

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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Ashlee Pollard,  
*Appellant,*

v.

Michael Pollard,  
*Appellee.*

March 24, 2022

Court of Appeals Case No.  
21A-DR-2039

Appeal from the Morgan Superior  
Court

The Honorable Brian H. Williams,  
Judge

Trial Court Cause No.  
55D02-1406-DR-1015

**Najam, Judge.**

### Statement of the Case

- [1] Ashlee Pollard (“Wife”) appeals the Morgan Superior Court’s (the “trial court”) order denying her motion for a change of venue in this dissolution proceeding.

Wife presents a single issue for our review, namely, whether the trial court abused its discretion when it denied her motion for a change of venue. We affirm.

## **Facts and Procedural History**

[2] Wife and Michael Pollard (“Husband”) were married and have one child (“Child”) together. The trial court issued a dissolution decree in September 2014. In 2017, Wife and Child moved from Morgan County to Cass County. And in January 2021, Husband moved out of Morgan County. On April 26, Wife filed a verified petition for contempt, modification of parenting time, emergency hearing, and request for attorney fees. And on June 4, Wife filed a motion for a change of venue.<sup>1</sup> Following a hearing, the trial court denied Wife’s petition and motion. This appeal ensued.

## **Discussion and Decision**

[3] Wife contends that the trial court abused its discretion when it denied her motion for a change of venue. We review a trial court’s order on a motion to change venue for an abuse of discretion. *Strozewski v. Strozewski*, 36 N.E.3d 497, 499 (Ind. Ct. App. 2015). An abuse of discretion occurs when a trial court’s decision is clearly against the logic and effect of the facts and circumstances before the court, or when the trial court has misinterpreted the law. *Id.*

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<sup>1</sup> Wife has not included a copy of the motion in her appendix on appeal.

[4] Initially, we note that Husband did not file an appellee’s brief.

When an appellee fails to file a brief, we apply a less stringent standard of review. We are under no obligation to undertake the burden of developing an argument for the appellee. We may, therefore, reverse the trial court if the appellant establishes prima facie error. “Prima facie” is defined as “at first sight, on first appearance, or on the face of it.”

*Deckard v. Deckard*, 841 N.E.2d 194, 199 (Ind. Ct. App. 2006) (citations omitted).

[5] Indiana Trial Rule 75 provides that, “[a]ny case may be venued, commenced and decided in any court in any county.” The trial rule lists several criteria under which preferred venue can lie. T.R. 75(A)(1)-(10). The rule does not create a priority among these subsections establishing preferred venue.

*Strozewski*, 36 N.E.3d at 500. Preferred venue may lie in more than one county, and, if an action is filed in a county of preferred venue, change of venue cannot be granted. *Id.*; see also *Randolph Cnty. v. Chamness*, 879 N.E.2d 555, 557 (Ind. 2008).

[6] Here, Wife concedes that “the trial court had original jurisdiction,” but she maintains that Morgan County is “no longer the preferred venue” because neither the parties nor Child reside there anymore. Appellant’s Br. at 6-7. She acknowledges that, at the hearing, Father testified that his residence in Marion County “is a temporary address,” but she points out that, as of September, he had not yet moved back to Morgan County. Tr. at 61. Wife’s argument misses the mark.

[7] Trial Rule 75(A)(8) states that preferred venue lies in “the county where a claim in the plaintiff’s complaint may be commenced under any statute recognizing or creating a special or general remedy or proceeding[.]” A dissolution action is a proceeding created and recognized by statute. *Strozewski*, 36 N.E.3d at 500. We, therefore, conclude that, under Trial Rule 75(A)(8), Morgan County, where the dissolution petition was filed, is a preferred venue. *See id.* And although preferred venue may lie in more than one county, if an action is filed in a county of preferred venue, change of venue cannot be granted. *See id.* Morgan County did not lose its status as the county of preferred venue merely because the parties are no longer residents there. The trial court did not abuse its discretion when it denied Wife’s motion for change of venue.

[8] Affirmed.

Vaidik, J., and Weissmann, J., concur.