

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

| | | |
|------------------------|---|----------------------------------|
| WILLIAM PATRICK FERRY, |) | NO. ED94789 |
| |) | |
| Appellant, |) | |
| |) | Appeal from the Circuit Court of |
| vs. |) | St. Louis County |
| |) | |
| MARY JANE FERRY, |) | Hon. Barbara Wallace |
| |) | |
| Respondent. |) | FILED: December 21, 2010 |
| |) | |

William Ferry (Husband) appeals the circuit court’s judgment on his motion to modify child support and maintenance awarded in his divorce from Mary Jane Ferry (Wife).

REVERSED AND REMANDED.

DIVISION THREE HOLDS: (1) The record does not support the trial court’s finding that Husband earned \$10,636 per month. Rather, the evidence establishes that his actual income in 2009 was \$9,702 per month. Using the latter figure in Form 14 yields a variance of 21.5% from the original award. As such, Husband has made a *prima facie* showing of a change in circumstances warranting modification. (2) The trial court erred in including Wife’s expenses attributable to the children in its determination of Wife’s reasonable needs for maintenance.

Opinion by: Clifford H. Ahrens, J. Sherri B. Sullivan, P.J., and Lawrence E. Mooney, J.

Attorney for Appellant: Amanda A. Kurlandski

Attorney for Respondent: Craig G. Kallen

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