

**A-24-819, State (Appellee) on Behalf of Paul O. and Nickolas O. v. Samuel O. (Appellee) and Fannie W. (Appellant)**

Appeal from the District Court for Lancaster County, Judge Matthew O. Mellor

Attorneys: David V. Chipman (Monzón, Guerra & Chipman for Appellant (Fannie W.)); Steffanie J. Garner Kotik (Kotik & McClure Law for Appellee (Samuel O.)); Katherine J. Doering (Deputy Lancaster County Attorney for Appellee (State of Nebraska))

Fannie W. appeals from the order of the district court establishing paternity, custody, and child support for her two minor children, Paul O. and Nickolas O. This order resulted from a complaint filed by the State of Nebraska against Samuel O. to establish paternity and child support of the children. Fannie and Samuel were never married to one another and were both married to other people at the time of these proceedings.

Following the State's initial complaint, Fannie was added as a party to the action. Samuel acknowledged his paternity of Paul and Nickolas and filed a counterclaim against Fannie requesting the court award him and Fannie joint physical and legal custody of the children and determine parenting time and child support. Fannie filed an answer and counterclaim requesting the court award her attorney fees, establish Samuel's paternity of the children, award her both primary legal and physical custody of the children, determine Samuel's parenting time, and award her child support.

A trial was held, after which the district court found Samuel was the natural father of Paul and Nickolas, awarded the parents joint legal and physical custody of the children, and awarded the parents parenting time on an alternating weekly basis. Samuel was ordered to pay \$2,000 of Fannie's attorney fees, and Fannie was ultimately ordered to pay Samuel child support. Fannie, Samuel, and the State have filed briefs on appeal.

Fannie first asserts the court erred in awarding joint physical custody. She argues she should have been awarded sole physical custody because Samuel's work schedule caused issues during his parenting time, and she had historically been the children's primary caregiver.

Fannie's second argument is that the court erred by awarding equal parenting time. She argues Samuel should have been awarded less parenting time because his work schedule required the children be cared for predominantly by his wife, and their sleep be interrupted, during his parenting time.

Lastly, Fannie argues that the court erred in its calculation and award of child support. She asserts that the court wrongly gave Samuel credit in its calculation for the cost of the health insurance premium which provided coverage for Paul and Nickolas, as well as one

of his and his wife's other children. Further, Fannie argues the court wrongly ordered her to pay Samuel child support because its adopted calculation shows that Samuel should pay child support to her.

In its brief, the State does not agree the award of credit to Samuel for the cost of the insurance policy was in error. However, it does agree the court erred by ordering Fannie to pay Samuel child support.

In his appellate brief, Samuel challenges the district court's order in so far as it requires that he pay Fannie's attorney fees.