

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DAVID L. MOTES,)
)
 Petitioner,)
)
 vs.) Case No. 01-3170
)
 DEPARTMENT OF CHILDREN AND)
 FAMILY SERVICES,)
)
 Respondent.)
 _____)

ORDER CLOSING FILE

This case came on for consideration pursuant to notice after remand. The purpose of the hearing was to provide Petitioner an opportunity to rebut the presumption that he received proper notice of the evidentiary hearing held on April 3, 2002. Respondent was represented by counsel in the instant proceeding, but Petitioner did not make an appearance.¹

The September 3, 2002, Order Granting Continuance and Rescheduling Hearing was served on Petitioner by U.S. Postal Service Certified Mail, return receipt requested. Petitioner's October 2, 2002, letter refers to the October 4, 2002, hearing in the first and last paragraphs. Petitioner clearly had proper notice of the instant proceeding.

Petitioner did not meet his burden of rebutting the presumption that he received proper notice of the April 3, 2002, hearing because he failed to make an appearance at the October 4, 2002, hearing after due notice. For the reasons set forth above, it is

ORDERED that the file of the Division of Administrative Hearings is closed and jurisdiction is relinquished to the agency for final disposition.

DONE AND ORDERED this 7th day of October, 2002, in Tallahassee, Leon County, Florida.

Suzanne F. Hood

SUZANNE F. HOOD
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 7th day of October, 2002.

ENDNOTE

1/ On October 2, 2002, Petitioner filed a letter requesting a continuance and seeking to disqualify the undersigned. The filing of the October 2, 2002, letter did not stay the proceeding. Therefore, it was necessary for Petitioner to make an appearance to advance the allegations set forth in his letter, to provide Respondent with an opportunity to respond thereto, and to provide the undersigned or another designated Administrative Law Judge with an opportunity to rule on the requests before considering the question on notice at issue here. Petitioner's non-appearance precludes consideration of Petitioner's requests.

COPIES FURNISHED:

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