

STATE OF NEW YORK
FAMILY COURT COUNTY OF WAYNE

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JOHN MURTARI, :
 :
 Petitioner, :
 :
 -versus- : Docket No.
 : F-00458-07/07A
ADRIENNE PHILLIPSON, :
 :
 Respondent. :
-----X

PRESIDING: DEBORAH GERBER-FARBER, ESQ.,
Support Magistrate in and for the
Seventh Judicial District, State of
New York.

DATE: May 4th, 2009

APPEARANCES :

For the Petitioner:
JOHN MURTARI - Pro Se

For the Respondent:
MAUREEN WALSH, ESQ.

TRANSCRIBED BY:

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1 MS. WALSH: I'm Maureen Walsh for --

2 THE COURT: Hi, Ms. Walsh.

3 MS. WALSH: -- for Adrienne Phillipson.

4 THE COURT: This is the matter of John

5 Murtari -- you can both have a seat -- against

6 Adrienne -- say it again. How do you say her last name?

7 MS. WALSH: Phillipson.

8 THE COURT: Phillipson. Docket Number

9 F-00446-09/09A. This is a petition seeking

10 modification of an existing order of support. Present

11 in court is Mr. Murtari and Ms. Walsh on behalf of

12 Sumi -- Miss Phillipson. Ms. -- first, for the record,

13 Mr. Rivera called and indicated several things. First,

14 he indicated that he has some sort of infection that he

15 really needs to get to the doctor for, and asked if he

16 could be excused. Then he indicated that he didn't

17 think he'd come in the future.

18 I don't know how his name got on the docket,

19 but since there's no notice of appearance, I'm just

20 going to consider, Mr. Murtari, at this point that

21 you're representing yourself. If you choose to get a

22 lawyer, I will need a notice of appearance from that

23 lawyer, because Mr. Rivera was also -- it was indicated

24 to him that once a lawyer makes a notice of appearance,

25 submits a notice of appearance, I expect them to

1 continue with the case. So at this point he's not on
2 your case, as I understand it. But if he wants to be,
3 he needs to file a notice of appearance, because people
4 can't just say they're going to show up one day, and
5 not show up the next.

6 Ms. Walsh, your client's not here, and I
7 didn't get an electronic testimony application from
8 her. How would you like to proceed?

9 MS. WALSH: Your Honor, I'd like to make a
10 motion to dismiss the petition. There is no change of
11 circumstances. Mr. Murtari has flagrantly violated
12 every order of support out of -- since the judgment of
13 divorce. There is no change of circumstances.

14 His last two appearances he had made the same
15 argument and, in fact, went forward and was found to be
16 in violation of the court orders, was sentenced to
17 jail, served two different jail terms. And there is
18 no, at this time, change of circumstances which would
19 warrant a change in the order.

20 THE COURT: Mr. Murtari, I'm baffled. You --
21 you did a three-page attachment -- actually, three-page
22 double-sided. What is it you're looking for?

23 MR. MURTARI: Your Honor, what I'd like to do
24 is -- I mean, as a brief history --

25 THE COURT: No, I don't want a brief history.

1 MR. MURTARI: Oh, okay.

2 THE COURT: I want to know what the relief is
3 you're requesting. Are you requesting to get your
4 driver's license back?

5 MR. MURTARI: Your Honor, I -- I certainly
6 need to get the license back. The -- my office is in
7 Baldwinsville, and it's -- you know, I live on Franklin
8 Street in a home, and it's -- it's quite a -- you know,
9 a burden just to get things done. My son is scheduled
10 to come here for six weeks this summer on June 5th.

11 THE COURT: Okay. Well, the last order I
12 have was a COLA of 2007. Your entire petition seems to
13 deal with things that happened prior to 2007. So --

14 MR. MURTARI: Your Honor, what I'm looking
15 for is a modification that can -- can hopefully address
16 the --

17 THE COURT: What change of circ -- okay, but
18 what change of circumstances has occurred since the
19 COLA -- since February 20th of 2007? There was a COLA,
20 which is an adjusted order, cost-of-living adjustment,
21 and when those go into effect, both parties are given
22 an opportunity to raise any issue they want at that
23 point. If any issue is raised, both parties are
24 entitled to a full hearing on the issue of support.
25 So, apparently that was or wasn't done, but the COLA

1 went into effect. So I'm considering the last order to
2 be February 20th of 2007. When I look at your
3 lengthy application, it deals with things that happened
4 far before that. What change of circumstances has
5 occurred since February 20th of 2007?

6 MR. MURTARI: Your Honor, if it's -- if it's
7 limited to that, to 2007, the only thing that's
8 occurred is obviously my income's been affected. It's
9 been a bad business cycle. I've got all the financial
10 stuff here, the 1040s, and all that jazz. And also,
11 the problem with the license. I haven't driven since
12 November of last year, and -- and that's a crisis.

13 Your Honor, one issue for the -- one thing on
14 the -- on the COLA. I remember when I filed this
15 stuff, they told me that that thing was outstanding.
16 Now, I know you don't have to get it, you know, they
17 take care of it. But honestly, I was never even aware
18 of it until I filed this stuff now. And my goal, as
19 part of the petition, is try to get this stuff
20 addressed, your Honor. I really -- it's been going on
21 for 13 years, and I sincerely want to get something
22 taken care of.

23 THE COURT: Miss -- Miss Walsh, does your
24 client have any objection to his getting his license
25 back?

1 MS. WALSH: Your Honor, that's the only thing
2 that the -- that has had to happen to make Mr. Murtari
3 accountable. He, in fact, had his license, I think,
4 revoked closer to five years ago, and continued to
5 drive without a license. And whatever happened in
6 November was between him and some State Police, or
7 local police. We have no idea what happened and why
8 now all of a sudden after five years.

9 Your Honor, there was a talk of a settlement
10 between my client and Mr. Murtari if he would pay
11 something towards the back arrears. He has not been
12 able to do that, so she's not willing to say at this
13 point that he can have his license, unless something
14 and some attempt was made towards making up arrears.
15 Arrears at this point, your Honor, are over a hundred
16 thousand dollars.

17 THE COURT: I see that.

18 MS. WALSH: There's been no payment, no
19 attempt to contribute, no attempt to take care of this
20 child, who is, you know, now a teenager and facing
21 college.

22 THE COURT: Okay. I'm going to dismiss this
23 petition for failure to allege a change of
24 circumstances since the last order. We'll have that
25 order ready for you in just a few minutes in the

1 waiting room. Thank you very much, folks.

2 MR. MURTARI: Your Honor, regarding the

3 license, did you --

4 THE COURT: It's between you and the Support
5 Collection Unit.

6 THE CLERK: And that would be Onondaga
7 County, your Honor. It's payable through their office.

8 THE COURT: Okay. You need to contact
9 Onondaga County.

10 MR. MURTARI: Your Honor, regarding
11 objections, I -- I -- you know, obviously, I object to
12 getting things dismissed. I --

13 THE COURT: Certainly, you have that right.
14 You can certainly file an appeal. Thank you.

15 MS. WALSH: Thank you.

16 THE BAILIFF: You're all set.

17 MR. MURTARI: Okay, your Honor. Thank you.

18 THE CLERK: We'll have an order --

19 THE COURT: We'll have an order in a few
20 minutes.

21 MR. MURTARI: Oh, just wait?

22 THE BAILIFF: Wait out in the waiting room.

23 THE COURT: Wait out in the waiting room.

24 MR. MURTARI: Outside?

25 THE BAILIFF: Yup.

1 THE COURT: Ms. Walsh, thanks for -- welcome

2 to my court.

3 MS. WALSH: Thank you.

4 THE COURT: Nice to meet you.

5 MS. WALSH: It's a beautiful day for a ride.

6 Thank you.

7 (Whereupon, the proceedings were concluded)