

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

CYNTHIA L. MEAIKE,
Petitioner,

vs.

LYLE D. MEAIKE,
Respondent.

Case No. 18830

ORDER MODIFYING DECREE

DATES OF HEARING: (1) January 7, 2002, and (2) February 6, 2002.

DATE OF RENDITION: February 7, 2002.

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

APPEARANCES:

For the petitioner: (1) Forrest F. Peetz with petitioner; (2) Forrest F. Peetz without petitioner.

For the respondent: (2) Thurman Gay without respondent; (2) no appearance.

SUBJECT OF HEARING: Petitioner's application for modification of decree filed September 10, 2001.

DECREE INVOLVED:

Date of original decree: July 12, 1989.

Date last modified: July 14, 1993.

FINDINGS: The court finds:

1. The oral stipulation of the parties made on the record at the hearing on January 7, 2002, is fair and reasonable, and is not unconscionable, and is hereby approved, and compliance therewith ordered. The following findings and orders are pursuant to the stipulation as far as it goes, and the remaining issue is determined upon the evidence.

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

3. Pursuant to the stipulation, the specific rights of visitation and correspondence in the respondent should be in accordance with Appendix "C" attached hereto and incorporated by reference.

4. The orders for health insurance, payment of private school tuition, attorneys' fees, and abatement of support during summer visitation are made pursuant to the stipulation.

5. The child support should be modified retroactively to the date of application.

6. Sufficient evidence has been produced to rebut the presumption that the Nebraska Child Support Guidelines should be applied because the respondent's support obligation to subsequent children. 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. **RELIEF GRANTED/DENIED:** The 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. **CHILD VISITATION:** The specific rights of visitation and correspondence in the respondent are modified to be consistent with standard visitation in the Eighth Judicial District as set forth on Appendix "C" attached hereto. The parties may deviate from such specific visitation at any time to the extent that they both agree to do so; but in the absence of mutual agreement to do so, the specific provisions of Appendix "C" shall control. The provisions regarding general right and duties of custody and visitation of Appendix "A" attached hereto are incorporated herein and the parties ordered to comply therewith.

4. **HEALTH CARE EXPENSES:** This decree does not modify the obligation of the respondent to provide health insurance as previously ordered. To the extent that any health care expenses are not reimbursed by insurance, each of the parties shall pay one-half of all unreimbursed health care expenses incurred after September 10, 2001. If either party pays all of any such unreimbursed expense, the other party shall promptly remit one-half of such amount to the party who initially paid the same.

5. **TUITION:** The respondent shall promptly pay one-half of the child's 2001-02 school year private school tuition, but the maximum amount required to be paid by the

respondent thereon shall not exceed \$232.00. The respondent shall also promptly pay when due one-half of the child's 2002-03 school year private school tuition, but again the maximum amount required to be paid by the respondent thereon shall not exceed \$232.00.

6. **SUPPORT MODIFIED:** The respondent shall be required to pay child support, effective as of the payment due on October 1, 2001, at the rate of \$445.00 per month. However, such amount shall be reduced by 50% as to the installment due on July 1 of each year for extended summer visitation. Such reduction shall be automatic and constitutes an attribute of the judgment. Failure to exercise such visitation shall constitute grounds for modification, but does not affect the automatic reduction unless further modified.

7. **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.

8. **PAYMENTS:** All payments of **child, medical, or spousal support** shall be paid to the **State Disbursement Unit** for disbursement to the person entitled thereto. All payments of **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.

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

10. **RETROACTIVE EFFECT:** The State Disbursement Unit (and to the extent applicable to the period of time before the SDU became operative, the court clerk) shall adjust the child support records accordingly to reflect the retroactive application of this order.

11. **INFORMATION REPORTING:** BOTH PARTIES 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.

12. **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 parties' social security numbers are: petitioner, [deleted]; respondent, [deleted]; child, not available.

13. **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 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.

14. **JUDGMENT:** Judgment is hereby rendered accordingly. Each party shall be required to pay his or her own respective costs and attorney's fees, except that the respondent shall pay attorney's fees for the benefit of petitioner's attorney to the court clerk for disbursement to petitioner in the total sum of \$250.00. Judgment for such amount is entered accordingly, and shall bear interest from the date of entry at the judgment rate of 5.442% per annum. All other interlocutory orders in this modification proceeding for costs are set aside and all claims for costs or sanctions in this modification proceeding are waived.

Signed at **O'Neill**, Nebraska, on **February 7, 2002**;
DEEMED ENTERED upon file stamp date by court clerk.
If checked, the court clerk shall:

BY THE COURT:

- : 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 _____.

William B. Cassel
District Judge

Mailed to: