

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JOHN H. COLBORNE

Respondent

v.

CORINNE J. COLBORNE (NOW DRUMMOND)

Appellant

DOCKET NUMBER **WD71764**

DATE: March 22, 2011

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Christine Theresa Sill-Rogers, Judge

Appellate Judges:

Division One
Mark D. Pfeiffer, P.J., Thomas H. Newton, and Alok Ahuja, JJ.

Attorneys:

Nancy A. Garris, Blue Springs, MO

Counsel for Appellant

Attorneys:

Gary E. Brotherton, Columbia, MO

Counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

JOHN H. COLBORNE, Respondent, v. CORINNE J.
COLBORNE (NOW DRUMMOND), Appellant

WD71764

Jackson County

Before Division One Judges: Pfeiffer, P.J., Newton, and Ahuja, JJ.

Mother filed a contempt action against Father because he failed to pay his share of college and medical expenses pursuant to the dissolution of marriage decree. Father filed a motion to modify child support and child custody. Mother responded and also filed a motion to modify. Additionally, she amended her contempt action and included a declaratory judgment action asking the trial court to declare Father owed her remuneration for having paid his share of college and medical expenses. The trial court granted Father's motion to modify.

The trial court found that Father was not obligated to pay child support for their daughter because Father did not receive official college transcripts as required by statute. It further found both Father and Mother were not obligated to pay the daughter's college expenses because the daughter chose not to attend a two-year college at which she had a full-tuition scholarship. Additionally, the trial court found that Mother voluntarily relinquished custody of their son to Father. Consequently, it found Father's child support obligations had abated, ordered Mother to pay child support to Father for their son and to repay Father for child support paid during the abatement period, and modified Mother's and Father's obligation to pay for the children's college expenses. Mother appeals, raising four points.

AFFIRMED, REVERSED, AND REMANDED.

Division One Holds:

In her first point, Mother argues that the trial court erred in abating child support for the daughter because she complied with statutory requirements to continue receiving child support. The law provides that "a transcript or similar official document" from the institution reporting grades and credits be sent to the parent paying support. Unofficial, inalterable transcripts from the institution's website satisfy the statutory requirement. Mother testified that she sent such printouts to Father, as well as bills showing class and credit schedules. Thus, the trial court erred in finding that a failure to provide "official transcripts" relieved Father of his obligation to pay child support for daughter. However, Father denied receiving any transcripts. Because a conflict exists as to whether Mother sent those printouts to Father and conflict resolution lies with the trial court, we cannot render a fair judgment. We remand the issue to the trial court for resolution. Mother's first point is granted.

In her second point, Mother argues that the trial court erred in finding that the daughter's attendance at a two-year institution for which she had a full-tuition scholarship was a condition precedent to Father's duty to pay college expenses. The terms of the agreement between Mother and Father did not require the daughter to select a college based on scholarship or cost. Consequently, the trial court erred in eradicating Mother's and Father's duty to pay for their

daughter's college expenses and erred in denying Mother reimbursement on this basis. Mother's second point is granted.

In her third point, Mother argues that the trial court erred in abating child support for the son because she did not voluntarily relinquish custody. Although no verbal agreement existed between Mother and Father, Mother acquiesced in the son's move from her house to Father's when she switched parenting schedules with Father. The trial court did not err in abating child support as to the son. Mother's third point is denied.

In her fourth and final point, Mother argues that the trial court erred in applying her obligation to pay child support for the son retroactively, before the date Father's motion to modify was served. Mother further argues that because retroactive modification beyond the date of service is improper, the trial court erred in abating child support before the service date. Mother misstates the trial court finding. The trial court properly ordered Mother's child support obligation to commence after the service date. Abatement is not subject to the limitation against retroactive application. We have already decided that abatement was proper. Mother's fourth point is denied.

Therefore, we affirm the trial court's order abating Father's child support for son. We reverse its abatement of Father's child support obligation for daughter and its determination that both parents' obligations to share her college expenses. We remand to the trial court for proceedings consistent with this opinion.

Opinion by Thomas H. Newton, Judge

March 22, 2011

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED