

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

CHRISTOPHER M. CANET,

Petitioner,

vs.

**DENISE D. CANET, now known as
DENISE D. REESE,**

Respondent.

Case No. 9921

ORDER MODIFYING DECREE

DATE OF HEARING: September 24, 1999.

DATE OF DECISION: September 24, 1999.

APPEARANCES:

For the petitioner: Warren R. Arganbright with petitioner.

For the respondent: Susan Beel with respondent.

SUBJECT OF HEARING: respondent's application for modification of decree to increase child support filed 7/26/99.

DECREE INVOLVED:

Date of original decree: December 31, 1991 (filing date).

Date last modified: not applicable.

FINDINGS: The court finds:

1. The respondent raises the issue of child support. She adduced evidence under the guidelines. She also raises the matter regarding payment of health insurance premiums by the respondent despite the provision in the decree requiring the petitioner to pay health insurance premiums.

a. The court cannot consider such matter in the context of a change in the decree regarding payment of health insurance premiums or expenses, as that matter is not raised by the pleadings. The pleadings frame the issues and the court has no jurisdiction to reach issues not within the scope of the pleadings.

b. However, she also requests the court to consider the matter in the context of child support calculations. The court agrees that such matter should be considered as to the impact on the parties' incomes for purposes of calculating support under the Nebraska Child Support Guidelines.

i. The court has considered the matter for that purpose only. The health insurance premiums for the children paid by the respondent and not paid by the petitioner have been included in the calculations.

ii. The matter of health insurance expenses does not enter into the calculations. See also *National Acct. Sys. of Lincoln v. Vergith*, 246 Neb. 604, 521 N.W.2d 910 (1994) (child support order constitutes legal measure of noncustodial parent's support duty).

2. There has been a material change of circumstances since the decree was entered or last modified. Guideline Q.

3. The monthly net incomes (or in the case of the petitioner, the earning capacity) of the parties are set forth on Appendix "B" attached hereto and incorporated by reference. The child support amounts determined pursuant to the Nebraska Child Support Guidelines are computed on Appendix "B."

ORDER: IT IS THEREFORE ORDERED, ADJUDGED, AND
DECREEED that:

1. The application is granted to the extent of the relief set forth below and is otherwise denied. The decree previously entered in this case (and as previously modified, if applicable) shall remain in full force and effect except as expressly modified by this order.

2. The petitioner shall be required to pay child support to the court clerk for distribution to the respondent, effective as of the payment due on October 1, 1999, in the amount of:

- a. \$343.00 per month when there is only one child to be supported;
- b. \$493.00 per month when there are two children to be supported.

3. The support obligation for each child continues until such child reaches majority under Nebraska law (presently age 19), becomes emancipated, becomes self-supporting, marries, or dies, or until the further order of the court.

4. Delinquent support shall bear interest at the rate of 6.224% per annum from the time and in the manner provided by law.

5. Each party shall be required to furnish the clerk of this court, in writing, with such party's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, the name and address of such party's employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information that the Court shall deem relevant until the judgment is paid in full. Each party shall also be required to advise the Clerk of any changes in such information between the time of entry of this order and payment of the judgment in full. Failure to comply with the provisions of this section shall be punishable by contempt.

6. The income of the any party obligated to pay support hereunder shall be subject to income withholding, which shall be implemented pursuant to the Income Withholding for Child Support Act. Within thirty (30) days after the date of entry of this order, any such party shall accurately prepare and sign a Notice to Withhold Income (Form DC-005), and deliver the notice to such party's current employer and provide a copy of such notice to the court clerk. Within thirty (30) days after any change of employment, a new Notice to Withhold Income shall be prepared, signed, and delivered, and a copy provided to the court clerk in the same manner. In the event that any such party obligated to pay support fails to pay any child, medical, or spousal support payments, as such failure is certified each month by the District Court Clerk in cases where court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, such party may be required to appear before this Court on a date to be determined by the Court and show cause why such payment was not made. In the event such party fails to pay and appear as so ordered, a warrant shall be issued for such party's arrest.

7. Judgment is hereby entered accordingly. Each party shall be required to pay their own respective costs and attorney fees.

ENTERED: September 24, 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 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: 9/24/99 Signed "Order Modifying Decree" entered.
Done on _____, 19__ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge