

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

---

**COMPLETE TITLE OF CASE**

K.M.D.,

Respondent,

v.

THEODORE M. ALOSI,

Appellant.

---

**DOCKET NUMBER WD71832**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** November 9, 2010

---

**APPEAL FROM**

The Circuit Court of Carroll County, Missouri  
The Honorable Kevin L. Walden, Judge

---

**APPELLATE JUDGES**

Division Two: Joseph M. Ellis, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

---

**ATTORNEYS**

K.M.D.

Respondent, *pro se*,

J. Armin Rust  
Richmond, MO

Attorney for Appellant.

---



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

K.M.D., )  
)  
Respondent, )  
v. )  
)  
THEODORE M. ALOSI, )  
)  
Appellant. )

WD71832

Carroll County

Before Division Two Judges: Joseph M. Ellis, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

This is an attorney’s fees case. The issue is whether the circuit court abused its discretion in awarding the respondent \$2,000 in attorney’s fees that she incurred in conjunction with a previous appeal. We hold that there was no substantial evidence to support the court’s award of attorney’s fees and that the court abused its discretion in awarding them.

**REVERSED AND REMANDED.**

**Division Two holds:**

In his sole point on appeal, the appellant Theodore M. Alosi argues that the circuit court erred in awarding the respondent K.D. her appellate attorney’s fees in that there was insufficient evidence to show the financial conditions of the parties. We agree.

In adult abuse cases, “[t]he [circuit] court may order a party to pay a reasonable amount to the other party for attorney’s fees . . . . The court *shall consider* all relevant factors, including *the financial resources of both parties[.]*” § 455.075<sup>1</sup> (emphasis added). “The language of this statute essentially mirrors the language of § 452.355 of the Dissolution of Marriage Act . . . . It seems clear that the legislature intended the same requirements be satisfied before the trial court

---

<sup>1</sup> Statutory citations are to RSMo 2000, as updated through the 2009 cumulative supplement.

could award attorney's fees." *Minor v. Minor*, 901 S.W.2d 163, 166 (Mo. App. E.D. 1995). Therefore, there must be evidence of the parties' financial resources in order for the circuit court to award attorney's fees under these statutes. See *Hihn v. Hihn*, 237 S.W.3d 607, 609-10 (Mo. App. E.D. 2007) (so holding with respect to section 452.355). Because the circuit court did not have sufficient evidence of the parties' financial resources, the circuit court's award was not supported by substantial evidence, and the circuit court abused its discretion.

In the interest of justice, and in light of the facts of this case, we remand to the trial court for further proceedings on the issue of K.D.'s attorney's fees on appeal.

**Opinion by: Karen King Mitchell, Judge**

November 9, 2010

\*\*\*\*\*

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.