

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

COMPLETE TITLE OF CASE

IN THE MATTER OF: G.K.S., a Minor, by her Next Friend, KATI JO SPENCER, and
KATI JO SPENCER, Individually,

Respondent,

v.

JASON LEE STAGGS,

Appellant.

DOCKET NUMBER WD76982

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 30, 2014

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable James F. Kanatzar, Judge

JUDGES

Division II: Ellis, P.J., and Howard and Pfeiffer, JJ.

CONCURRING.

ATTORNEYS

Allen S. Russell, Jr.
Kansas City, MO

Attorney for Respondent,

Sharlie Pender
Independence, MO

Attorney for Appellant.



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

IN THE MATTER OF: G.K.S., a Minor,)
by her Next Friend, KATI JO SPENCER,)
and KATI JO SPENCER, Individually,)
)
Respondent,) OPINION FILED:
v.) December 30, 2014
)
JASON LEE STAGGS,)
)
Appellant.)

WD76982

Jackson County

Before Division II Judges: Joseph M. Ellis, Presiding Judge, and Victor C. Howard and Mark D. Pfeiffer, Judges

Jason Lee Staggs (“Father”) appeals from the judgment of the Circuit Court of Jackson County, Family Court Division (“trial court”), in this paternity action initiated by Kati Jo Spencer (“Mother”). Father asserts that the trial court erred in failing to award him deposition costs and attorney fees in the judgment. Father also appeals from an order of the trial court denying his motion for an order *nunc pro tunc* and motion to reconsider.

AFFIRMED.

Division II holds:

1. Father relies on two statutory authorities to support his argument that the trial court erred in failing to award him deposition costs as the prevailing party. First, Father relies on section 514.060, which provides that the party prevailing shall recover his costs against the other party. Second, Father relies on section 492.590.1, which provides authority for the taxing of deposition expenses as costs. However, by its express terms, the general statute covering the subject of costs, § 514.060, does not apply when a “different provision is made by law.” Such is the case in this paternity action.

Under the Uniform Parentage Act, the trial court has discretion in its award of costs, particularly where one party does not have sufficient money, assets, or property to pay attorney's fees and costs. Because Mother did not have sufficient money, assets, or property to pay costs, the trial court did not abuse its discretion in refusing Father's request to assess costs to Mother.

2. Father requested deposition costs and attorney fees related to Mother's deposition as discovery sanctions under Rule 61.01. Rule 61.01 specifically provides that if the trial court finds that "circumstances make an award of expenses unjust," the trial court is not required to order the party deponent to pay the reasonable expenses of the party moving for such sanction. The record reflects that both parties were "uncooperative" with each other during the course of this litigation, and there was evidence of a significant disparity in the parties' incomes. Additionally under the Uniform Parentage Act, the trial court has discretion in its award of costs. § 210.842. The trial court did not abuse its discretion in refusing to award Father the sanctions he requested.

3. The trial court's order denying Staggs's motion for judgment *nunc pro tunc* is not a final judgment for purposes of appeal. Likewise, the trial court's temporary order declaring that Father is the natural and biological father of the minor child and that he will continue to pay child support on behalf of the minor child is not subject to appellate review. A temporary order pending a final judgment is not an order that is separately subject to appeal.

Opinion by: Mark D. Pfeiffer, Judge

December 30, 2014

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