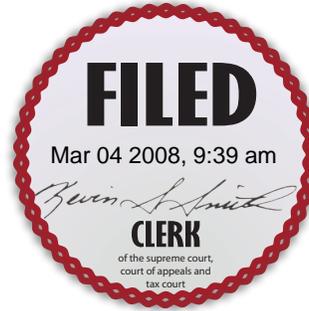


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES MICHAEL MYER,)

Appellant,)

vs.)

No. 09A05-0708-CV-433

DEE DEE (MYER) FRANKLIN,)

Appellee.)

APPEAL FROM THE CASS CIRCUIT COURT
The Honorable Leo Burns, Judge
Cause No. 09C01-8901-DR-10

March 4, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Charles Myer (“Father”) appeals the trial court’s grant of a petition to modify child support filed by Dee Dee Franklin (“Mother”).

We affirm.

ISSUE

Whether the trial court erred by ordering Father to pay for college expenses incurred by the parties’ daughter, Emily Myer.

FACTS

Emily was born on February 10, 1988. Father and Mother divorced on March 31, 1989, and the trial court ordered Father to pay child support. Father and Mother’s son, C.M., was born on September 8, 1989.

On October 19, 2006, Mother filed a petition for education expenses, stating that Emily was attending Indiana University, and C.M. “will likely attend a college or university upon graduation from high school.” (App. 33). Mother therefore sought “a ruling determining how the cost of said schooling should be apportioned between the parties.” *Id.*

The trial court held a hearing on Mother’s petition on February 15, 2007. At the time of the hearing, Emily was nineteen years old. Emily did not testify at the hearing.

Mother testified that Emily enrolled at Indiana University in August of 2006 and was attending as a full-time student. Mother also testified that as a 21st Century Scholar, Emily received a scholarship, which pays her tuition in full. Mother further testified that costs for books, housing and meal plans, which are not covered by the scholarship, total

approximately \$13,500.00 per year. Finally, Mother testified that she and Father did not communicate.

Father testified that Mother had interfered with his visitation rights. Father also testified that when he did exercise visitation with the children, he would take them to his mother's house in the morning and then go to work, returning at noon; Father and the children then would spend the rest of the day at the grandmother's home.

During the hearing, the trial court admitted into evidence a letter written by Emily to Father. The letter reads, in pertinent part, as follows:

I am writing to you to tell you why [C.M.] and myself wish to not see you. You don't even try to talk to us when we are there. When you're there and when you aren't we are so bored. You try sitting in room for 9 hours in 1 day We don't know you and you don't know us. It feels very uncomfortable when we are there and we don't like it. We wanted to tell you this a long time ago, but we were scared, and we still are scared of you. You have such a temper You say we don't try to talk to you, but neither do you, so be the grown-up in this situation I didn't like how you didn't give me anything for my birthday. And the card you sent me . . . when I read it, I threw it away, I know that what the card said isn't how you feel about me, I mean, if it was true, why would you not talk to us at all? So, to sum up this letter, we don't want to come visit you, do you get it now that we write it on paper? I sure hope so.

(Father's Ex. A). Emily wrote the letter on March 11, 2003, one month after her fifteenth birthday.

Father testified that after receiving the letter, he telephoned Emily and C.M. and told them "if they ever wanted see [him] they could get ahold [sic] of [him]." (Tr. 28). After that telephone call, Father did not attempt to contact or seek visitation with Emily and Father had no further contact with her.

On May 15, 2007, the trial court found and ordered as follows:

1. The duty of the former husband to support the minor children shall continue.
2. Indiana Uniform Child Support Guidelines regarding post-secondary education apply to this case.
3. Each of the parties shall contribute to the cost of Emily Myer's post secondary education pursuant to the guidelines.
4. All parties are benefiting from Emily Myer's status as a 21st Century Scholar.
5. All expenses relating to Emily Myer's education, not covered by scholarship proceeds, shall be divided by the student and her parents according to the guidelines.
6. This Order shall apply retroactively and expenses incurred for the 2006-2007 school year shall be paid accordingly to the guidelines.
7. The former husband's child support obligation shall be modified to reflect the payment of his share of the post-secondary education expenses.

(App. 2-3).

Father filed a motion to correct error, which the trial court denied on July 27, 2007.

DECISION

Father contends that the trial court erred in not finding that Emily had repudiated Father and therefore in ordering Father to contribute to Emily's college expenses. We disagree.

Decisions regarding child support are generally left to the discretion of the trial court. Absent an abuse of discretion or a determination that is contrary to law, a court on appeal will not disturb a trial court's order modifying child support. In reviewing orders modifying child support, we consider only the evidence and reasonable inferences favorable to the judgment. When reviewing a challenge to an order apportioning college expenses, we apply a "clearly erroneous" standard. We will affirm the trial court unless the decision is clearly against the logic and effect of the facts and circumstances which were before it.

Gilbert v. Gilbert, 777 N.E.2d 785, 790 (Ind. Ct. App. 2002) (internal citations omitted).

“Indiana law recognizes that a child’s repudiation of a parent—that is, a complete refusal to participate in a relationship with his or her parent—under certain circumstances will obviate a parent’s obligation to pay certain expenses, including college expenses.” *Norris v. Pethe*, 833 N.E.2d 1024, 1033 (Ind. Ct. App. 2005). We apply this rationale only where the child is an adult child over eighteen years of age. *See id.* at 1034; *McKay v. McKay*, 644 N.E.2d 164 (Ind. Ct. App. 1994).

Here, the record shows that after receiving a letter in 2003 from the then-fifteen-year-old Emily, Father made no attempt to contact Emily or reestablish a relationship with her. Furthermore, Emily did not testify at the hearing. Thus, Father has failed to establish that Emily—as an adult over the age of eighteen—repudiated the father-daughter relationship.

Affirmed.

BAKER, C.J., and BRADFORD, J., concur.