# IN THE MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

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**COMPLETE TITLE OF CASE**

LACY ANNE CRAIG,

Respondent,

v.

CORY WAYNE CRAIG,

Appellant.

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**DOCKET NUMBER WD**84571

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**DATE:** May 3, 2022

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**APPEAL FROM**

The Circuit Court of Macon County, Missouri
The Honorable Mike Greenwell, Judge

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**JUDGES**

Division Two: Mitchell, P.J., and Ardini and Chapman, JJ. CONCURRING.

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**ATTORNEYS**

Jonathan Sternberg, Kansas City, MO, Attorney for Respondent.

Cory Wayne Craig, LaPlata, MO, Appellant, *pro se*.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**LACY ANNE CRAIG, Respondent,**
**v.**
**CORY WAYNE CRAIG, Appellant.**

**WD84571** **Macon County**

**Before Division Two Judges:** Karen King Mitchell, Presiding Judge, and Edward R. Ardini, Jr., and Thomas N. Chapman, Judges

Cory Craig (Husband) appeals from the trial court's dissolution judgment. Husband raises six points on appeal, arguing that the trial court erred in: (1) ordering child support for two children because the oldest child failed to comply with § 452.340.5, RSMo; (2) ordering support for the oldest child because she failed to comply with § 452.340.5; (3) failing to appoint a guardian ad litem (GAL); (4) ordering retroactive child support for extraordinary expenses and back support because the oldest child failed to comply with § 452.340.5; (5) offsetting Lacy Craig's (Wife) assets with credit card debt; and (6) dividing the property in a manner that was neither equitable nor fair. Finding no error, we affirm.

**AFFIRMED.**

**Division Two holds:**

1. Because we can reverse a court-tried judgment *only* if no substantial evidence supports it, *or* it is against the weight of the evidence, *or* it erroneously declares or applies the law, to comply with Rule 84.04(d)(1)(B), the appellant must specify one of these bases of error within the point relied on, itself. Only one of Husband's six points on appeal invoke a proper basis for reversal.

2. Though § 452.340.5 requires a child enrolled in higher education to furnish certain documentation to the parent providing support in order to continue receiving support after the age of 18, a claim that a child failed to comply with section 452.340.5 is an affirmative defense to the pleading. Therefore, it must be pled or it is waived. Husband never pled noncompliance with the notification requirement of § 452.340.5 as an affirmative defense to a support obligation for M.C. Therefore, any claims based on the alleged noncompliance are waived.

3. The allegation that the court failed to consider certain facts is tantamount to a claim that the court failed to make any findings about those facts. But, to preserve a claim of insufficient findings, a complaining party must file a post-judgment motion to amend under Rule 78.07(c). Husband filed no such motion. Thus, his challenge to the court's findings is not preserved.

4. A parent may not protest the non-appointment of a guardian under § 452.423.2, RSMo, on the basis that the parent's interests were harmed, when no harm to the child is shown. Section 452.423, even when combined with Rule 55.33 (allowing pleadings to conform to the evidence), does not require the appointment of a guardian ad litem merely to advance the litigation tactics of a spouse. Here, Husband was the allegedly abusive party and he failed to claim any harm to the children from the absence of a GAL; his only claim of harm was for himself. Therefore, the court did not err in failing to appoint a GAL.

**Opinion by: Karen King Mitchell, Presiding Judge** May 3, 2022

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