MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DANIALLE LEA TAYLOR and SKYLER JAMES FRANCIS, BY NEXT FRIEND DANIALLE LEA TAYLOR,

Appellant,

v.

DUSTIN KEITH FRANCIS,

Respondent.

DOCKET NUMBER WD83122

Date: March 30, 2021

Appeal from:

Clay County Circuit Court
The Honorable Kathryn E. Davis, Judge

Appellate Judges:

Division Two: W. Douglas Thomson, Presiding Judge, Lisa White Hardwick and Edward R. Ardini, Jr., Judges

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Attorneys:
Jill C. Jackobice, Sandra G. Hessenflow, Kansas City for appellant.
Thomas C. Capps, Landon W. Magnusson, Liberty for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS

WESTERN DISTRICT

DANIALLE LEA TAYLOR and SKYLER JAMES FRANCIS, BY NEXT FRIEND DANIALLE LEA TAYLOR, APPELLANT,

v.

DUSTIN KEITH FRANCIS, RESPONDENT.

WD83122 Clay County

Before Division Two: W. Douglas Thomson, Presiding Judge, Lisa White Hardwick and Edward R. Ardini, Jr., Judges

Danialle Taylor ("Mother") appeals from the judgment declaring paternity and awarding custody, parenting time, and child support for the child she had with Dustin Francis ("Father"). She contends that the court erred by designating the custodial arrangement as joint physical custody because she asserts that, based on each parent's allotted parenting time, the judgment effectively awarded sole physical custody to Father and visitation to her, which she insists violates Missouri's public policy and is contrary to the child's best interest. Mother further argues that the parenting plan is statutorily deficient because it does not address several major holidays and school vacations. Additionally, she contends that the court erroneously applied the law when it separated the child from his older half-brother without issuing sufficient written findings stating why the separation is in the child's best interest.

AFFIRMED, IN PART, AND REVERSED AND REMANDED, IN PART.

Division Two holds:

(1) The circuit court erred in failing to address several major holidays, school holidays, and vacation periods in its parenting plan as required by Section 452.310.8, RSMo 2016. The failure to account for these holidays and vacation periods constitutes reversible error.

(2) Because the parenting plan will change on remand, Mother's allegations of error concerning the joint physical custody designation and the parenting time awarded to her are moot.

(3) We decline to exercise plain error review of Mother's claim that the court's findings regarding the child's interaction and interrelationship with his half-brother are insufficient. Based upon the court's findings as a whole on all of the best interest factors, there are not substantial grounds for believing that a manifest injustice or miscarriage of justice occurred. Therefore, that portion of the judgment is affirmed.

Opinion by: Lisa White Hardwick, Judge March 30, 2021

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