

MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

TIMOTHY SCHERDER,) No. ED101087
)
Respondent,)
)
v.) Appeal from the Circuit Court
) of Pike County
)
TRISHA SONNTAG,) Hon. Chris Kunza Mennemeyer
)
Appellant.) FILED: December 23, 2014

Trisha Sonntag (Mother) appeals the trial court’s dismissal of her motion to modify the court’s previous order granting Timothy Scherder (Father) sole physical custody of their daughter (Child). Mother asserts that (1) the trial court’s finding of no change in circumstances was against the weight of the evidence and (2) venue was improper in Pike County because Mother registered the original foreign judgment in Pulaski County.

REVERSED AND REMANDED

DIVISION ONE HOLDS: (1) The trial court’s finding that there were no changed circumstances warranting modification was against the weight of the evidence. Father’s marriage to a woman who physically punishes the child in violation of Children’s Division’s directive and their relocation from his parents’ (the child’s grandparents’) family farm home to an overcrowded and dirty house with reportable living conditions constituted substantial changed circumstances. Additionally, the trial court erred by applying the “substantial and continuing” standard governing child support (§452.370). To modify child custody under §452.410, a change in circumstances must be “substantial” or “significant,” but it need not be continuing. Finally, given that the court dismissed the motion based on its finding of no changed circumstances, it should not have reached the issue of the child’s best interests, so its cursory finding on that issue was error. (2) The trial court did not err by entertaining Mother’s motion in Pike County even though she registered the original foreign judgment in Pulaski County. Pike County entered an earlier custody modification by virtue of Mother’s waiver of improper venue in that proceeding, so Pike County retains continuing jurisdiction under §452.745.1.

Opinion by: Clifford H. Ahrens, Judge
Amburg, J., concur.

Lawrence E. Mooney, P.J., and Lisa Van

Attorney for Appellant: Daniel J. Pingelton

Attorney for Respondent: Joseph Andrew Brannon

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