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CHILD SUPPORT ENFORCEMENT

Lincoln County - NV

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RECORDING REQUESTED BY AND RETURN TO:

**STATE OF NEVADA
ELKO PROGRAM AREA OFFICE
CHILD SUPPORT ENFORCEMENT
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ELKO, NV 89801**

**ORDER AFFIRMING AND ADOPTING
RECOMMENDATIONS OF CHILD
SUPPORT HEARING MASTER**

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FILED

Case No. CV-0626012

2013 JAN -3 PM 2:41

Dept. No. 2

DEAN G. GIBSON
LINCOLN COUNTY CLERK
MB
DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF LINCOLN

* * * * *

GARY BRUCE BUTTRAM, III,
Appellant,

vs.

ORDER AFFIRMING AND ADOPTING
RECOMMENDATIONS OF CHILD
SUPPORT HEARING MASTER

THE DIVISION OF WELFARE AND
SUPPORTIVE SERVICES and
NATASHA LYNN NACHBAUER,
Respondents.

FACTUAL AND PROCEDURAL HISTORY

On June 29, 2012, a notice and finding of financial responsibility to determine paternity and/or establish a child support obligation was filed. In response to the notice, Appellant requested a hearing before the Child Support Enforcement Division. Appellant reasoned his incarceration in the Nevada Department of Corrections rendered him unable to meet the child support obligations posited in the notice. A hearing was conducted on August 16, 2012, before the Child Support Hearing Master (Master).

On September 7, 2012, after considering the evidence and making pertinent findings of fact and conclusions of law, the Master recommended the Court order: (1) that Appellant is the parent of the child named in the proceedings; (2) that arrears shall be awarded in the amount \$400.00, payable at a rate of \$25.00 per month until paid in

SEVENTH JUDICIAL DISTRICT COURT
DAN L. PAPEZ
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA





SEVENTH JUDICIAL DISTRICT COURT
DAN L. PAPEZ
DISTRICT JUDGE
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WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



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full; (3) that ongoing child shall be \$100.00 per month in accordance with the statutory minimum set forth in N.R.S. § 125B.080 (2011); (4) that Appellant should provide health coverage if it is available through his employment; (5) that Appellant shall pay one half of any health expenses not covered by insurance; (6) that Appellant shall notify the State Child Support Office of any change of address or employment within ten days; and (7) that income withholding shall begin immediately.

On September 17, 2012, Appellant filed a letter objecting to the Master's recommendations. Appellant's primary concern appears to be his inability to earn enough money in the penal system to cover his child support obligations.¹ He also notes concern regarding any interest that would accrue on any unpaid amounts while he remains incarcerated and unable to acquire enough money to cover payments.²

N.R.S. § 125B.080 requires that child support be determined in accordance with the statutory formula set forth in N.R.S. § 125B.070. If there is any deviation from that formula, there must be a record of sufficient facts justifying the deviation. Factors which may be considered by the court when deviating from the statutory formula include: "(a) the cost of health insurance; (b) the cost of child care; (c) any special education needs of the child; (d) the age of the child; (e) the legal responsibility of the parents for the support of others; (f) the value of services contributed by either parent; (g) any public assistance paid to support the child; (h) any expenses reasonably related to the mother's pregnancy and confinement; (i) the cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the

¹ (Sept. 17, 2012, Letter at 1.)

² (Id.)

SEVENTH JUDICIAL DISTRICT COURT
DAN L. PAPEZ
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



1 support and the noncustodial parent remained; (j) the amount of time the child spends
2 with each parent; (k) any other necessary expenses for the benefit of the child; and (l)
3 the relative income of both parents.”³ When determining child support, the minimum
4 amount which shall be awarded is \$100.00, unless there are written findings that the
5 obligor is unable to pay that amount.⁴

6 In Sanders v. State, the Nevada Supreme Court held that incarceration may be
7 considered when determining if an individual is excused from paying child support.⁵
8 Although that case arose out of a criminal non-support prosecution, the State’s High
9 Court held that it had equal application to similar child support issues.⁶ In that case, the
10 Supreme Court held that the factors which should be considered include “any assets or
11 income of the obligor, the obligors past and future ability to earn income, the length of
12 the obligor’s incarceration and the best interests of the child.”⁷

13 In this case, the Master considered the factors in this case, pursuant to N.R.S.
14 §125B.080 and found that no deviation should be made.⁸ Although Sanders allows the
15 Court to consider incarceration when faced with child support issues, incarceration is not
16 the only factor which must be considered; therefore the mere fact that Appellant is
17 presently incarcerated is not dispositive. Accordingly, the Court finds that the record
18 supports the findings and recommendations of the Master.
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23 ³ N.R.S. §125B.080(9) (2011).

24 ⁴ N.R.S. § 125B.080.

25 ⁵ 119 Nev. 135, 141, 67 P.3d 323, 328 (2003).

26 ⁶ Id.

⁷ Id.

⁸ (Recommendation for Order at 2.)



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Good Cause Appearing;

IT IS HEREBY ORDERED that the Master's Findings and Recommendations are
AFFIRMED and ADOPTED.

DATED this 12 Day of ^{December}~~November~~, 2012

Dan L. Papez
District Judge

SEVENTH JUDICIAL DISTRICT COURT
DAN L. PAPEZ
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA





COPY

This document to which this certificate is attached is a full, true and correct copy of the original, as filed and recorded in the County Clerk's Office, Lincoln Nevada.

In witness whereof, I have hereunto set my hand and affixed the seal of the Seventh Judicial District Court in and for the County of Lincoln, State of Nevada, this 15th day of January, 2013

[Handwritten Signature]

