

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

DERRY FAMILY DIVISION

DOCKET # 2000-M-0407

IN THE MATTER OF

JENNIFER JOHNSON AND DAVID JOHNSON

RESPONDENT'S REQUEST FOR FINDINGS OF FACT AND RULINGS OF LAW
MOTION TO REDUCE CHILD SUPPORT.

1. The elements of CRIMINAL CONTEMPT are:
 - a. The elements of criminal contempt are the existence of a valid order,
 - b. defendant's knowledge of the order, and
 - c. a defendant's intentional failure to comply with it. State v. Lieber, 146 N.H. 105, 107 (2001).
2. In civil contempt, punishment is remedial and its purpose is to coerce the defendant into complying with the court's order, which was made to benefit the complainant. Town of Nottingham, 118 N.H. at 285, 385 A.2d at 853.
3. The term "summary contempt" is nowhere defined in NH statutory or case law.
4. The Petitioner did not allege any facts in her motion which would indicate that the Respondent has the **present** ability to pay past due child support, or even his current child support bill because his living expenses, despite his modest apartment, far exceed those of the petitioner. He is required to feed his daughter while she is in his care, and he makes certain that he has the ability to do that, but it leaves very little left to pay his rent of \$1200 per month and child support. He has more than once in the past few months exchanged labor as part of his rent.
5. By way of further affirmative defense, the Respondent states that over the spring and summer of 2006, he knew he had custody of his daughter at least 1/2 of the time; **like Marissa's mother**, he does not use child care in order to work, and his income was entirely uncertain, which is why he was unable to refinance his home. It is reasonable that he would use the little funds he received from the sale of the home to ensure that he had the ability to feed and clothe his daughter while she was in his custody over the summer months.
6. The Respondent does not mind that the mother does not work while she has Marissa in her care, but he expects the same consideration from the Court for his parental decision to care for his daughter himself while she is in his custody. For the court to do otherwise is blatant sex discrimination.
7. 42 U.S.C. § 652. states: Duties of Secretary
 - (a) Establishment of separate organizational unit; duties

The Secretary shall establish, within the Department of Health and Human Services a

separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall —

(1) establish such standards for State programs for locating **noncustodial parents, establishing paternity, and obtaining child support** and support for the spouse (or former spouse) with whom the noncustodial parent's child is living as he determines to be necessary to assure that such programs will be effective; [emphasis added]

8. David Johnson is not a non-custodial parent. He has custody of Marissa more than 1/2 of the time; and the Office of Child Support Enforcement should not be involved in the collection of child support, as their federal funding is only for collecting child support for non-custodial parents. To involve the Office of Child Support Enforcement is to commit federal funding fraud.

WHEREFORE, Respondent respectfully requests the following relief:

- A. Reduction of child support to reflect his much higher living costs relative to the mother, and his actual custodial time with Marissa.
- B. That the child support be reduced to zero, or a token amount be imposed on the mother as the non-custodial parents to comply with federal funding law.
- C. That if child support is imposed on the Respondent, that it not be payable through the Office of Child Support Enforcement, as he is the parent with more custody, and to do so would constitute federal funding fraud.
- D. For other and such relief as may be just.

Respectfully submitted,

David Johnson

March 5, 2007

Paula J. Werme, Esq.
83 N. Main St.
Boscawen, NH 03303
753-9384

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading has been forwarded to Jonathan Ross, Esq. and to the NH Office of Child Support Enforcement, Salem District Office, 154 Main Street, Suite 1, Salem, NH 03079-3180.

March 5, 2007

Paula J. Werme

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

DERRY FAMILY DIVISION

DOCKET # 2000-M-0407

IN THE MATTER OF

JENNIFER JOHNSON AND DAVID JOHNSON

ORDER

1. The Respondent David W. Johnson's driving privileges are hereby reinstated pending further ORDERS of this Court after the NH Supreme Court has ruled on the appeal of the Respondent's ORDER to pay child support.
2. The Office of Child Support Enforcement is to hold child support payments in abeyance until an ORDER is issued by the NH Supreme Court or this Court concerning the issue of child support on appeal. It is further ENJOINED from taking any action to collect child support payments pending a final decision on the merits, including further suspensions of driving privileges.
3. A certified copy of this ORDER is sufficient for the Respondent David W. Johnson to take to the NH Department of Motor Vehicles to reinstate his driving privileges **without penalty assessment or fee** as the license was suspended without due process protections.

Date: _____

Judge

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

ROCKINGHAM SUPERIOR COURT

DOCKET # _____

PETITION OF DAVID W. JOHNSON

ORDER

1. The Respondent David W. Johnson's driving privileges are hereby reinstated pending further ORDERS of the Derry Family Division after the NH Supreme Court has rules on the appeal of the Respondent's ORDER to pay child support.
2. The Office of Child Support Enforcement is to hold child support payments in abeyance until an ORDER is issued by the NH Supreme Court or this Court concerning the issue of child support on appeal. It is further ENJOINED from taking any action to collect child support payments pending a final decision on the merits, including further suspensions of driving privileges.
3. A certified copy of this ORDER is sufficient for the Respondent David W. Johnson to take to the NH Department of Motor Vehicles to reinstate his driving privileges **without penalty assessment or fee** as the license was suspended without due process protections.

Date: _____

Judge