

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

URVASHIBEN NIMESHBHAI PATEL,

Respondent

v.

NIMESHBHAI R. PATEL.

Appellant

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DOCKET NUMBER WD74450

DATE: October 2, 2012

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Appeal From:

Circuit Court of Livingston County, MO  
The Honorable Jason Alfred Kanoy, Judge

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Appellate Judges:

Division Four  
James Edward Welsh, C.J., Thomas H. Newton, J., and Frederick P. Tucker, Sp. J.

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Attorneys:

Donald Lock, Gladstone, MO

Counsel for Appellant,

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Attorneys:

Michele Puckett-Burkhead, Cameron, MO

Counsel for Respondent

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

**URVASHIBEN NIMESHBHAI PATEL, Respondent, v.  
NIMESHBHAI R. PATEL, Appellant**

**WD74450**

**Livingston County**

**Before Division Four Judges:** Welsh, C.J., Newton, J., and Tucker, Sp. J.

Nimeshbhair Patel (Husband) appeals the circuit court's denial of his motion to set aside a default dissolution of marriage judgment and contends that the court erred in failing to set aside the default judgment because: (1) the court lacked *in personam* jurisdiction, pursuant to section 506.500, RSMo 2000, and Rule 54.06(b), to assess child support, divide property not located in Missouri, and render money judgments against him, (2) Husband established good cause for his failure to appear at the dissolution hearing, (3) there was no evidence to support restricting Husband's visitation with his child and ordering supervised visitation per section 452.400, RSMo Cum. Supp. 2011, (4) the court failed to consider the statutory factors for awarding custody, as set forth in section 452.375, RSMo Cum. Supp. 2011, and, Missouri was not the home state of the child, and, (5) the judgment failed to properly dispose of all issues, particularly the division of marital and non-marital property.

**AFFIRMED IN PART AND REVERSED IN PART.**

**Division Four holds:**

(1) The circuit court erred in failing to set aside the default judgment. Although the court had jurisdiction over the status of the marriage, it did not have personal jurisdiction over Husband to adjudicate and subject him to an *in personam* judgment for child support, division of marital property not within the state, and monetary judgments because Husband never lived in lawful marriage within the state of Missouri.

(2) As the matter is reversed on other grounds, it is unnecessary to determine whether Husband established good cause for his failure to appear at the dissolution hearing.

(3) As the matter is reversed on other grounds, it is unnecessary to determine whether the court erred in restricting Husband's visitation with his child and ordering supervised visitation.

(4) The circuit court erred in failing to set aside its child custody determination because the court lacked the statutory authority, pursuant to section 452.740, to adjudicate custody.

(5) As the matter is reversed on other grounds, it is unnecessary to determine whether the circuit court's judgment failed to properly dispose of all issues, particularly the division of marital and non-marital property. However, because the court had no jurisdiction to award out of state property, and on remand the court will be required to make a just division of all property, the division of in-state property is set aside to allow the circuit court to make an equitable division without the constraint of its prior order.

Opinion by James Edward Welsh, Chief Judge

October 2, 2012

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