

34 Franklin St.
Lyons, NY 14489
September 29, 2005

Support Magistrate Kathryn Davies
Onondaga County Family Court
401 Montgomery St.
Syracuse, NY 13202

Magistrate Davies,

I am in receipt of a Show Cause order (FF# 24467 / Docket No: F-540-98) signed by you and dated Sep 19, 2005. The order was sent to my work address and I was not there. It was mailed to me at home in Lyons (which has been my residence for over the last 5 years) and I received it Monday, the 26th. There is an appearance scheduled for October 4th and it will be impossible for me to be there.

My mother just returned home from 12 days in the hospital on the 27th. She came home on a stretcher and with a DNR order. She is 89 years old and it appears a chronic liver problem has progressed to the point where it has affected her eating, in a few weeks she went from 100 pounds to about 80 pounds. It is an unfortunate situation and as you can imagine, I am exhausted at present in helping her with care (I have no siblings) and am trying to see if Hospice or the County nursing program can offer help at home. I have no desire to see her placed in a 'home' for her last days.

I would please ask that:

- This matter be adjourned till mid January. From the information I have she may 'pass' in 30-60 days. It is hard to tell. After a funeral it would take me time to focus on this court matter and prepare.
- The license revocation order be reversed and I be granted driving privileges until this matter is heard. This allows me to take care of my mom during this time without a jail sentence and also allow Domenic, her only Grandchild, to be here with me for the funeral. Needless to say, he is quite close to Grandma and we all had a great time together during his six week visit this summer. It is a large extended family and will be a chance for all of us to bury her with dignity.
- Update my address for correspondence to be my home address: 34 Franklin Street, Lyons, NY 14489

As brief additional rationale I can offer:

- I do live in Wayne County and have also been preparing a petition (I have attached a draft) to have this support matter reviewed here and be represented by a local attorney. The court staff told me I could ask to have records transferred here. I am within walking distance of the Court House.

- Regarding the petition submitted by my former spouse. It is unfortunate, inaccurate, and slander. A hearing will show:
 - o Based on my actual income I have spent far in excess of support guidelines in support of my son. Primarily associated with extensive travel to California where I have made every attempt to visit Dom and also paid for (and traveled with him), to/from New York for Christmas, Spring Break, and Summer vacation.
 - o My former spouse has inhibited phone contact with Domenic. In over five years of traveling across the country to just spend a weekend with Domenic – on only one occasion were we given extra time together (even though on many occasions visits corresponded with school holidays and Domenic wanted to spend extra time together). Short of physical contact she made it very difficult to maintain a relationship with Domenic.
 - o That in late August Adrienne okayed a visit date for me and my mom to California of October 2nd (this weekend). If she had not fallen ill I would have already purchased non-refundable airline tickets – just get hit with a ‘no drive’ order and no ability to see Domenic. Hundreds of dollars wasted.
 - o That I have been honest in my financial statements. There is no ‘hidden’ money.
 - o That I have made repeated attempts at negotiation of this support matter with my former spouse. No reply. I am happy to commit to paying her money she may not even deserve just to be able to get myself on stable financial ground. The present judgments have ruined my credit rating and that makes it difficult for any small business to do well and expand.
 - o That I have volunteered to pay for smaller items needed by Domenic that I could afford. No reply.
 - o That Domenic has not been in ‘need.’ We have a loving relationship and he cherishes our time together and is very sad when it is over. He has truly benefited from our (expensive) time together.
 - o That I am a coordinator for a Family Reform group committed to NonViolent action as recently practiced by Gandhi and King. Many, many people have lauded these methods. Yes, I have been convicted on occasion, but many, many more charges were dropped or dismissed because of my positive approach.

Lastly, I wish the Court would emphasize negotiation as a means of resolution. The mounting ‘computer’ totals and legal actions are not serving any useful purpose. Our son is now 12 years old and in 7th grade – it is disheartening to see Adrienne just want to pursue more battle over these issues and not also accept equal responsibility for what has happened. We need to move on. I feel the ‘fascination’ with getting my license suspended is just another way to inhibit my contact with Domenic and that is unfortunate.

This experience has certainly show me the need for deep reform. I have include a copy of a recent email to which I’ve had no response.

Respectfully yours,

John Murtari

CC: Ms. Maureen Walsh, Esq.
Two Clinton Square, The Atrium, Suite 215
Syracuse, NY 13202

(DRAFT) PETITION for MODIFICATION of EXISTING SUPPORT ORDER
John Murtari v. Adrienne Phillipson

5 (continued) – That since the entry of the above order there has been a change of circumstance, in that:

In December of 1998 Adrienne, my former spouse (the respondent), was granted permission to relocate for education to California and to take our son with her. Even after several attempts I was unable to get a hearing in Onondaga County on a petition for modification and they were summarily rejected.

In these years my income has average about \$16,000/year due to slow business growth and the support level was based on \$40,000/year.

There was no adjustment made after the move was made. The move gave me one “weekend visit” with my son and I have exercised that as finances have allowed. Between renting a car, plane tickets, and renting a cabin for four days – it is about a thousand dollars a visit. I see him about five times a year out there and also during three vacations where we fly to/from New York. I have had to borrow money to pay for it all.

This has placed me in a very uncomfortable position of how best to support my Son and put me into large ‘arrear’ in Court ordered support payments. I know how much he values my contact and I know how much I valued my contact with my parents (some might have seen us as a ‘poor’ family). But no amount of money could replace our being together as parent and child.

There are payments of \$50/month being made and I am paying for all summer vacation travel (where she had been ordered to pay half). I have asked Adrienne several times if there were any basic needs Dom had that I might be able to get for him – but never had a reply. When he is with me I buy new clothing for him and have him take it with him. I have to rely on what he says.

6 (continued) – That by reason of the above stated change of circumstances the order should be changed/modified as follows:

It would be beneficial to all if it was changed to reflect my actual income level during that time and credit be given for the actual travel expenses. That would show me as an ‘overage.’ I have done everything I could to provide support for Domenic and my family – my actual expenses for him are probably 30-40% of my real income.

Right now I am driving an 88 Dodge Caravan and live in Lyons, my home town, with my mother who is now 88 years old. I do not ‘party’ or have any luxury items. My weekdays and weekend are work either at the office or around the home – our ‘pleasure’ time and money is all associated with my son Domenic. The visits we make to him in California,

and the vacation time he spends here. He is the focus of all my efforts as a parent – as it should be.

There has been an insistence in Onondaga County that I abandon my business of five years and resume working for ‘big’ corporations (from which I had last been fired for reporting unethical conduct). I was sentenced to and served a six month jail sentence for not changing jobs and being behind in payments. I was told the jail sentence was a ‘wake up call’ to my responsibilities as a parent. Much of this occurred without the assistance of legal counsel.

I am not a ‘deadbeat’ and I strongly resent finding myself categorized as such. I am a former Air Force Officer and graduate of the Air Force Academy. I gave up a flying career at great ‘cost’ to better look after my aging parents (I am an only child). I try to give back to the community as much as I can: I did volunteer work for years at a homeless shelter in Syracuse, got involved in local politics, became a member of the Knights of Columbus, and right now am a Lector at St. Michael’s in Lyons.

Most of all I am a loving father to my son, Domenic, from which I was unjustly separated. I was blessed with a loving father and mother, we did NOT have much money, but I always had there loved. I understand my moral responsibility to my child and am ready to fulfill it – it is not ‘superseded’ or relieved by an ‘order’. During my contempt proceeding in Onondaga I had my assigned counsel tell me, “John, just pay the money – you’ll see your son when he is 18” – that is not acceptable.

I have also become active in Family Law reform and starting a peaceful effort by parents, <http://www.AKidsRight.Org/> -- sometimes there have been arrests, and most charges have been dismissed, but there has also been jail time. The present business structure allows me to work for reform, keep my job, take care of my mother’s needs, and also see my son. I will not go back to a big corporation and sacrifice all that for dollars.

I am a very skillful and talented individual. This business which I began years ago would be in a lot better financial position and I would have a LOT more money if not for unrealistic orders which resulted in financial judgments and tax warrants against me.

Everyone wants more money, and so do I. Please respect my abilities and intent and put me in a situation where that can happen. I would be happy to ‘give’ Adrienne much more money than any order would ever require as the mother of our child. All that I work for in this Business is for the benefit of my only son, Domenic. Please respect that.

I will soon be 49 years old, I have been financially destroyed and nothing saved for retirement. This helps no one.

All I ask for is a fair hearing and a chance to present the facts of the situation.

7 (continued) – Petitioner failed to make an application for relief from said judgement or order directing payment to the accrual of arrears for the following reason(s):

A petition for modification was filed in the fall of 1998 and a hearing completed in November of 1998 (before the move to California was authorized). The request for modification was denied.

Three more attempts were made 1999, 2000, and 2001 – hearings were never held. They were denied as ‘no cause of action’. In the last attempt I did have an attorney and he was told by the Hearing Examiner that until this person gets a different job – there will be no hearings for changes.

Since that time I had no extra money and knew I needed competent counsel to make another attempt. I have been working on preparing this effort since 2003.

10 (continued) – No previous application has been made to any court or judge for the relief herein requested (except:

Please see above.

[THIS MESSAGE WAS ALSO SENT IN EARLY SEPTEMBER]

From: John Murtari <jmurtari@thebook.com>

To: Adrienne.Phillipson@California.EDU

Subject: (RESEND) My Mom is pretty sick.

Date: Sun, 11 Sep 2005 16:21:06 -0400

Adrienne,

[She is in the hospital now. They are still trying to figure out what is wrong. Please let me know you got the message]

I just wanted to let you know that my Mom is not doing very well. I have already let Dom know. She just isn't eating very well and has lost a lot of weight, down to 84 pounds. Not much the doctors seem to be able to do. I hope things change, but it could not be long till she dies.

I'm not sure how the planning will go for her funeral. But I assume they can wait a few days so that Dom can be here. I would try to plan it so that part of his travel is over a weekend so he wouldn't miss more than 2-3 days of school.

It is so hard to say about the travel. Money is tight and it would be pretty hard for me to fly out to pick him up -- though I may be able to fly back with them. We'll just have to see how it goes and how he feels about coming this way by himself. Even if he gets on a direct flight from Denver to Cleveland or Pittsburgh, I could drive down and pick him up at the airport.

I assume you will be able to get all his school work stuff so he can bring whatever he needs. Again, it is hard to say what will happen or when, but I figured I should at least let you know.

Please just let me know you got the message.
Best regards.

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