

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**KENDRA M. REAM-NELSON, APPELLANT
vs.
JOSHUA NELSON, RESPONDENT**

DOCKET NUMBER WD71811

DATE: November 16, 2010

Appeal from:

Buchanan County, Missouri
The Honorable Weldon C. Judah, Judge

Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

Attorneys:

Craig D. Ritchie, for Appellant

Ryan G. Wilson, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KENDRA M. REAM-NELSON, APPELLANT

v.

JOSHUA NELSON, RESPONDENT

WD71811

Buchanan County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

Kendra Ream-Nelson ("Mother") appeals from a judgment entered in the Circuit Court of Buchanan County denying her motion to modify the custody provisions of the decree dissolving her marriage to Joshua Nelson ("Father"). Mother also appeals from the circuit court's denial of her motion to have Father held in contempt for failure to comply with provisions of the dissolution decree.

REVERSED AND REMANDED.

Division Two holds:

- (1) Where the uncontroverted testimony of both Father and Mother established that Father and Mother did not have any communication from the end of February 2009 until the evidentiary hearing on October 1, 2009, the trial court's finding that a significant change in circumstances had not occurred was against the weight of the evidence. Regardless of who was responsible for the breakdown in communication, the trial court should have considered whether a modification of the custody decree was in the best interests of the children.
- (2) The trial court was entitled to accept as credible Father's testimony that he lacked the wherewithal to satisfy his obligations related to the house and car contained in the dissolution decree. Viewed in accordance with our standard of review, the we cannot conclude that the trial court's decision to deny Mother's motion for contempt was against the weight of the evidence or that the decision is otherwise clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration.
- (3) The trial court may, in its discretion, reopen the record and receive additional evidence on remand.

Opinion by: Joseph M. Ellis, Judge

Date: November 16, 2010

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