

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**HELEN J. PADEN (KERNS),  
APPELLANT**

**vs.**

**DAVID S. KERNS, JR.,  
RESPONDENT**

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DOCKET NUMBER WD71182

DATE: AUGUST 17, 2010

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Appeal from:

Buchanan County Circuit Court  
The Honorable Patrick K. Robb, Judge

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Appellate Judges:

Division Three: James M. Smart, Jr., P.J., Joseph M. Ellis and Gary D. Witt, JJ.

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Attorneys:

William C. Votypka, for Appellant

James A. Nadolski, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**HELEN J. PADEN (KERNS), APPELLANT**

**v.**

**DAVID S. KERNS, JR., RESPONDENT**

WD71182

Buchanan County, Missouri

Before Division Three Judges: James M. Smart, Jr., P.J., Joseph M. Ellis and Gary D. Witt, JJ.

Helen Paden (“Mother”) appeals from a judgment modifying the decree dissolving her marriage to David Kerns (“Father”) by terminating his child support obligation based upon the emancipation of the couple’s two children. While the emancipation of one of the children was stipulated to, the trial court found the other child was emancipated because, after the child was withdrawn from a class by the college and received a “W” for a grade, the child did not have enough credit hours to satisfy the requirements of § 452.340.5. Mother challenges that conclusion.

**REVERSED AND REMANDED.**

**Division Three holds:**

- (1) The trial court’s finding that the child voluntarily withdrew himself from the class was not supported by substantial evidence and is against the weight of the evidence where the parties had stipulated that the instructor had withdrawn the child from the class, a letter from the college to the child admitted into evidence reflected that the college and the instructor had made the decision to withdraw the child from the class, and Father did not present any evidence, cross-examination, or testimony challenging the fact that the child had not chosen to withdraw from the class.
- (2) Where the college treated the involuntary withdrawal of a student from the class as the functional equivalent of an “F” and the instructor had the choice of assigning a grade of “W” or “F” to the student, the “W” received by the child should be treated no differently than if he had received an “F” in the class for the purposes of § 452.340.5.

**Opinion by Joseph M. Ellis, Judge**

Date: August 17, 2010

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