

## SUMMARY STATEMENT

*Megan Ross nka Miller v. Casey Ross*

Docket No. 52192

Miller and Ross divorced and the judgment and decree of divorce granted the parties joint custody of their two minor children. In 2023, Miller filed a petition to modify the custody schedule. Miller argued there had been substantial and material changes in circumstances that justified a modification in custody. Ross filed a response and counterclaim, arguing that there had been no material, substantial, and permanent change of circumstances that would justify reducing his parenting time but instead would justify increasing his parenting time. The matter proceeded to trial where both parties and their new significant others testified.

The court held a separate hearing in which it orally issued its findings of fact and conclusions of law on the record. The court summarized the testimony of each witness and concluded there had been substantial and material changes since the last custody order. The magistrate court concluded, the current visitation schedule was not working in light of the substantial and material changes. The magistrate court then modified the schedule to shared physical custody with a year-round, week on / week off rotating schedule. Miller filed a permissive appeal from both the judgment modifying custody and the denial of the motion to reconsider (which is not at issue in the appeal); the permissive appeal was granted.

On appeal, Miller argued the magistrate court abused its discretion when it entered the judgment modifying custody because its findings and analysis did not support its decision that it is in the children's best interests to modify the custody schedule. Miller asserted that the magistrate court overprioritized adopting a simplistic order when the facts found supported only a modest change to the custody schedule. Ross responded that the magistrate court did not abuse its discretion because it considered all the relevant factors before making a decision.

The Court of Appeals found that the magistrate court abused its discretion in modifying the custody schedule for two reasons. First, the Court found that the magistrate court failed to make explicit factual findings. Second, the Court found that the magistrate court failed to provide any analysis or reasoning to explain the connection between any of the substantial and material changes in circumstances and the court's conclusion that the current custody schedule needed to be

modified. Similarly, the magistrate court did not connect the best interests of the children to a need for the modified custody schedule. The Court declined to award attorney fees to either party.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*