

**IN THE DISTRICT COURT OF BROWN COUNTY, NEBRASKA**

**VODA L. JOHNSON,**  
Petitioner,

vs.

**KEVIN W. JOHNSON,**  
Respondent.

Case No. 6729

**FINDING OF CONTEMPT,  
SENTENCE, AND ORDER  
ALLOWING PURGE**

**HEARING DATE:** September 22, 1999.

**APPEARANCES:**

For the petitioner: W. Gerald O’Kief with petitioner.  
For the respondent: James D. Gotschall with respondent.

**SUBJECT OF HEARING:** Order to show cause and citation for contempt.

**FINDINGS:** The court finds:

1. The respondent pays his child support some number of days, but not more 30 days, after the due date, in the mistaken belief that child support does not become delinquent until 30 days after the due date;
2. Child support becomes delinquent the day after it is due, i.e. on the second day of each month (see NEB. REV. STAT. § 42-358.02(2)) and the fact that the automatic enforcement procedures contemplated by statute do not take effect until 30 days after delinquency does not excuse compliance by payment when due when the obligor is able to do so;
3. When that party delayed payment of the support, the party knew of the support order, and had the ability to pay such support immediately, and deferred payment for his own benefit, convenience, and financial gain, to the detriment of the petitioner, which failure to immediately pay was contemptuous of this court;
4. Such party has the ability to comply with the order set forth below;
5. The petitioner had to employ an attorney to bring this proceeding, and a reasonable attorney fee is \$300.00, which should be taxed as court costs; the party has the ability to pay these costs, and should be required to pay them.

**ORDER:** The respondent, Kevin W. Johnson is sentenced to pay a fine of \$100.00 for each installment which may hereafter be paid after the same becomes delinquent as provided by law, but may purge the contempt and avoid the sentence by paying all such installments on or before the due date thereof. Such fine shall be purged so long as each installment is timely paid, but upon any installment becoming delinquent such fine shall become absolute. Any such fine shall be paid by the

respondent to the clerk within 10 days after the same becomes absolute, and shall be remitted to the county treasurer for disposition in the same manner as any other fine imposed for violation of law. Upon failure to pay any such fine within the 10-day period, upon appropriate affidavit and motion and without further hearing, a commitment shall be issued committing the respondent to jail until the fine is paid and bench warrant shall issue accordingly. The costs of \$300.00, including the attorney fees for the benefit of the petitioner's attorney, are taxed to the respondent and shall be paid by the respondent to the court clerk within 10 days after the issuance of this order. Judgment is hereby entered accordingly.

Entered: September 23, 1999.

If checked, the Court Clerk shall:

- : Mail a copy of this order to all counsel of record and to any pro se parties.  
Done on \_\_\_\_\_, 19\_\_ by \_\_\_\_\_.
- : Enter judgment **for attorney fees and costs** on the judgment record.  
Done on \_\_\_\_\_, 19\_\_ by \_\_\_\_\_.
- : Mail postcard/notice required by § 25-1301.01 within 3 days.  
Done on \_\_\_\_\_, 19\_\_ by \_\_\_\_\_.
- : Note the decision on the trial docket as: 9/23/99 Signed "Finding of Contempt, Sentence, and Order Allowing Purge" entered; judgment entered accordingly.  
Done on \_\_\_\_\_, 19\_\_ by \_\_\_\_\_.

Mailed to:

BY THE COURT:

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William B. Cassel  
District Judge