

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, ex rel.)
SHERYL L. MULVIHILL, on behalf
of CODY ALLEN MULVIHILL,)
Petitioner-Appellee,)
vs.)
JOEL A. CONKEY,)
Respondent-Appellant.)

8-108
87-1171

FILED

AUG 24 1988

CLERK SUPREME COURT

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Appeal from the Iowa District Court for Woodbury County
(No. 95653), Dewie J. Gaul, Judge.

Respondent appeals from a court order establishing his
support obligation for a child he fathered out of wedlock.
He seeks to rescind the order for back support and to
reduce the amount of current support. **AFFIRMED.**

Robert J. Rehan of the Vakulskas Law Firm, Sioux City,
for the respondent-appellant.

Thomas J. Miller, Attorney General; Robert R.
Huibregtse, Assistant Attorney General; and John C. Baker,
Assistant County Attorney, for petitioner-appellee.

Considered by Oxberger, C.J., and Donielson and Hayden,
JJ.

OXBERGER, C.J.

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Joel Conkey, father of Cody Mulvihill, appeals the district court's decision ordering him to pay monthly \$175 in child support and \$2,100 child support presently in arrears. He contends he cannot afford to make such payments and that they are excessive. We affirm.

We review de novo. I. R. App. P. 4. We give weight to the findings of fact, but we are not bound by them. I. R. App. P. 14(f)(7).

The record reflects that Sheryl Mulvihill, mother of Cody, spends \$396 per month towards the care and support of the child. She nets \$645 monthly (\$100 of which she receives as rent). Her expenses including those of Cody's equal \$704. Mr. Conkey nets \$760 monthly and has expenses of \$860.

Mr. Conkey argues that Sheryl's financial statement is misleading and incomplete. He stipulated that this matter would be submitted to the court on documents alone. He had the opportunity to review her statement prior to stipulation and present any rebuttal evidence and/or testimony. He chose not to do so. He also asserts he has installment debts which further disable him financially. Clearly, parental support of the child is paramount to the parent's other financial obligations. State, ex rel. Mohr v. Mohr, 377 N.W.2d 247, 249 (Iowa App. 1985).

Mr. Conkey stated in his affidavit that he would be able to pay \$150 monthly towards the support of Cody. The district court's award of \$175 monthly is not excessive.

This case was submitted to the district court on affidavits and documents alone. In Mr. Conkey's affidavit he states that he ceased making child support payments in August of 1986 because Sheryl denied him visitation. Parents' obligation to support their children regardless of the status of visitation rights is ongoing and must be fulfilled. Accord Fritschler v. Fritschler, 208 N.W.2d 336, 340 (Wisc. 1973).

The district court has the discretion to order past due child support. Foreman v. Wilcox, 305 N.W.2d 703, 704 (Iowa 1981). Mr. Conkey stated in his affidavit that he was able to pay child support after August of 1986, but chose not to do so. There is nothing in the record which supports his assertions briefed that he cannot afford to make a lump sum payment of \$2,100 for past due child support. Upon our de novo review we affirm the district court's award in this regard.

Costs taxed to the appellant.

AFFIRMED.