

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

GARY L. JACKSON,

Petitioner,

vs.

JERRI ELIZABETH JACKSON,

Respondent.

Case No. 19444

ORDER MODIFYING DECREE

DATE OF HEARING: November 10, 1999.

DATE OF DECISION: November 10, 1999.

APPEARANCES:

For the petitioner: petitioner pro se.

For the respondent: respondent pro se.

SUBJECT OF HEARING: respondent's application for modification of decree.

DECREE INVOLVED:

Date of original decree: October 23, 1992.

Date last modified: not applicable.

FINDINGS: The court finds:

1. The original decree granted child custody to petitioner. The evidence lacks considerable clarity, perhaps due in part to the pro se presentations. It is evident, however, that the children have actually resided with the respondent for some extended period of time. It is also evident that the petitioner has not effectively challenged that status quo. It is not in the best interests of the children to have a custody order that does not reflect the reality that both parties apparently recognize. The change of continual residence of the children to be with the respondent, and the petitioner's acquiescence in the change, demonstrates that there has been a material change in circumstances.

2. The custody of the minor children, Andrew Scott Phillip Jackson, born April 8, 1984, and Christopher Lynn Jackson, born July 19, 1986, should be changed from the petitioner to the respondent, subject to reasonable rights of visitation and correspondence in the petitioner.

3. The child support should be modified.

4. Sufficient evidence has been produced to rebut the presumption that the Nebraska Child Support Guidelines should be applied because of the petitioner's duty of support of his minor step-child. The findings of the parties' incomes and calculations under the guidelines, and the deviation therefrom, used in determining the amount of support are set forth on Appendix "B" attached hereto, including Worksheets 1 and 5.

ORDER: IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED 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 custody of the minor children, Andrew Scott Phillip Jackson, born April 8, 1984, and Christopher Lynn Jackson, born July 19, 1986, is changed from the petitioner to the respondent, subject to reasonable rights of visitation and correspondence in the petitioner. The provisions of Appendix "A" attached hereto are incorporated herein and the parties ordered to comply therewith.

3. The child support obligation of the respondent is reduced to zero dollars (\$0.00) per month until further order.

4. The petitioner shall be required to pay child support to the court clerk for distribution to the respondent, effective commencing on December 1, 1999, to:

- a. \$384.00 per month when there are two children to be supported;
- b. \$267.00 per month when there is only child to be supported.

5. 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.

6. Delinquent support shall bear interest at the rate of 6.411% per annum from the time and in the manner provided by law.

7. This order does not affect any support installment accruing prior to the date of this order.

8. 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.

9. 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.

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

ENTERED: November 10, 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: Signed "Order Modifying Decree" entered; judgment entered accordingly.
Done on _____, 19____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge