

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

October 21, 2026

**MIZOURI W.,
Respondent Below, Petitioner**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 26-ICA-100 (Fam. Ct. Mason Cnty. Case No. FC-26-2022-D-55)

**SEAN C.,
Petitioner Below, Respondent**

MEMORANDUM DECISION

Petitioner Mizouri W.¹ (“Mother”) appeals the Family Court of Mason County’s final order regarding Mother’s petition for modification and relocation and Father’s petition for modification entered February 17, 2026. Respondent Sean C. (“Father”) filed a response in support of the family court’s order.²

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties’ arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the family court’s order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

The parties were never married but share one minor child born in 2014. The family court entered a final order on the allocation of custodial responsibility on October 7, 2022. The court designated Mother as the primary residential parent and awarded Father parenting time every weekend, except the first weekend of each month, from Friday at 6:00 p.m. to Sunday at 6:00 p.m. The final order further provided for the vacation and holiday parenting time for the parties.

Mother filed a petition for modification requesting that she be permitted to relocate with the child to the state of Florida on August 29, 2025. Father filed a petition for modification of his parenting time on October 15, 2025, requesting that the minor child reside with him if Mother relocated to Florida and further requesting that if Mother does not relocate, that he be awarded equal (50-50) parenting time with the minor child. The

¹ To protect the confidentiality of the juvenile involved in this case, we refer to the parties’ last name by the first initial. *See, e.g.*, W. Va. R. App. P. 40(e); *State v. Edward Charles L.*, 183 W. Va. 641, 645 n.1, 398 S.E.2d 123, 127 n.1 (1990).

² Mother is self-represented. Father is represented by Jenny M. Evans, Esq.

court held an initial hearing on December 1, 2025, and conducted an in-camera interview of the child on January 14, 2026. The family court held a final hearing on the parties' motions on February 2, 2026.

At the final hearing, Mother offered her own testimony as well as the testimony of her mother-in-law. Mother testified that her husband passed away a couple of years ago and she now desires to relocate with the minor child to Ocala, Florida to be closer to her late husband's family, to receive support from her in-laws, and to have access to better opportunities for herself and her minor children. Mother testified that her late husband's sister resides in Ocala, Florida and that she has provided a home for Mother to rent. Mother's current boyfriend also resides near Ocala, Florida. Mother testified she has not sought any job opportunities in her current field, medical coding and billing, in Florida. Mother testified that she plans to work in a pizza restaurant owned by her current boyfriend in or near Ocala, Florida.

The court found that the child's immediate family members, that being his father, paternal uncle and the uncle's daughter, paternal grandparents, maternal grandparents, and maternal great-grandparents, live in Mason County, West Virginia. During the in-camera interview of the child, the child was adamant that he did not want to relocate to Florida and expressed a firm and reasonable preference to live with his father in Mason County if Mother moved to Florida.

Based on the testimony of the parties and the interview of the child, the family court found that Mother's reasons for relocating were not legitimate nor made in good faith. The court found that Mother was seeking to relocate to be closer to her boyfriend and not to be close to immediate family members and that Mother is not pursuing a significant employment opportunity in Florida as she intended to work at her boyfriend's pizza restaurant. The court concluded that Mother failed to meet her burden for relocation of a parent pursuant to West Virginia Code § 48-9-403(d)(1) and her petition for modification and the request to relocate was denied. The court further ordered that if Mother relocates to Florida, the minor child will reside with Father in Mason County, that Father would be the primary residential parent, and Mother would be allocated parenting time. The court denied Father's petition for modification as he failed to prove that a substantial change in circumstances had occurred which warrants a modification of parenting and that a modification is in the best interest of the minor child. It is from this order entered February 17, 2026, that Mother now appeals.

When reviewing the order of a family court, we apply the following standard of review:

When a final order of a family court is appealed to the Intermediate Court of Appeals of West Virginia, the Intermediate Court of Appeals shall review the findings of fact made by the family court for clear error, and the family

court's application of law to the facts for an abuse of discretion. The Intermediate Court of Appeals shall review questions of law de novo.

Syl. Pt. 2, *Christopher P. v. Amanda C.*, 250 W. Va. 53, 902 S.E.2d 185 (2024); accord W. Va. Code § 51-2A-14(c) (2005) (specifying standards for appellate court review of family court orders).

We must note at the outset that Mother's brief fails to comply with Rule 10(c)(7) of the West Virginia Rules of Appellate Procedure because it fails to contain an argument pointing to the law or authority relied on or "appropriate and specific citations to the record on appeal, including citations that pinpoint when and how the issues in the assignments of error were presented to the lower tribunal." As we have previously acknowledged, we cannot consider indecipherable arguments made in appellate briefs. See *Vogt v. Macy's, Inc.*, 22-ICA-162, 2023 WL 4027501, at *4 (W. Va. Ct. App. June 15, 2023) (memorandum decision) (citing *State v. Lilly*, 194 W. Va. 595, 605 n.16, 461 S.E.2d 101, 111 n.16 (1995) (explaining that appellate courts frequently refuse to address undeveloped, perfunctory, or cursory arguments on appeal)).

On appeal, Mother fails to raise an assignment of error. Instead, her brief consists of statements reiterating that her reasons for relocation are legitimate and made in good faith, coupled with new evidence that she failed to present during the family court proceedings. As this Court has previously held:

Under the new version of West Virginia Code § 48-9-403 (2021), the burden rests on the relocating parent to prove that "(A) [t]he reasons for the proposed relocation are legitimate and made in good faith"; "(B) that allowing relocation of the relocating parent with the child is in the best interests of the child as defined in § 48-9-102 of this code"; and "(C) there is no reasonable alternative, other than the proposed relocation, available to the relocating parent that would be in the child's best interests and less disruptive to the child."

Katherine A. v. Jerry A., 248 W. Va. 672, 674, 889 S.E.2d 754, 756 (2023).

The record in this case shows that Mother failed to prove any of these required factors. Furthermore, Mother offers no argument in her appeal that these factors were met or, alternatively, that the family court improperly weighed the evidence and abused its discretion in applying the facts to the law. Mother's assertions raise no appealable issue from the family court's February 17, 2026, order, and her brief alleges facts and makes requests that this Court cannot properly consider.³ "While it is well established that courts

³ This decision does not preclude Mother from filing a petition for modification in the future. See W. Va. Code § 48-9-401 (2022).

must provide pro se litigants with certain accommodations, their appeals must still present cognizable legal reasons to justify setting aside a court’s ruling on appeal.” *David M. v. W. Va. Dep’t of Hum. Servs. Bureau for Child Support Enf’t*, No. 24-ICA-217, 2024 WL 5003597, at *4 (W. Va. Ct. App. Dec. 6, 2024) (memorandum decision). The family court’s order contained detailed findings of fact and conclusions of law in analyzing whether Mother’s proposed relocation was for a legitimate purpose, as required by West Virginia Code § 48-9-403(d)(2).⁴ More specifically, the family court made findings regarding the child’s immediate family members that reside in Mason County, the child’s preference to remain in Mason County with Father,⁵ and Mother’s lack of a “significant employment opportunity” available to her in Florida. Therefore, we decline to disturb the family court’s order and affirm.

Accordingly, we affirm the family court’s February 17, 2026, order.

Affirmed.

ISSUED: October 21, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White

⁴ West Virginia Code § 48-9-403(d)(2) states:

A relocation is for a legitimate purpose if it is to be close to immediate family members, for substantial health reasons, to protect the safety of the child or another member of the child’s household from significant risk of harm, to pursue a significant employment or educational opportunity, or to be with one’s spouse or significant other with whom the relocating parent has cohabitated for at least a year, who is established, or who is pursuing a significant employment or educational opportunity, in another location.

⁵ In determining whether the 50-50 presumption has been rebutted, the family court may consider “the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent.” W. Va. Code § 48-9-209(f)(5)(E).