

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

BRADLEY M. ROBERTSON INDIVIDUALLY AND AS NEXT FRIEND FOR OLIVIA Y.  
ROBERTSON,

Appellant

v.

LORNA NELSON.

Respondent

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DOCKET NUMBER WD79278

DATE: OCTOBER 25, 2016

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Appeal From:

Circuit Court of Adair County, MO  
The Honorable Thomas P. Redington, Judge

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Appellate Judges:

Division One  
Anthony Rex Gabbert, P.J., Thomas H. Newton, and Alok Ahuja, JJ.

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Attorneys:

Lance Matthew McClamroch, Jefferson City, MO,  
Counsel for Appellant

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Attorneys:

Jeffrey R. Kays, Ashland, MO  
Counsel for Respondent

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

**BRADLEY M. ROBERTSON INDIVIDUALLY  
AND AS NEXT FRIEND FOR OLIVIA Y.  
ROBERTSON, Appellant, v.  
LORNA NELSON, Respondent**

**WD79278**

**Adair County**

Before Division One Judges: Anthony Rex Gabbert, P.J., Thomas H. Newton, and Alok Ahuja, JJ.

Bradley M. Robertson (Father) appeals the circuit court’s modification of paternity judgment on Father’s “Motion to Modify as to Child Support” and Lorna Nelson’s (Mother) “Counter-Motion to Modify.” Father contends that the court erred (1) in changing physical custody with regard to Father’s and Mother’s child because there was insufficient evidence that a change in the circumstances of the child or her custodian occurred; (2) in changing physical custody regarding the child because it was against the weight of the evidence that a change in physical custody was in the child’s best interest; (3) in changing legal custody because there was insufficient evidence a change in the circumstances of the child or her custodian occurred; (4) in admitting evidence of facts that predate the prior judgment; (5) in restricting his parenting time because there was insufficient evidence that unrestricted contact would endanger the child’s physical health or impair her emotional development and it was against the weight of the evidence that restricted parenting time was in the child’s best interest; (6) in ordering a graduated visitation regime because it erroneously applied the law in that child visitation may only be modified upon a showing that the modification is in the child’s best interest and the trial court’s parenting plan automatically modifies future visitation without first finding the modification is in the child’s best interest based on the circumstances then existing; (7) in failing to award him any overnight holiday, vacation, or weekday parenting time because it was against the weight of the evidence to award him such limited parenting time in that he has a positive relationship with the child and is entitled to frequent, meaningful and continuing contact; (8) in imputing income of \$2,000 per month to him because there was insufficient evidence Father is able to earn that sum of money in that his qualifications, employment potential, and the available job opportunities in the community showed he could only earn minimum wage; (9) in failing to award him a credit on Line 2C of Form 14 because the court erroneously applied the law in that Father was entitled to a credit on Line 2C for a son of Father’s that primarily resided with Father since before the prior judgment, and; (10) in failing to modify his child support downward because it was against the weight of the evidence that Father showed a substantial and continuing change in circumstances such that the terms of the prior judgment as to child support were unreasonable.

**AFFIRMED IN PART REVERSED IN PART**

**Division One holds:**

(1) There was sufficient evidence to support that a change in the circumstances of the child or her custodian occurred warranting a change in physical custody; (2) It was not against the weight of the evidence that a change in physical custody was in the child’s best interest; (3) There was sufficient evidence that a change in the circumstances of the child or her custodian occurred warranting a change in legal custody; (4) The circuit court did not erroneously apply the law by admitting evidence of facts that predate the prior judgment; (5) The circuit court’s visitation schedule was reasonable given the evidence; (6) The circuit court erred in ordering a visitation regime that lifted the supervised contact restrictions without first reassessing the best interest of the child, and by ordering Father subject to Mother’s unfettered discretion to request drug testing from Father for the duration of the child’s childhood; (7) The circuit court’s parenting time award was not against the weight of the evidence; (8) The circuit court did not err in imputing income to Father of \$2,000 per month; (9) The circuit court misapplied the law by failing to award Father a credit on Line 2c of the Form 14; and (10) The circuit court did not err in failing to reduce Father’s child support.

Opinion by Anthony Rex Gabbert, Judge

Date:October 25, 2016

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