

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

**MICHAEL R. MIZNER,**  
Petitioner,

Case No. 6329

vs.

**ORDER OF DISMISSAL**

**CHARLETTE M. MIZER,**  
Respondent.

**DATE OF HEARING:** August 23, 2000.

**DATE OF DECISION:** August 23, 2000.

**APPEARANCES:**

For petitioner: No appearance.

For respondent: No appearance.

For intervener State: David M. Streich, Brown County Attorney.

**SUBJECT OF ORDER:** Application to Modify filed on December 22, 1999, by intervener

State of Nebraska.

**PROCEEDINGS:** Discussion held in open court. Record waived.

**FINDINGS:** The court finds and concludes that:

1. The change of circumstances alleged in the application relates to proceedings in the County Court of Holt County, Nebraska, first in juvenile proceedings and subsequently in guardianship proceedings.

2. Jurisdiction over the minor children regarding termination of parental rights existed in this court pursuant to § 42-364 prior to any purported juvenile proceedings. This court never transferred any issues regarding termination of parental rights to any juvenile court. Consequently, the Holt County court never acquired subject matter jurisdiction, and any orders purportedly entered thereby are void. A void order cannot constitute a material change of circumstances.

3. Because the petition fails to show any material change of circumstances, the petition to modify (labeled as an application to modify) must be denied. The original order remains fully effective and capable of enforcement.

**ORDER:** IT IS THEREFORE ORDERED AND ADJUDGED that:

1. The petition to modify (labeled as an application to modify) is dismissed at intervener's cost.

Signed at Ainsworth, Nebraska, on August 23, 2000.  
DEEMED ENTERED upon the date of filing by the court clerk.

If checked, the Court Clerk shall:

BY THE COURT:

- ⋮ Mail a copy of this order to all counsel of record and to any pro se parties.  
Done on \_\_\_\_\_, 20\_\_ by \_\_\_\_.
- 9 Enter judgment on the judgment record.  
Done on \_\_\_\_\_, 20\_\_ by \_\_\_\_.
- ⋮ Mail postcard/notice required by § 25-1301.01 within 3 days **stating "Petition (application) to modify dismissed"**.  
Done on \_\_\_\_\_, 20\_\_ by \_\_\_\_.
- ⋮ Note the decision on the trial docket as: [date of filing] Signed "Order of Dismissal" entered.  
Done on \_\_\_\_\_, 20\_\_ by \_\_\_\_.

Mailed to:

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William B. Cassel  
District Judge