

Children's Law Center of Indiana



Paternity

09/22/2008

In In Re Paternity of N.C., 893 N.E.2d 759 (Ind. Ct. App. 2008), the Court affirmed the trial court's order requiring incarcerated Father to pay \$6 per month child support. In May 1996, Father executed an affidavit acknowledging his paternity of the child who was born March 6, 1992. No child support was ordered prior to the October 23, 2007 filing of the petition in this case by the Elkhart County Title IV-D office. Father has been incarcerated since 1996. He is scheduled for release in December 2014. He earns approximated \$25 per month from his prison job. Following a telephonic hearing in which Father participated, the trial court issued the child support order. Father appealed.

The trial court did not abuse its discretion in imposing a child support obligation of \$6 per month. Id. at 761. Contrary to Father's contention, the Court found the support order to be consistent with Lambert v. Lambert, 861 N.E.2d 1176, 1177 (Ind. 2007), where the Supreme Court held that "in determining support orders, courts should not impute potential income to an imprisoned parent based on pre-incarceration wages or other employment related income, but should rather calculate support based on the actual income and assets available to the parent." Here, the Court noted that the Lambert court emphasized that the child support system is not meant to be punitive, but is an economic system designed to measure the relative contribution each parent should make, and is capable of making, to share fairly the economic burdens of child rearing. Id. at 1179. N.C. at 761.