



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

ALEXANDRA C. PREVOST, )  
 )  
 ) **Appellant,** ) **WD84501**  
v. )  
 )  
 ) **OPINION FILED:**  
 ) **March 8, 2022**  
BRETT M. SILMON, )  
 )  
 ) **Respondent.** )

**Appeal from the Circuit Court of Platte County, Missouri  
The Honorable W. Ann Hansbrough, Judge**

**Before Division One:** Mark D. Pfeiffer, Presiding Judge, and  
Karen King Mitchell and Gary D. Witt, Judges

Ms. Alexandra Prevost (“Mother”) appeals from the Judgment of Modification (“Judgment” or “Modification Judgment”) of the Circuit Court of Platte County, Missouri (“circuit court”), modifying the previously entered Judgment of Dissolution (“Dissolution Judgment”) and awarding Mr. Brett Silmon (“Father”) sole legal custody of their minor child (“Child”). We affirm.

**Factual and Procedural Background<sup>1</sup>**

Mother and Father married November 1, 2013, in Grand Forks, North Dakota, where they both served in the Air Force. The couple’s child was born December 8, 2014, and, that same day,

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<sup>1</sup> Since Points I and II are the only preserved points on appeal and those points assert against-the-weight-of-the-evidence challenges, we review the record under that lens of review. In that regard, we note that the evidence

Mother was discharged from the Air Force. Thereafter, the couple moved to the Air Force Academy in Colorado Springs, Colorado, as Father was still enlisted in the Air Force. The couple remained together in Colorado until November 2017 when Mother, alone, relocated to Platte County, Missouri.

In January 2018, the couple agreed to dissolve the marriage. Mother retrieved Child from Colorado and returned to Platte County, Missouri. Father was medically discharged from the Air Force after suffering a traumatic brain injury and moved to Arcadia, Louisiana, temporarily. Father eventually remarried and resides in El Dorado, Arkansas, and is employed by the United States Department of Defense. Mother lives with her parents in North Kansas City, Missouri, and works for FedEx.

In early 2018, Mother filed an uncontested dissolution of marriage petition with the circuit court. The circuit court entered its Dissolution Judgment on April 19, 2018. In pertinent part, the circuit court awarded Mother and Father joint legal and physical custody of Child, ordered that no child support be paid by either party, and entered a parenting plan that called for the parties to exchange Child every six weeks until Child entered school or until the parenting plan was modified.

Between March 2018 and July 2019, the parenting plan seemingly worked. However, beginning in July 2019, things deteriorated between Mother and Father. Mother refused to permit

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before the circuit court was contested and required credibility determinations by the circuit court. “When reviewing the record in an against-the-weight-of-the-evidence challenge, this Court defers to the circuit court’s findings of fact when the factual issues are contested and when the facts as found by the circuit court depend on credibility determinations.” *Ivie v. Smith*, 439 S.W.3d 189, 206 (Mo. banc 2014). Mother’s Statement of Facts in her appellate brief violates this standard of review and the Rule 84.04(c) requirement that the facts be presented in a “fair and concise statement . . . without argument.” Mother’s Statement of Facts cites to certain evidence as “fact” where the circuit court expressly found the evidence lacking in credibility; Mother fails to recite the evidence favorable to the judgment; and, Mother’s recitation of the facts is argumentative. It is with some trepidation that we do not simply dismiss the appeal, for it suggests that we are tolerant of a disregard for Rule 84.04; we are not. However, because we are able to discern the relevant facts and arguments, we exercise our discretion to provide the parties a substantive discussion of the issues in our ruling today.

Child to return to Father after a summer vacation trip with Mother to Branson in 2019. Mother subsequently limited Father's parenting time to a couple of days for the remainder of 2019 and refused to give Child Christmas presents that Father sent to Mother for that purpose.

Father thereafter filed a motion to modify the Dissolution Judgment seeking to obtain sole legal and physical custody of Child. L.F. Doc. 2, at 6, ¶ 1. Mother responded with a counter-motion to modify in which she requested sole legal and joint physical custody, that the parenting plan be modified, Father reimburse her for child-care expenses, and Father be ordered to pay child support going forward and retroactive from the date Father filed for modification. L.F. Doc. 5, at 3. The circuit court appointed a guardian ad litem ("the GAL") following Mother's allegations that Father abused Child by using excessive and unreasonable corporal punishment.

A trial was held on the motions to modify on November 4 and 9, 2020, wherein Mother and Father both testified and were each represented by counsel. In addition to Mother's and Father's testimony, the circuit court heard testimony from the GAL, Father's wife, Father's mother, and two of Father's aunts. On December 22, 2020, the circuit court entered its Modification Judgment and, in pertinent part, made the following findings pursuant to section 452.375.2(1)-(8):

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties:

- Father's parenting plan requests that the parties share joint legal and physical custody, but that his address be designated as the child's address for school and mailing.
- Mother's parenting plan requests that she have sole legal custody of the child and that the parties share joint physical custody, but that her address be designated as the child's address for school and mailing.

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child:

- When the child was expelled from preschool in December 2018, Mother asked Father to “come get him,” although Mother was to exercise holiday parenting time that year.
- While Child lived with Father between December 2018 and July 2019, Father advised Mother of two potential schools that he was investigating for Child to attend. Mother responded that either school was fine with her but later rescinded her agreement on the topic.
- Mother recorded Child’s virtual visits with Father despite Child informing Mother that he did not like her doing that.
- Father’s Mother testified that when Father lived with her, Father never asked her to babysit Child.
- Mother works part-time and does not begin her shift until 7:00 p.m. Mother nevertheless sends Child to after-school care until 5:15 p.m. Mother’s justification for this is that she takes online college courses in the morning all but two days a week when the courses end at 2:15 p.m. Mother puts Child to bed at 7:00 p.m.
- Despite Mother alleging that Father physically abused Child, Mother was comfortable with allowing Child to live with Father for several months and encouraged Father to book a hotel room in Kansas City to exercise his parenting time.
- Father admits that he spanked Child with a belt on two occasions. Father’s justification for this is that he tried other manners to correct Child’s behavior, and in one particular instance involving a pontoon boat, Child was in danger of drowning if his behavior was not modified.
- Mother alleged that Father abused Child in one instance because of a scar on Child’s lower back. Father explained that Child fell while playing on a bed and hit his back on a curtain hook attached to the wall. This explanation was confirmed by Father’s Mother. Father testified that he did not inform Mother of this incident because he believed it to be a minor matter. Mother testified that Child informed her that Father had “hit him with a slapper.”
- Mother made another allegation of abuse regarding a mark on Child’s head. Mother alleged that Father hit Child with a golf club and witness Stephanie Silmon made the same allegation. It was disclosed that Stephanie Silmon stayed with Mother at her family home while in Kansas City for the trial. For several reasons, the circuit court did not find Stephanie Silmon’s testimony credible.

- Stephanie Silmon made two other allegations of abuse that caused the trial court to question her credibility. In cross-examination, it became obvious that she did not share her concerns of abuse with the GAL during a telephone interview. And, during trial proceedings, a photograph of Child as an infant was admitted, which showed that the mark on his head was a birthmark and not a scar. The GAL made no record of Child being hit in the head with a golf club.
- Mother alleges that Father spansks Child regularly, far exceeding the two occasions disclosed by Father. Another of Father's aunts, Karen Silmon, who is the principal of an elementary school and who witnessed the two incidents in which Father spanked Child with a belt, testified that those incidents were not abusive and were necessary to correct Child's behavior, as Father had already attempted other methods. Although Karen Silmon is a mandated reporter, she did not report either instance as abuse.
- Both parties agreed to spanking as a form of discipline.
- All of Mother's allegations of abuse allegedly occurred before July 2019.
- Mother admits that she smacks Child in the face to get him to eat.
- The GAL testified that she did not believe that either parent abused Child.

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests:

- Child has a good relationship with his stepmother, Father's wife, Tara. They build forts in the living room together and this relationship was confirmed by Father's mother based on her observations of Child and Tara together.
- Tara testified that Child is very excited for Father to come home. Child says things like, "[I] can't wait for daddy to come home so we can go build something in the shop."
- Child has a close relationship with his maternal grandparents whom he calls Mama and Papa.
- Numerous relatives live in close proximity to Father's home in El Dorado, Arkansas.

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent:

- Mother *did not* list Father as an emergency contact on Child's school records.
- Father *did* list Mother as an emergency contact on Child's school records.

- Mother refused Father parenting time on two occasions, citing “family pictures” as justification for refusing parenting time.
- Mother refused Father parenting time during Christmas 2019. Despite Father not seeing Child that Christmas, Father sent gifts. However, Mother refused to give Child the gifts.
- Father alleged that Mother distracts Child during virtual visits. Father testified that on one occasion Mother told Child that Father “doesn’t want to see you ride your bike.”
- During another virtual visit between Father and Child, Mother disturbed the call and Child told her, “[N]o, I want to talk to Daddy.”
- While both parties were in the Kansas City area for trial, Mother refused Father parenting time.
- When Child went to Branson, Missouri, for vacation, Mother refused to allow Child to return to Father’s home in Arkansas.

(5) The child’s adjustment to the child’s home, school, and community:

- Child displayed numerous behavioral difficulties at school while living with Mother.
- Child was expelled from preschool while living with Mother.
- Recently, while living with Mother, Child received out-of-school suspension for conduct that resulted in the school being evacuated. Mother did not inform Father of this incident until days later.
- Father testified that Child did not display behavioral problems while living with him.
- Karen Silmon testified that Child’s behavior is exemplary when he is with Father.

(6) The mental and physical health of all individuals involved, including any history of abuse

of any individuals involved:

- Father has post-traumatic stress disorder (“PTSD”) from two brain injuries that he sustained in the military. Father has sought and received treatment for his condition, and Father testified that his condition does not interfere with his ability to parent Child. Tara testified that she has not witnessed Father have explosions of anger or exhibit inappropriate behavior as a result of PTSD.

(7) The intention of either parent to relocate the principal residence of the child:

- Mother currently lives with her father and stepmother. Mother indicated that she planned to move in the future, but would remain in the same school district.
- Although Father moved three times after his discharge from the military, he and Tara purchased a home in June 2019 and do not intend to move.

(8) The wishes of a child as to the child’s custodian:

- The GAL testified that the only time she heard Child discuss a parent’s residence, Child indicated that he wished to live with Father.

The circuit court further found that it was in the best interests and welfare of Child to grant Father sole legal custody and to continue joint physical custody, but with Father’s address designated as Child’s address for mailing and educational purposes. The circuit court rejected both Mother’s and Father’s proposed parenting plans and, instead, adopted the parenting plan of the GAL with modifications to meet the best interests of Child. The circuit court denied Mother’s requests for child support, retroactive and prospective, rejecting all three of Mother’s Form 14s as unjust and inappropriate. Instead, the circuit court adopted Father’s Form 14 and ordered Mother to pay prospective child support to Father in the amount of \$221 per month. The circuit court denied Mother’s motion to reapportion the GAL’s fees according to the party’s respective incomes. The circuit court also denied each of the party’s motions for attorney’s fees.

Mother now appeals. Additional facts necessary to the resolution of the issues on appeal will be discussed below.

### **Standard of Review**

We review a bench-trying case under the standard outlined in *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976). We will affirm the judgment unless there is no substantial evidence to support it, it is against the weight of evidence, or the court erroneously declared or applied the law. *Id.* “We will not disturb the trial court’s determination of custody issues unless we are firmly

convinced of its error and that the award is against the best interests of the children.” *Prach v. Westberg*, 455 S.W.3d 513, 516 (Mo. App. W.D. 2015).

In reviewing the record in an against-the-weight-of-the-evidence challenge, we defer to the [circuit] court’s factual findings when the factual issues are contested and when the facts as found by the [circuit] court depend on credibility determinations. We defer to the [circuit] court’s credibility determinations because the [circuit] court is in a better position to weigh the contested and conflicting evidence in the context of the whole case, including weighing the demeanor, sincerity, and character of witnesses.

*C.D.R. v. Wideman*, 520 S.W.3d 839, 843 (Mo. App. W.D. 2017) (internal quotation marks and citations omitted).

### **Point I**

In Mother’s first point on appeal, she impermissibly raises two separate against-the-weight-of-the-evidence claims in one point relied on: (1) that the circuit court erred in awarding Father sole legal custody of Child; and (2) that the circuit court erred in adopting the GAL’s parenting plan.<sup>2</sup>

### **Analysis**

“‘[A] claim that the judgment is against the weight of the evidence presupposes that there is sufficient evidence to support the judgment.’” *Ivie v. Smith*, 439 S.W.3d 189, 205 (Mo. banc 2014) (quoting *J.A.R. v. D.G.R.*, 426 S.W.3d 624, 630 (Mo. banc 2014)). “In other words, ‘weight of the evidence’ denotes an appellate test of how much persuasive value evidence has, not just whether sufficient evidence exists that tends to prove a necessary fact.” *Id.* at 206. “The

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<sup>2</sup> “A point relied on is multifarious if ‘it groups together multiple, independent claims rather than a single claim of error.’” *Cityview Real Est. Servs., LLC v. K.C. Auto Panel, Inc.*, 576 S.W.3d 187, 191 (Mo. App. W.D. 2019) (quoting *Kirk v. State*, 520 S.W.3d 443, 450 n.3 (Mo. banc 2017)). “‘Multifarious points relied on are noncompliant with Rule 84.04(d) and preserve nothing for review.’” *Griffitts v. Old Republic Ins. Co.*, 550 S.W.3d 474, 478 n.6 (Mo. banc 2018) (quoting *Kirk*, 520 S.W.3d at 450 n.3). We are nevertheless able to discern Mother’s arguments in point one, and the defective nature of this point relied on does not impede our disposition of the claim on the merits. *Wennihan v. Wennihan*, 452 S.W.3d 723, 728 (Mo. App. W.D. 2015). Hence, *ex gratia*, we analyze the substantive arguments raised in this point, though the parenting plan analysis is discussed in our analysis of Point II.



against-the-weight-of-the-evidence standard serves only as a check on a circuit court’s potential abuse of power in weighing the evidence, and an appellate court will reverse only in rare cases, when it has a firm belief that the decree or judgment is wrong.” *Id.*

A party raising an against-the-weight-of-the-evidence challenge must follow the four-step analytical sequence set forth in *Houston v. Crider*, 317 S.W.3d 178, 187 (Mo. App. S.D. 2010):

- (1) identify a challenged factual proposition, the existence of which is necessary to sustain the judgment;
- (2) identify all the favorable evidence in the record supporting the existence of that proposition;
- (3) identify the evidence in the record contrary to the belief of that proposition, resolving all conflicts in testimony in accordance with the trial court’s credibility determinations, whether explicit or implicit; and,
- (4) demonstrate why the favorable evidence, along with the reasonable inferences drawn from that evidence, is so lacking in probative value, when considered in the context of the totality of the evidence, that it fails to induce belief in that proposition.

*Int. of B.K.F.*, 623 S.W.3d 792, 797 (Mo. App. W.D. 2021).

The fatal flaw in Mother’s argument lies in the fact that she fails to engage in the four-step analysis identified above. For example, Mother identifies a challenged factual proposition: that a change has occurred in the circumstances of Child or Child’s parents and that modification is necessary to serve the best interests of the child. But, that is the extent of Mother’s adherence to the four-step analysis in *Houston*. Instead of identifying favorable evidence in the record supporting that proposition or identifying evidence contrary to that proposition in accordance with the circuit court’s credibility determinations, Mother merely posits bare assertions that the circuit court failed to make *any* findings supporting a change in circumstances and the necessity of modification. (Appellant’s Br. 46). Mother’s argument, thus, “lacks any analytical or persuasive value.” *Int. of B.K.F.*, 623 S.W.3d at 797 (quoting *J.A.R.*, 426 S.W.3d at 631 n.12).

A court shall not modify a prior custody decree unless it finds, upon facts that have arisen since the prior decree or that were unknown at the time of the prior decree, that a change has occurred in the circumstances of the child or his custodian and that the modification is necessary to serve the best interests of the child. *See* § 452.410.1.<sup>3</sup> A judgment granting sole legal custody must be based on a finding that the parties lack a commonality of beliefs concerning parental decisions, and lack the willingness and ability to function as a unit in making those decisions. *Reno v. Gonzales*, 489 S.W.3d 900, 905 (Mo. App. W.D. 2016).

Here, we first note that Mother herself asserted a competing motion for sole legal custody below in which *Mother* argued that circumstances had so changed that modification of the circuit court's original custodial decree required modification. And, in *Mother's* appellate briefing to this Court in Point II, *Mother* asserts that "the parties were unable to function as a unit." (Appellant's Br. 49). Accordingly, both at the circuit court and appellate court levels, Mother's assertions are legally inconsistent; one cannot argue that such a significant change in circumstances has occurred necessitating a claim for sole legal custody on the one hand, but then accuse the circuit court of error for *agreeing* that the parties are no longer able to function as a joint legal custody unit and a custodial change is necessary on the other hand. *See Stephen W. Holaday, P.C. v. Tieman, Spencer & Hicks, L.L.C.*, 609 S.W.3d 771, 780-81 (Mo. App. W.D. 2020) (concluding that where a party has taken legally inconsistent positions, the doctrine of estoppel applies to prevent such legally inconsistent positions). Irrespective of Mother's logically and legally inconsistent arguments, the circuit court's detailed judgment made the requisite findings to support its conclusions awarding sole legal custody to Father in the Modification Judgment, to-wit:

- After Child was expelled from preschool in Missouri while living with Mother, Mother sent Child to live with Father. Father identified and informed Mother of two different preschools that Child could attend in Arkansas. Although

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<sup>3</sup> All statutory references are to the REVISED STATUTES OF MISSOURI 2016, as supplemented.

Mother initially agreed that *both* schools were fine with her, she later refused to allow Child to attend *either* school.

- Despite both parents agreeing to corporal punishment as a method of disciplining Child, Mother later alleged that Father's corporal punishment was abusive, an allegation that neither the GAL nor the circuit court found credible. And, Mother's definition of corporal punishment included slapping the child in the face to get Child to eat, a version of punishment that led Father and Mother into strong disagreement with each other.
- Mother refused to list Father as an emergency contact on Child's school records, though Father *did* list Mother as an emergency contact on similar records.
- Mother refused Father parenting time on multiple occasions including Christmas 2019. Nevertheless, Father sent Christmas gifts to Child at Mother's home—gifts that Mother refused to give to Child. [Tr. 61-62, 376-78]. While both parties were in Kansas City for trial, Mother refused Father any parenting time with Child. Finally, the incident precipitating the instant litigation arose from a disagreement between the parties regarding whether the child would return to live with Father or Mother after the Child's summer vacation to Branson.
- Mother testified that prior to trial she sought to have Child screened for autism, but Father testified that Mother did not inform him of her intentions nor did she share the necessary paperwork with him until she had already submitted that paperwork to Children's Mercy Hospital. [Tr. 72-73, 185-86, 201-02, 356-57]. Mother also testified that she and Father had disagreements about Child participating in counseling and what provider would counsel Child. [Tr. 297-301].

Based upon this evidence, it is clear that Mother and Father lack a commonality of beliefs concerning parental decisions, as well as a willingness and ability to function as a unit in making those decisions. Thus, unlike the circumstances that existed as of the Dissolution Judgment, the parties were no longer able to jointly share legal custody of Child, and the circuit court's ruling to that effect is supported by competent and substantial evidence.

Insofar as Mother asserts that granting Father sole legal custody was not in the best interests of Child, the circuit court's judgment addresses this topic by way of numerous conclusions from substantial and competent evidence before the circuit court.

The circuit court concluded that Child exhibited severe behavioral problems at school while living with Mother, but did not exhibit the same problems while living with Father. The circuit court concluded that Mother disrupted virtual visits between Child and Father, while Father did not reciprocate Mother's behavior during virtual visits between Child and Mother. The circuit court found that Mother refused Father parenting time on numerous occasions, though Father never refused parenting time to Mother. And, the circuit court (along with the GAL) concluded that Mother made non-credible allegations of abuse against Father, while Father did not engage in such petty conduct towards Mother. And, ultimately, the circuit court noted that the GAL believed Child's desire was to live primarily with Father.

Considering the detailed findings articulated in the circuit court's judgment, Mother's suggestion that the award of sole custody to Father was against the weight of the evidence is an argument not supported by the record and must, accordingly, fail.

Point I is denied.

## **Point II**

In Mother's second point on appeal, she contends that the circuit court misapplied section 452.375.6<sup>4</sup> and failed to make findings permitting the circuit court to reject the respective parenting plans submitted by Mother and Father and, instead, adopt the parenting plan proposed by the GAL. We disagree with Mother's characterization of the evidentiary record and the circuit court's findings supporting its adoption of the parenting plan proposed by the GAL.

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<sup>4</sup> Section 452.375.6 provides:

If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in [section 452.375.4] and each of the factors listed in subdivisions (1) to (8) of [section 452.375.2] detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

## Analysis

There is no prescribed format or magic formulation that the circuit court must include in its judgment in order to comply with the statutory requirements found in section 452.375.6; instead, it is only necessary that the circuit court's judgment "allow for meaningful appellate review." *T.J.E. v. M.R.M.*, 592 S.W.3d 399, 403 (Mo. App. E.D. 2020); *see also Erickson v. Blackburn*, 169 S.W.3d 69, 75 (Mo. App. S.D. 2005) ("While they do not track the order or verbiage of the factors listed in [section 452.375.6], the court's findings of fact clearly show that the judge made written findings on, at a minimum, five of the eight statutory factors."). To permit meaningful review, the circuit court's judgment should include discussion of the relevant best-interest-of-the-child factors listed in section 452.375.2(1)-(8); the public policy of frequent, continuing, and meaningful contact of the parents found in section 452.375.4; and a specific written parenting plan under section 452.375.9. *Abernathy v. Collins*, 524 S.W.3d 173, 180-81 (Mo. App. W.D. 2017). We believe the circuit court's judgment does allow for meaningful appellate review in this context, contrary to Mother's assertions, by providing, in great detail, these statutorily required findings.

The circuit court's findings regarding section 452.375.2(1)-(8) have been recounted above and will not be repeated here. It is clear to this Court that the circuit court's judgment concluded that sole legal custody in favor of Father was necessary in that Mother and Father could no longer work as a team to jointly make decisions regarding the health, education, and welfare of Child; likewise, Father had demonstrated that he would continue to serve Missouri's public policy of frequent, continuing, and meaningful contact with *both* parents. These conclusions are supported by substantial and competent evidence.

On numerous occasions, Mother restricted Father's parenting time. After July 2019, when Child returned to Missouri with Mother, Father was only allowed to exercise parenting time during Thanksgiving 2019, for one hour during a supervised visit in December 2019, and for just under two months during Child's summer break in 2020. Mother also constantly disrupted Child and Father's virtual visits by recording the calls, and interjecting and distracting Child during the calls, preventing meaningful contacts between Father and Child. Finally, the GAL testified that Mother "is not likely, if given sole custody of the child, to allow for frequent and meaningful contact between [Father] and [Child]," and the circuit court found this testimony credible. To the contrary, the evidence demonstrated that Father did not treat Mother the same way; instead, he supported continuing and meaningful contact between Mother and Child.

The circuit court's judgment also included findings directed at the inability of Mother and Father to jointly participate in decisions affecting the health, education, and welfare of Child and that it was not in Child's best interests to continue joint legal custody. As referenced previously from the record and judgment, Mother refused to include Father as an emergency contact on Child's school records. Mother failed to inform Father in a reasonably timely manner of Child's behavioral difficulties in school resulting in expulsion and out-of-school suspension. Mother failed to inform or consult Father about her intention to have Child evaluated for autism. Mother and Father could not agree whether Child should be enrolled in after-school care and, although they agreed to "spanking" as a method of disciplining Child, they could not agree upon the meaning of "spanking." Additionally, Mother twice asked Father to consent to *terminating* his parental rights. This substantial evidence indicates an inability of the parents to make joint decisions regarding Child's health, education, and welfare.

Finally, it is undisputed that the circuit court included a five-page parenting plan in its judgment addressing all of the statutory requirements of section 452.375.9.

Accordingly, this Court can readily discern, from the circuit court's judgment, the statutorily required findings to support the trial court's decision to reject the parenting plans submitted by Mother and Father and, instead, adopt the GAL's proposed parenting plan, which suggested sole legal custody for Father and joint physical custody with Father's address designated as Child's address for schooling and mailing.

Point II is denied.

### **Point III**

In Mother's third point on appeal, she impermissibly—again—asserts two sufficiency-of-the-evidence claims in one point relied on: (1) that the circuit court erred in ordering her to pay child support to Father; and (2) that the circuit court erred in denying *her* request for child support.

Like her first point, Mother's third point on appeal is multifarious as it combines two independent claims rather than a single claim of error and, therefore, preserves nothing for review. Mother also failed to include the applicable standard of review in violation of Rule 84.04(e). Further, Mother failed to include a statement describing whether and how the error was preserved for appellate review, also in violation of Rule 84.04(e).

Indeed, Mother failed to raise any challenge to the circuit court ordering her to pay child support, either at trial or in an after-trial motion. Consequently, Mother's claim that the trial court erred in ordering her to pay child support is unpreserved. *Brown v. Brown*, 423 S.W.3d 784, 788 (Mo. banc 2014) (“An issue that was never presented to or decided by the trial court is not preserved for appellate review.”).

And, though Mother’s claim that the circuit court erred in denying her request for retroactive child support was preserved for appellate review, Mother has abandoned this claim on appeal by providing no legal analysis whatsoever and failing to otherwise develop or advance any legal reasoning for her claim on appeal. *Wallace v. Frazier*, 546 S.W.3d 624, 628 (Mo. App. W.D. 2018) (“Points that are not developed in the argument are deemed to be abandoned.”). In fact, Mother dedicates but one sentence and fails to reference any legal precedent in support of this claim in her appellate briefing.

As a matter of discretion, we generally will review claims on the merits where such review is not hindered by briefing violations, “but we will do so only if the argument is readily understandable.” *In re S.H.P.*, No. WD84181, 2021 WL 5313035, at \*7 (Mo. App. W.D. Nov. 16, 2021). Here, we are unable to discern Mother’s argument without becoming an advocate for her.

Point III is denied.<sup>5</sup>

#### **Point IV**

In Mother’s fourth point on appeal, she asserts a sufficiency-of-the-evidence claim that the circuit court erred in denying her motion to reapportion the GAL’s fees in accordance with the parties’ respective incomes.

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<sup>5</sup> *Ex gratia*, we note in this sufficiency-of-the-evidence challenge that Mother’s briefing as to the topic of Form 14 analysis is replete with a presentation of the record on appeal recited in a light most favorable to *Mother’s* view of the evidence as opposed to the requirement that we view the evidence in a light most favorable to the *judgment*, including deference to the circuit court on credibility determinations. See *LaBarca v. LaBarca*, 534 S.W.3d 329, 335 (Mo. App. W.D. 2017). And, as to Mother’s assertion that she be entitled to retroactive child support, we note that “[t]he decision to make an award of child support retroactive is within the sound discretion of the [circuit] court.” *Finch v. Finch*, 442 S.W.3d 209, 221 (Mo. App. W.D. 2014). “An abuse of discretion occurs when the court’s order is clearly against the logic of the circumstances and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration.” *Davis v. Wieland*, 557 S.W.3d 340, 348 (Mo. App. W.D. 2018) (internal quotation marks omitted). Here, where Mother resides with her parents and does not pay for rent, utilities, or groceries, and Child was largely in the physical custody of Mother before the hearings on the motions to modify because Mother took Child without Father’s consent and contrary to the then existing parenting plan, the circuit court’s ruling on the issue of retroactive child support was not an abuse of discretion.



Again, Mother's point on appeal suffers briefing deficiencies. Mother failed to include a statement regarding whether and how this claim is preserved. She makes no reference to the applicable standard of review. And, her entire argument on appeal relating to this topic consists of five sentences that recite evidence in a light most favorable to Mother's viewpoint of the case, not the judgment, and without citation to legal precedent.

Once more, Mother has abandoned this claim by providing no legal analysis and failing to otherwise develop or advance any legal reasoning. *Wallace*, 546 S.W.3d at 628. Mother's briefing errors make reviewing the merits of her claim impossible without becoming an advocate for her.

Point IV is denied.<sup>6</sup>

### **Conclusion**

The circuit court's Modification Judgment is affirmed.

*/s/ Mark D. Pfeiffer*

Mark D. Pfeiffer, Presiding Judge

Karen King Mitchell and Gary D. Witt, Judges, concur.

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<sup>6</sup> Again, *ex gratia*, we note that a circuit court's order to the parties to pay the GAL's reasonable fees is reviewed "for abuse of discretion." *Davis v. Schmidt*, 210 S.W.3d 494, 511 (Mo. App. W.D. 2007). Here, where the GAL was, in the first instance, appointed by the circuit court due to abuse allegations by Mother that were ultimately deemed unsubstantiated, it is hardly an abuse of discretion for the circuit court to order Mother to pay 50% of the GAL fees that were necessitated by her abuse allegations that were ultimately found by the circuit court to lack credibility.