

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

PENNY SCHNEITHORST,)	No. ED102017
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	10SL-DR03304-01
)	
JAMES SCHNEITHORST, JR.,)	Honorable Kristine Allen Kerr
)	
Appellant.)	Filed: October 27, 2015

James Schneithorst, Jr. (“Father”) appeals the trial court’s judgment modifying his child support and maintenance obligations to Penny Schneithorst (“Mother”).

REVERSED AND REMANDED.

Division Four holds:

- (1) The trial court erred in finding Father’s financial resources to pay his child support and maintenance obligations included funds from the family business and financial assistance from his parents. Accordingly, the trial court’s judgment modifying Father’s child support and maintenance obligations to Mother is reversed and remanded for further proceedings in accordance with this opinion.
- (2) The trial court did not err in considering the resources of Father’s parents as shared expenses under section 452.370.1 RSMo 2000¹ merely because it was undisputed Father was not cohabitating with his parents at the time of trial. Nevertheless, the trial court’s finding that Father’s parents would be contributing to Father’s expenses was based on speculation rather than substantial evidence. On remand, both parties will have the opportunity to submit evidence of Father’s reasonable expenses and evidence of “all financial resources” of both parties pursuant to section 452.370.1. Finally, based on the evidence presented on remand, the trial court shall make a determination of the amount of Father’s reasonable expenses which is consistent with the language of section 452.370.1 and this Court’s opinion.
- (3) The parties agree that the trial court erroneously calculated Father’s Form 14² presumed child support obligation because the court did not include Father’s

¹ We note that section 452.370 was amended effective August 28, 2014, but that amendment does not apply to this case because it was effective after the modification proceedings. Therefore, all references to section 452.370 are to RSMo 2000.

² All references to Form 14 are to the form as set forth in Missouri Supreme Court Rules of Civil Procedure (2015).

maintenance obligation in its calculation. On remand, after the trial court has entered new findings on maintenance, it shall determine the amount of child support to award by applying the two-step process set forth in *Sullins v. Sullins*, 417 S.W.3d 878, 881-82 (Mo. App. E.D. 2014). In calculating the presumed child support amount pursuant to Form 14 in the first step of the process, the Form 14 used by the court shall reflect any maintenance which is awarded to Mother in Lines 1a and 2b.

- (4) It is permissible for a trial court to award a gross amount of child support or to order an incremental award. Regardless of which method the trial court chooses to utilize on remand, the trial court's decision must be supported by substantial evidence, must not be against the weight of the evidence, and must not erroneously declare or apply the law.

Opinion by: Robert M. Clayton III, J.
Patricia L. Cohen, P.J., and Roy L. Richter, J., concur.

Attorney for Appellant: Alan E. Freed, Alisse C. Camazine

Attorney for Respondent: Cary J. Mogerman, Joseph J. Kodner

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.