD79123

DATE: July 26, 2016

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Appeal From:

Cooper County Circuit Court  
The Honorable Keith M. Bail, Judge

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Appellate Judges:

Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

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Attorneys:

Wendy L. Wooldridge, Boonville, MO, for respondent.

Frank R. Flaspohler, Fayette, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**IN THE MATTER OF A.L.R.;  
K.R.,**

**v.  
A.L.S.,**

**RESPONDENT,**

**APPELLANT.**

No. WD79123

Cooper County

Before Division Two: Karen King Mitchell, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Mother appeals from the trial court's judgment appointing Holly Rehmer and Joseph Rehmer as co-guardians over the person of Child based on a determination that Mother was unable and unfit to serve as Child's natural guardian pursuant to section 475.030.4(2).

**REVERSE.**

**Division Two holds:**

(1) To satisfy due process, clear and convincing evidence must establish that a parent is unwilling, unable, or unfit to serve as the natural guardian over the person of a minor child pursuant to section 475.030.4(2).

(2) Neither "unable" nor "unfit" are defined in Chapter 475. Thus, the terms are given their plain and ordinary meaning as derived from the dictionary, affording each term a distinct meaning. "Unable," as used in section 475.030.4(2), refers to a parent who is incompetent or not capable to serve as a guardian despite a desire and intention to do so. "Unfit," as used in section 475.030.4(2), is calculated to require serious parental deficiencies that interfere with the ability to provide a child with appropriate care, and that could be ameliorated, though that is not likely in the foreseeable future.

(3) The evidence, viewed in the light most favorable to the judgment, did not clearly and convincingly establish that Mother was "unable" or "unfit" to serve as Child's natural guardian.

Opinion by Cynthia L. Martin, Judge

July 26, 2016

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