

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE ON BEHALF OF TREVOR G. V. WIGGET

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STATE OF NEBRASKA ON BEHALF OF TREVOR G., APPELLEE,

V.

ROBERT S. WIGGET, JR., APPELLANT, AND MEAGAN G., APPELLEE.

Filed September 15, 2026. No. A-25-755.

Appeal from the District Court for Franklin County: TIMOTHY E. HOEFT, Judge. Affirmed.

Robert S. Wigget, Jr., pro se.

No appearance for appellees.

RIEDMANN, Chief Judge, and PIRTLE and PICCOLO, Judges.

PICCOLO, Judge.

INTRODUCTION

Robert Steven Wigget, a self-represented incarcerated individual, filed a complaint for modification in the district court for Franklin County and requested a downward modification of his previously ordered monthly child support obligation. The court denied Wigget's requested modification. Wigget timely appealed. Based on the reasons that follow, we affirm.

STATEMENT OF FACTS

While the record on appeal does not include any of the pleadings or orders filed prior to the complaint at issue, we can discern from information we do have that at some point, the State of Nebraska filed a complaint on behalf of a minor child against Wigget and another individual, seeking to establish paternity and/or support and that Wigget was then ordered to pay child support.

On April 16, 2025, Wigget filed a complaint for modification in the district court. Wigget alleged that in about 2014 he had been found to be the child's father and ordered to pay child

support of \$50 per month. He alleged that there had been a material change in circumstances since the previous order and that application of the Nebraska Child Support Guidelines to his current income would lower his monthly child support obligation by 10 percent or more, and by not less than \$25 per month. Wigget also alleged that the changes in his financial circumstances had lasted for 3 months and could reasonably be expected to last for another 6 months. Wigget noted his incarceration and asked the court to decrease his monthly child support obligation in a manner consistent with the child support guidelines.

The district court initially scheduled a hearing on Wigget's complaint for June 24, 2025. At the June 24 hearing, the State appeared through its designated representative; however, neither Wigget nor the other named defendant appeared. Due to Wigget's failure to appear, the court denied Wigget's complaint to modify without prejudice. Wigget then filed a motion for rehearing, which was granted, and the court subsequently scheduled the matter for rehearing on September 4.

Due to Wigget's incarceration, he was granted the opportunity to participate telephonically at the September 4, 2025, hearing. No other appearances were noted on the record. Wigget represented himself at the hearing and presented arguments to the district court in support of his complaint. He responded to questions asked by the court, but he was not sworn in as a witness, nor did he offer any exhibits.

Wigget explained that given his current circumstances, he earns \$26 per month. He did not expect his current monthly income would increase in the foreseeable future. Wigget requested that, in accordance with Neb. Ct. R. § 4-209 (rev. 2020), his child support obligation be modified and reduced to 10 percent of his monthly net income. Based on the child support guidelines, Wigget argued that his \$50 per month child support obligation should be modified and reduced to \$5 per month. During the presentation of his case, Wigget mentioned that he has another child support case in which he is also paying \$50 per month. He asserted that the district court should also consider his other child support obligation in its assessment of his requested child support reduction in this case.

Given Wigget's disclosure of an additional child support obligation, the district court then questioned Wigget about the other child support case. Wigget advised that the other case is filed in the district court for Webster County. However, Wigget did not provide any salient details about the Webster County case other than the case number and the amount of his support obligation.

The district court took judicial notice of the pleadings filed in this case, including Wigget's complaint and his application and affidavit to proceed in forma pauperis and attachments showing his monthly income and expenses. The judicially noticed filings were not marked as exhibits and included in the bill of exceptions on appeal, but Wigget's in forma pauperis affidavit and the attached documentation of his income and expenses are included in the transcript. The court questioned Wigget about the potential to improve his income while imprisoned, and Wigget indicated that it would be approximately 3 years before he could increase his prison earnings. At the conclusion of the short hearing, the court took the issues presented under advisement.

On September 8, 2025, the district court entered an order ruling on Wigget's request to modify his child support obligation. The court noted Wigget's arguments made at the modification hearing and reviewed the relevant language of § 4-209 of the child support guidelines. In applying § 4-209, the court remarked that it does have discretion in instances of incarceration to lower the

amount of child support but specifically noted that Wigget’s monthly child support had been set at \$50 for several years, even prior to his incarceration. The court concluded that the \$50 child support order was “a minimum support order,” and that the amount was reasonable “considering the actual costs to raise a child.” Given these findings, the court denied Wigget’s request to modify his support obligation to less than \$50 per month.

Wigget timely appealed to this court.

ASSIGNMENTS OF ERROR

Wigget assigns, consolidated and restated, that the district court erred in ignoring his change in material circumstances, failing to attach a child support worksheet to its order and to consider the basic subsistence limitation found in the child support guidelines, and denying the requested downward modification of the previously ordered \$50 minimum support amount.

STANDARD OF REVIEW

Modification of child support payments is entrusted to the trial court’s discretion, and although, on appeal, the issue is reviewed de novo on the record, an appellate court will affirm the trial court’s decision absent an abuse of discretion. *Kingston v. Kingston*, 320 Neb. 981, 32 N.W.3d 221 (2026). A judicial abuse of discretion exists only when the reasons or rulings of a trial judge are clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result in matters submitted for disposition. *Jones v. Colgrove*, 319 Neb. 461, 24 N.W.3d 1 (2025).

ANALYSIS

In general, child support payments should be set according to the Nebraska Child Support Guidelines. *Dooling v. Dooling*, 303 Neb. 494, 930 N.W.2d 481 (2019). Pursuant to Neb. Ct. R. § 4-203 (rev. 2020), “[t]he child support guidelines shall be applied as a rebuttable presumption.” In other words, “[a]ll orders for child support obligations shall be established in accordance with the provisions of the guidelines unless the court finds that one or both parties have produced sufficient evidence to rebut the presumption that the guidelines should be applied.” § 4-203.

A party seeking to modify a child support order must show a material change in circumstances that (1) occurred subsequent to the entry of the original decree or previous modification and (2) was not contemplated when the decree was entered. *Kingston v. Kingston*, *supra*. Among the factors to be considered in determining whether a material change of circumstances has occurred are changes in the financial position of the parent obligated to pay support, the needs of the children for whom support is paid, good or bad faith motive of the obligated parent in sustaining a reduction in income, and whether the change is temporary or permanent. *Id.* The party seeking the modification has the burden to produce sufficient proof that a material change of circumstances has occurred that warrants a modification and that the best interests of the child are served thereby. *Fetherkile v. Fetherkile*, 299 Neb. 76, 907 N.W.2d 275 (2018).

Additionally, courts may consider various factors to determine whether a material change in circumstances has occurred. Among the factors to be considered in determining whether a material change of circumstances has occurred are changes in the financial position of the parent obligated to pay support, the needs of the children for whom support is paid, good or bad faith

motive of the obligated parent in sustaining a reduction in income, and whether the change is temporary or permanent. *Kingston v. Kingston, supra*. But the paramount concern in child support cases, whether in the original proceeding or subsequent modification, remains the best interests of the child. *Fetherkile v. Fetherkile, supra*.

In this case, Wigget seeks a modification of his previously determined minimum monthly child support amount of \$50. Concerning minimum support, § 4-209 of the child support guidelines, unequivocally states:

Even in very low income cases, except in cases of disability or incarceration where a lower amount may be justified, a minimum monthly support of \$50, or 10 percent of the obligor's net income, *whichever is greater*, per month should be set. This will help to maintain information on such obligor, such as his or her address, employment, etc., and, hopefully, encourage such person to understand the necessity, duty, and importance of supporting his or her children.

(Emphasis supplied).

Wigget assigns that the district court erred in failing to consider the basic subsistence limitation found in Neb. Ct. R. § 4-218 (rev. 2026). He notes his low earnings while incarcerated and his obligation to support a child in another case, and he argues that his child support obligation in this case should not be set at a level that would reduce his net income below the poverty guidelines. With respect to the basic subsistence limitation, § 4-218 provides:

A parent's support, child care, and health care obligation shall not reduce his or her net income below the minimum of \$1,330 net monthly for one person, or the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of 42 U.S.C. § 9902(2), *except minimum support may be ordered as defined in § 4-209*.

(Emphasis supplied.) We find Wigget's arguments about the district court's application of §§ 4-209 and 4-218 unpersuasive.

Undisputably, Wigget's complaint and his discussion with the district court at the modification hearing show that he was ordered to pay child support of \$50 per month in 2014, that he is currently incarcerated, and that his gross monthly income is \$26 per month. However, Wigget's incarceration does not, in and of itself, relieve him of his child support obligation. See *State v. Porter*, 259 Neb. 366, 610 N.W.2d 23 (2000). And Wigget did not otherwise present evidence to support his requested child support modification.

Evidence consists of facts admitted at a trial to establish or disprove the truth of allegations put in issue by the pleadings. *Charter West Bank v. Riddle*, 314 Neb. 263, 989 N.W.2d 428 (2023). At a hearing, testimony must be under oath and documents must be admitted into evidence before being considered by the trial court. *In re Estate of Radford*, 297 Neb. 748, 901 N.W.2d 261 (2017). See, also, Neb. Rev. Stat. § 27-603 (Reissue 2016); *Schroeder v. Barnes*, 5 Neb. App. 811, 565 N.W.2d 749 (1997) (Nebraska rules of evidence require that before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation).

The only information in the record about the original child support determination comes from Wigget's modification complaint, where he alleged that in about 2014, he had been found to

be the child's father and was ordered to pay child support of \$50 per month. At the modification hearing, Wigget did not provide the district court with any evidence relative to his income or lack thereof at the time the original child support obligation was determined, and his unsworn statements about when his prison income might increase were not evidence. See *In re Estate of Radford*, *supra*; *Mahmood v. Mahmud*, 279 Neb. 390, 778 N.W.2d 426 (2010) (informal discussion at show cause hearing did not produce any evidence sufficient to support issuance of protection order). Thus, the court was unable to determine if Wigget's income, if any, had changed since entry of the original child support order. Without that evidence, the court was unable to determine if Wigget's current incarceration is, in fact, a material change in his economic circumstances relative to the prior decision to set his child support at \$50. Additionally, there was no evidence provided as to the length of Wigget's incarceration. Thus, it was unknown whether Wigget's economic circumstance could be viewed as merely temporary as opposed to a more permanent situation. And, in the order denying Wigget's request to modify child support, the district court commented on the needs of the child to whom support is paid.

Our de novo review of the record reveals that Wigget did not meet his burden to show that a material change in circumstances has occurred to warrant a reduction in his child support obligation. Accordingly, the district court did not abuse its discretion when it denied Wigget's request for a downward modification of the previous child support order.

Wigget also complains that the district court erred in failing to attach a child support worksheet as required, even when ordering a nominal support order. Wigget is technically correct that pursuant to § 4-209, trial courts are required to attach a child support worksheet. The Nebraska Supreme Court held in *Jones v. Jones*, 305 Neb. 615, 941 N.W.2d 501 (2020) that the absence of a child support worksheet requires the parties and appellate courts to speculate about the trial court's conclusions and calculations in awarding support; therefore, even in very low income cases, courts awarding nominal support under § 4-209 should attach a child support worksheet, and the reason for any deviation from the minimum support amounts required by § 4-209 should be contained either in the court's decree or order or on worksheet 5. However, since Wigget's request to modify his prior child support order was not granted, the district court did not make any changes to his existing child support obligation. Therefore, we find that the court did not err in failing to attach a worksheet.

CONCLUSION

The district court did not abuse its discretion in denying Wigget's request to modify his previously ordered child support obligation. Accordingly, we affirm.

AFFIRMED.