

IN THE DISTRICT COURT OF BROWN COUNTY, NEBRASKA

MICHAEL DEAN LURZ,

Petitioner,

vs.

**CHRISTINA PEARL McDANIEL, now
known as CHRISTINA PEARL KOPECKY,**

Respondent.

Case No. 6845

DECREE OF CHILD CUSTODY

DATE OF HEARING: May 17, 2000.

DATE OF RENDITION: May 31, 2000.

DATE OF ENTRY: Date of filing by court clerk (§25-1301(3)).

This matter came on for hearing. The petitioner appeared personally and was represented by Rodney J. Palmer. The respondent did not appear, either in person or by any attorney. Evidence was adduced and arguments were heard. The matter was taken under advisement.

NOW, effective upon the date of filing of this decree by the court clerk (the date of "entry" of decree), the Court, being fully advised in the premises, hereby finds, orders, adjudges and decrees as follows:

1. JURISDICTION:

a. At filing, the petitioner and the children resided in this county and now reside in this county. No prior judicial proceedings have been had regarding the matters of custody or visitation concerning these minor children.

b. Although not previously called to the court's attention, the court takes judicial notice of the existence of a prior proceeding and judgment entered in the District Court of Nebraska, Eighth Judicial District, in the County of Holt, in Case No. 19916, entitled "State of Nebraska, o/b/o Michael D. McDaniel, Harley Jo McDaniel, and Christina McDaniel, Petitioner, vs. Michael D. Lurz, Respondent."

c. In the Holt County action, judgment was entered determining that Michael D. Lurz (respondent in that action) was the biological father of the minor children in question, and requiring him to pay child support and medical support. That judgment has not been modified, and cannot be modified by this proceeding. The issues of custody or visitation were never litigated in the Holt County action.

d. The Court has jurisdiction of both parties and the subject matter of this action to the extent of custody and visitation matters, but does not have jurisdiction to modify the support order in the Holt County case.

2. **WRITTEN AGREEMENT:** The written settlement agreement received as Exhibit 1 is fair and reasonable, and is not unconscionable, and is hereby approved, and compliance therewith ordered.

3. **COSTS AND ATTORNEYS' FEES:** Each party shall pay such party's own final costs, including attorneys' fees.

4. **PATERNITY:** The paternity of the minor children was determined in the Holt County case described above.

5. **CHILDREN:**

a. There is no entry concerning any minor child affected by this action in the Nebraska Child Custody Jurisdiction Act Registry of the Court, and this Court has jurisdiction of the minor children of the parties to this action, as follows:

Micheal Dean McDaniel, born on March 25, 1991, and,
Harley Jo McDaniel, born on August 2, 1983.

b. The petitioner is awarded the care, custody and control of the said minor children of the parties, subject to reasonable rights of reasonable visitation and correspondence in the respondent, which pursuant to the stipulation shall consist of every other weekend and three weeks in the summer. The respondent shall arrange for transportation. The first two visits shall be supervised by Jim Lurz or Laura Lurz.

c. Appendix "A," Supplemental Order for Custody, etc., attached is incorporated into this Decree, and the parties are directed to comply therewith.

6. **CHILD SUPPORT:**

a. The court does not have jurisdiction in this action to modify the support order entered in Holt County, and nothing in this order shall be construed to affect the continuing validity or enforcement of the Holt County judgment, unless and until the same is properly modified by the District Court of Holt County.

b. The respondent shall not be required to pay child support in this proceeding until the further order of the Court.

c. Sufficient evidence has been produced to rebut the presumption that the Nebraska Child Support Guidelines should be applied because the respondent has at least two other children to support, is pregnant with another child, is not presently employed, and lacks education and other earning capacity. Because of the extreme poverty of the respondent and her lack of earning capacity, the court should not require even the minimum support contemplated by the guidelines. The petitioner's claims regarding 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.

7. **REPORTS:** Each party shall be required to furnish the Clerk of the District Court of Brown County, Nebraska, 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 all of the children shall have attained the age of majority under Nebraska law, married, died, become emancipated or self-supporting, or until further order. Each party shall also be required to advise the Clerk of any changes in such information between the time of entry of this Decree and the termination of all support obligations, within ten (10) days after the effective date of such change. Failure to comply with the provisions of this section shall be punishable by contempt.

8. **INCOME TAX EXEMPTION:** The petitioner shall be entitled to claim the minor children for dependency exemption purposes for federal and state income taxes.

9. **NAME CHANGE:** Pursuant to the agreement of the parties, the names of the minor children shall be changed as follows:

a. The name of Michael Dean McDaniel is hereby changed to Michael Dean McDaniel Lurz, Jr., which shall be the name of the child after entry of this decree.

b. The name of Harley Jo McDaniel is hereby changed to Harley Jo McDaniel Lurz, which shall be the name of the child after entry of this decree.

c. The changes of name shall be effective as of the date of entry of this decree.

10. **TRANSMISSION OF CERTIFIED COPY:** The clerk of the district court of Brown County, Nebraska, shall transmit a true and certified copy of this decree to the clerk of the district court of Holt County, Nebraska, for filing in Case No. 19916.

IT IS THEREFORE ORDERED that the parties to this action shall fully comply with the above findings and orders.

Signed at Ainsworth, Nebraska, on May 31, 2000.
DEEMED ENTERED as of date of filing by court clerk.

If checked, the Court Clerk shall:

- : Mail copy of decree to all counsel of record and to any pro se parties.
Done on _____, 20__ by _____.
- : **Comply with paragraph 10.**
Done on _____, 20__ by _____.
- : Mail postcard/notice required by § 25-1301.01 within 3 days, stating **"Decree of Child Custody entered"**.
Done on _____, 20__ by _____.
- : Note the decision on the trial docket as: [date of filing] Signed "Decree of Child Custody" entered.
Done on _____, 20__ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge