

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FIVE

LAURIE H. ABERNATHY,)	No. ED100422
)	
Petitioner/Respondent,)	Appeal from the Circuit Court of the
)	St. Louis County
vs.)	
)	Honorable Joseph L. Walsh
VINCENT T. ABERNATHY,)	
)	
Respondent/Appellant.)	Filed: October 14, 2014

Vincent T. Abernathy (“Father”) appeals the judgment of the Circuit Court of St. Louis County rejecting the Missouri Department of Social Services’ (“agency”) proposed order modifying his agreement with Laurie H. Abernathy (“Mother”) regarding the support of the parties’ minor child.

AFFIRMED.

DIVISION FIVE HOLDS: To prove a substantial and continuing change in circumstances sufficient to modify the parties’ 2005 child support agreement, Father was required to “prov[e] he is unable to support his child[] in the manner contemplated at the time [of] the [parties’ prior] agreement.” *Brown v. Brown*, 19 S.W.3d 717, 724 (Mo. App. W.D. 2000). The agency erred as a matter of law by failing to apply this standard, and instead basing its finding of a substantial and continuing change in circumstances on a decrease in Mother’s child-care costs. We reject the agency’s proposed order of modification and affirm the trial court’s judgment.

Opinion by: Lisa S. Van Amburg, J.
Angela T. Quigless, C.J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Patrick W. Pedano
Attorney for Respondent: Stephen G. Bell

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT.
IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
SHOULD NOT BE QUOTED OR CITED.**