

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

State of Nebraska, on behalf of K[.] A[.] S[.],  
minor Child, and State of Nebraska, Health  
and Human Services,  
Petitioners,

Case No. 4652

vs.

**ORDER MODIFYING DECREE**

Gary D. Miller,  
Respondent.

**DATE OF HEARING:** January 14, 2002, in chambers at District Courtroom, Holt  
County Courthouse, O'Neill, Nebraska.

**DATE OF RENDITION:** January 23, 2002.

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

**APPEARANCES:**

For the petitioner: No appearance.  
For the respondent: respondent pro se.  
For judgment creditor: Eileen Swartz pro se.

**SUBJECT OF HEARING:** Joint application for modification of decree.

**DECREE INVOLVED:**

Date of original decree: January 15, 1999.  
Date last modified: Not applicable.

**FINDINGS:** The court finds:

1. The parties expressly consented to hearing in chambers pursuant to § 24-734. The county attorney for the County of Boyd entered a voluntary appearance on behalf of the State of Nebraska, and privately notified the court of the State's disinterest in further participation in the proceedings.

2. The issues of child custody and visitation were not previously litigated in this paternity and support action. The issues previously determined included paternity, current child support, retroactive child support, prenatal and birth-related medical expenses, and medical support. As the court advised the parties at the hearing, the court does not have

jurisdiction *in this case* concerning custody and visitation matters. The court expresses no opinion whether such jurisdiction would obtain in a separate action. After a recess for consideration of the matter, the parties elected to go forward with their joint application regarding the issue of child support.

3. The joint application of the parties, construed as a stipulation of the parties, is fair and reasonable, and is not unconscionable, and is hereby approved, and compliance therewith ordered, to the extent of the court's jurisdiction to do so. The following findings and orders are pursuant to the stipulation.

4. There has been a material change of circumstances since the decree was entered or last modified. The parties expressed the intention to effect, whether through legal proceedings or by their own voluntary action, a change of physical custody from the judgment creditor (mother) to the respondent (father).

5. The child support should be modified retroactively to the date of application of November 20, 2001.

6. The monthly net incomes 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. **RELIEF GRANTED/DENIED:** The joint application is granted to the extent of the relief set forth below and is otherwise denied.

2. **PRIOR DECREE OTHERWISE EFFECTIVE:** 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.

3. **SUPPORT REDUCED:** The child support obligation of the respondent is reduced to zero dollars (\$0.00) per month until further order, retroactive to November 20, 2001.

4. **SUPPORT IMPLEMENTED:** The child's mother, Eileen Swartz, shall be required to pay child support to the State Disbursement Unit for distribution to the respondent, commencing on February 1, 2002, and a like payment on the first day of each month thereafter

until the obligation of support as to particular child terminates, at the rate of \$50.00 per month for the support of K[.] A[.] S[.], born [deleted], SSN [deleted].

5. **TERMINATION OF SUPPORT:** 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. **PAYMENTS:** All payments of **child, medical, or spousal support** shall be paid to the **State Disbursement Unit** (and until the State Disbursement Unit is operative, to the Clerk of the District Court for this county) for disbursement to the person entitled thereto. All payments of **alimony, court costs, or attorneys' fees** shall be paid to the **Clerk of the District Court** for this county for disbursement to the person entitled thereto.

7. **INTEREST:** Delinquent support shall bear interest at the rate of 5.442% per annum from the time and in the manner provided by law.

8. **RETROACTIVE EFFECT:** The State Disbursement Unit (and until the State Disbursement Unit is operative, the court clerk) shall adjust the child support records accordingly to reflect the retroactive application of this order.

9. **INFORMATION REPORTING:** 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.

10. **INCOME WITHHOLDING:** 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. The social security numbers of the parties are: respondent, [deleted]; and, Eileen Swartz, [deleted].

11. **SUPPORT ENFORCEMENT:** 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 State Disbursement Unit (and for periods before the State Disbursement Unit became operative, 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.

12. **JUDGMENT:** Judgment is hereby rendered accordingly. Each party shall be required to pay their own respective costs and attorney fees.

Signed in chambers at **Ainsworth**, Nebraska, on **January 23, 2002**; BY THE COURT:  
DEEMED ENTERED upon file stamp date by court clerk.

If checked, the court clerk shall:

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

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William B. Cassel  
District Judge

Mailed to: