

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
FAMILY COURT DIVISION

93057086

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JUN 03 1993

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By [Signature] Deputy

AUG 30 1993

Karl E. Luken
306 N. Delaware Str.
Hobart, Indiana 46342

Petitioner,

vs.

Karen D. Luken
(Now "Young")
445 Bay Street
St. Paul, Mn. 55102

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Case No. [Signature]
ORDER
Court File #DM-F1-88-26958
JUN 12 09 PM '93
STATE OF MINNESOTA
LAKE COUNTY
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STOP

The above entitled matter came on for hearing on February 24, 1993, before the Hon. Gerald A. Alfveby, Referee of the Family Court Division, upon petitioner's motion and respondent's countermotion for the relief sought therein. Petitioner appeared personally, without counsel; the respondent appeared personally with her attorney, Mark Essling; also present was Assistant Ramsey County Attorney, Kathryn A. Santelmann. The court heard extensive arguments from or on behalf of both parties and took the matter under advisement pending the submission of a supplemental affidavit by the petitioner by March 6, 1993; a statement signed by the petitioner was received by the court on March 10, 1993 via postal express mail.

Based upon all the files, records and proceedings herein,
THE COURT FINDS AND CONCLUDES:

1. That the parties have one minor child: Jillian Renee Luken, born February 15, 1984, presently age 9.

2. That the parties herein filed a Joint Petition and Stipulation on February 12, 1988 and the final trial was heard by Referee Eugene L. Kubes on March 21, 1988.

3. Pursuant to the Judgment and Decree entered herein on March 22, 1988, the parties were granted joint legal custody with physical custody being placed in the respondent. The petitioner was ordered to pay the respondent child support of \$400.00 per month in equal installments on the 1st and 15th of each month. The petitioner was awarded the child's tax dependency exemption. At the time of trial, the court found that the petitioner had income of \$1800.00 net per month and that the respondent had income of \$900.00 net per month. In May, 1989, the petitioner resigned his employment with Altra Auto Rental because he was unhappy with management because they continued to put him into small and less productive territories; for those reasons, plus job stress, petitioner resigned and return to college and obtained his accounting degree in December, 1990. From the time he quit his employment in May, 1989, until January, 1990 when his savings ran out, the petitioner continued to pay respondent child support of \$400.00 per month. The respondent had not shown that the petitioner quit his employment so as to avoid paying child support and thereby self-limited his income. In 1992, petitioner took employment cleaning carpets and working for H & R Block Company.

4. On January 5, 1993 the court herein reduced petitioner's support on a temporary basis to the sum of \$250.00 per month effective December 1, 1992 since the petitioner's income, as a Title Searcher for Lawyers Title Insurance Corporation, is \$1022.36 net per month, a reduction from the \$1800.00 net income he earned

at the time of the entry of the Judgment and Decree. Said Order also found that respondent's income, based on year-to-date figures through November 15, 1992, was \$1401.24 net per month.

5. The petitioner has submitted W-2 income information and some tax returns which reflect adjusted gross income as follows: 1989 - \$16,821.00; 1990 - \$6032.00; 1991 - \$10,606.00; 1992 - \$12,168.00.

6. The petitioner remarried on February 13, 1993 and resides with his wife, her two children and a child of their marriage is expected in March, 1993.

7. As noted in Paragraph 6 of the findings contained in the Order dated January 5, 1993, the petitioner's present monthly income is \$1022.00. As noted in Paragraph 7 of the findings contained in

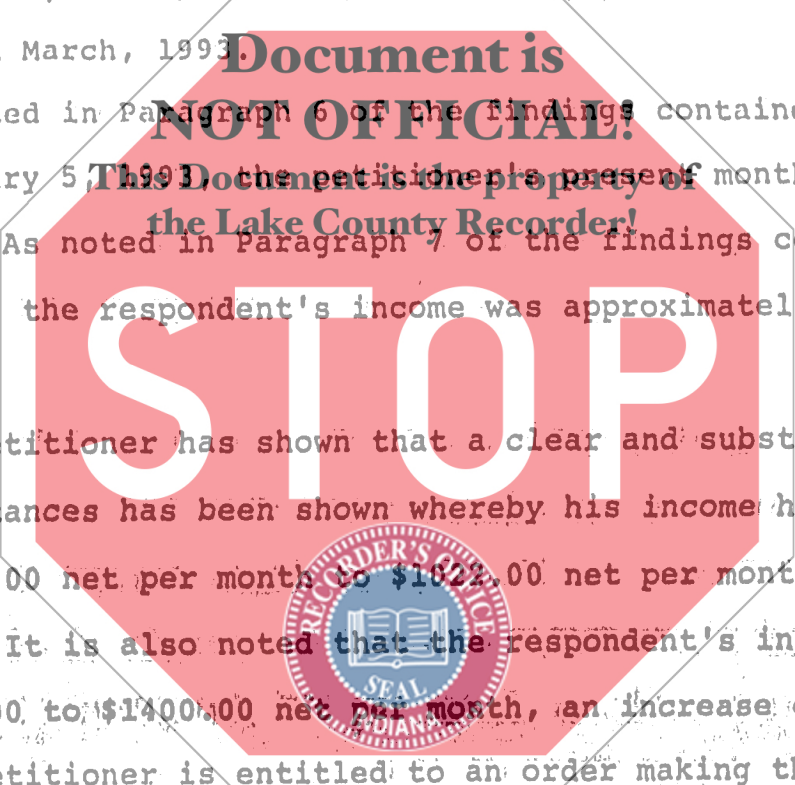
said Order, the respondent's income was approximately \$1401.00 net per month.

8. The petitioner has shown that a clear and substantial change of circumstances has been shown whereby his income has decreased from \$1800.00 net per month to \$1022.00 net per month, a 43.28 decrease. It is also noted that the respondent's income increased from \$900.00 to \$1400.00 net per month, an increase of 55.6%.

9. The petitioner is entitled to an order making the reduction of support to \$250.00 a "permanent" order rather than a "temporary" order. Said order should be subject to a cost of living adjustment (COLA) effective on May 1, 1995.

10. Since the tax dependency exemption is an element of child support, and is similarly modifiable, the respondent is entitled to claim the child's tax dependency exemption hereafter.

10. That during the two year period when the petitioner did not pay child support, the respondent used the child's tax dependency



exemption; consequently, the respondent was willing to give the petitioner a credit of \$500.00 for each of the two years she used the exemption. As a result, as of the date of the hearing, the petitioner was in arrears in the payment of child support in the sum of \$6910.00.

IT IS ORDERED:

1. That Paragraph 5 of the Judgment and Decree, dated March 22, 1988 is hereby amended to provide:

"5. Child Support. That as and for child support for Jililian Renee Luken, born February 15, 1984, the petitioner is ordered to pay the respondent the sum of \$400.00 per month in equal installments on the 1st and 15th of each month from and after the entry of the Judgment and Decree herein until December 15, 1992 at which time support shall be reduced to \$250.00 per month, payable on the 15th and last day of each month until the child becomes 18, or if still enrolled in high school, then no later than age 20, whichever occurs later, or until the child becomes emancipated, self-supporting or further order of the court."

2. That the cost of living adjustment next takes effect on May 1, 1995.

3. That Paragraph 6 of the Judgment and Decree is hereby amended to provide:

"6. Tax Dependency Exemption. That the petitioner is awarded the child's tax dependency exemption for the years 1988 - 1990; that the respondent is awarded the child's tax dependency exemption from and after 1991."

4. That a money judgment is awarded to the respondent against the petitioner in the sum of \$6910.00 representing unpaid child support arrearages existing as of February 24, 1993.

5. That the provisions mandated by the legislature, as contained in Appendix A attached hereto, are made part of this Order.

6. That except as provided herein, the motions of the parties are denied.

7. That service of a copy of the Order herein shall be made by mail upon the petitioner at his address in Indiana; and upon the respondent by mail to her counsel and a copy shall be provided to Assistant Ramsey County Attorney Santelmann.

THE FOREGOING FACTS WERE FOUND BY ME AFTER DUE HEARING AND THE FOREGOING ORDER THEREON IS RECOMMENDED

D. C. Coffey

J. THOMAS

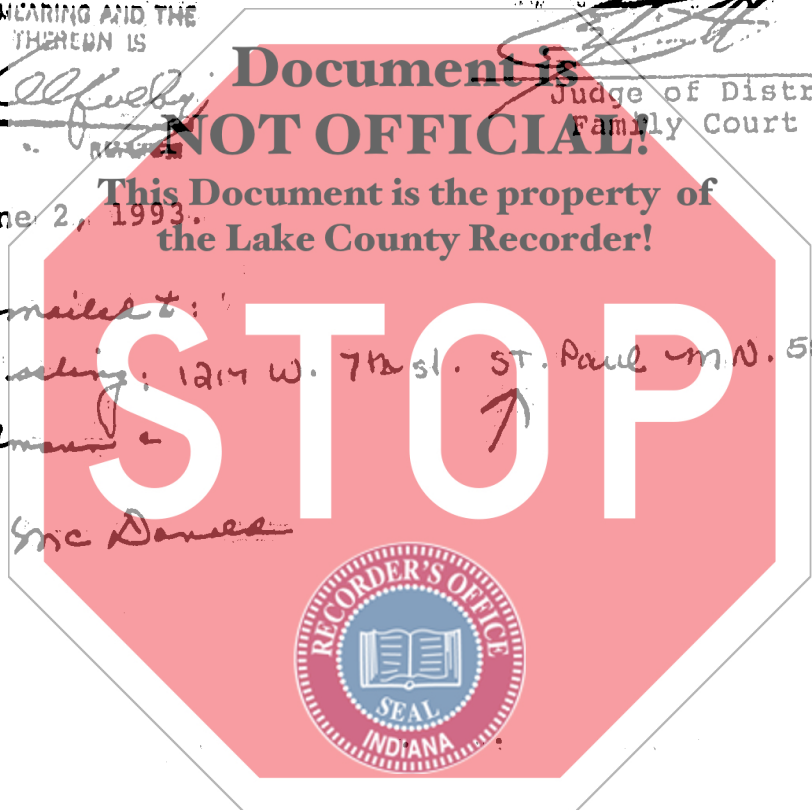
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Judge of District Court
Family Court Division

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DATED: June 2, 1993.
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Copies mailed to:

→ Mark Esling; 1217 W. 7th St. ST. Paul MN. 55102

K. Santelmann

Petitioner

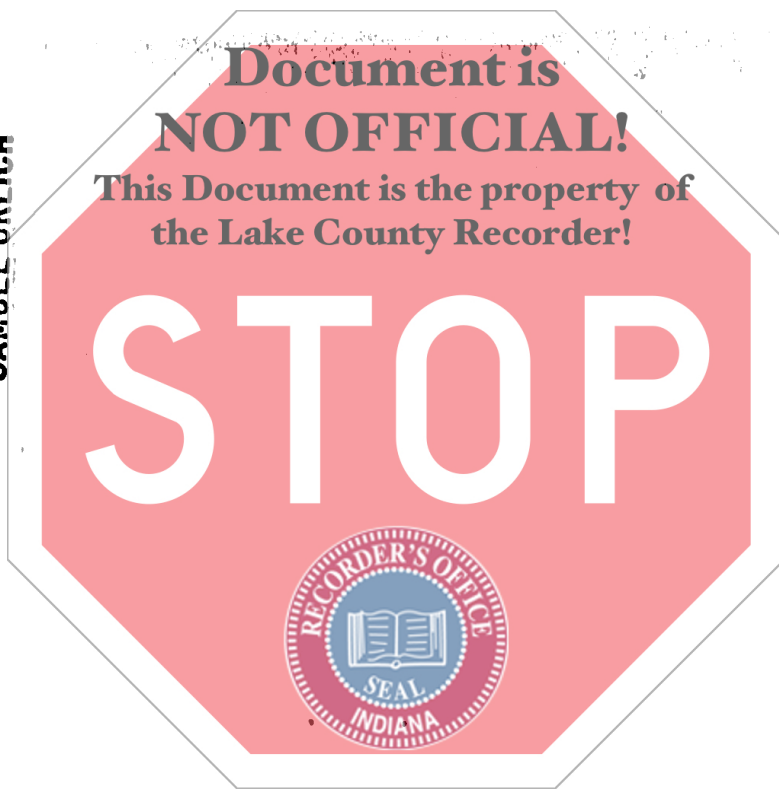
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LAKE COUNTY RECORDER
SAMUEL ORLICH



ROBERT J. BAUER, Family Court Administrator,
Ramsey County, State of Minnesota, does hereby
certify that the attached instrument is a true
and correct copy of the original on file and of
record in my office.

Dated this 16 day of AUG, 1993

ROBERT J. BAUER, Family Court Administrator

By [Signature] Deputy

File No. DM-EL-112658