

1-22-04



STATE OF FLORIDA  
DEPARTMENT OF REVENUE  
CHILD SUPPORT ENFORCEMENT PROGRAM

MICHAEL L. WRIGHT, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
DEPARTMENT OF REVENUE, CHILD )  
SUPPORT ENFORCEMENT PROGRAM, )  
 )  
Respondent. )  
\_\_\_\_\_ )

AT

Case No. DOR-01-4456-FIDM  
DOAH Case No. 03-3684  
Control No. 145288

04 FEB - 2 PM 1:23  
FILED  
DIVISION OF ADMINISTRATIVE SERVICES

JBC-clw

**FINAL ORDER**

Lillie Bogan, Director of the State of Florida Department of Revenue, Child Support Enforcement Program (CSE), being authorized by section 409.25656, Florida Statutes, to garnish bank accounts, herein enters this Final Order as required by Chapter 120 Florida Statutes.

**PROCEDURAL SUMMARY**

1. On October 15, 2001, CSE mailed a Notice of Freeze in an amount up to \$16,121.06 to Suncoast Schools Federal Credit Union ("Suncoast") by certified mail, return receipt requested, regarding any accounts of Petitioner with the credit union; Suncoast received the Notice of Freeze on October 18, 2001.

2. Suncoast confirmed a freeze on Petitioner's joint account in the amount of \$5,573.95 as of October 18, 2001.

3. On October 22, 2001, CSE mailed a Notice of Intent to Levy in an amount up to \$16,121.06 to Petitioner by certified mail, return receipt requested; the Notice of Intent to Levy

was received and signed for at the Florida State Hospital, Chattahoochee, Florida, on October 23, 2001.

4. The Notice of Intent to Levy advised that a non-obligor joint owner, who claimed to have an equal right to all of the money levied upon in a joint account, had a right to contest CSE's action.

5. On or about November 5, 2001, Petitioner timely filed a Petition-Disputed Issues of Material Fact with CSE. The non-obligor joint account holder, who had a right to contest the Department's action, did not file a petition to contest the levy nor did she appear at the final hearing.

6. CSE sent a Notice of Extension of Freeze in an amount up to \$16,121.06 to Suncoast on November 9, 2001.

7. On May 1, 2002, CSE initially referred the matter to the Division of Administrative Hearings to conduct the hearing; the Division of Administrative Hearings assigned Case No. 02-1714 to the case.

8. At that time, Petitioner was a patient at the Florida State Hospital, Chattahoochee, Florida.

9. Ultimately, CSE filed a Motion to Relinquish Jurisdiction on March 10, 2003, primarily on the grounds that Petitioner was a patient at Florida State Hospital, Chattahoochee, Florida, and that CSE had requested that a guardian ad litem be appointed for Petitioner; CSE's request was denied on the grounds that Administrative Law Judges did not have the authority to appoint a guardian ad litem.

10. An Order Closing File was entered on March 12, 2003.

11. After Petitioner was released from the Florida State Hospital, CSE filed a Motion to Reopen File on October 6, 2003; the case was reopened as Case No. 03-3684 pursuant to an Order Granting Motion to Re-Open File issued on October 6, 2003.

12. An administrative hearing in this case was held December 11, 2003, at 2:00 p.m., in Tallahassee, Florida, and Tampa, Florida, via video teleconference before Administrative Law Judge Jeff B. Clark, pursuant to a notice of hearing issued on November 7, 2003.

13. Judge Clark issued a Recommended Order in this matter on January 22, 2004, a copy of which is attached hereto and incorporated by reference herein.

### **FINAL ORDER**


**BASED UPON** the Findings of Fact and Conclusions of Law set out in the Recommended Order issued by Administrative Law Judge Jeff B. Clark, on January 22, 2004, it is hereby:

**ORDERED** that the Department of Revenue, Child Support Enforcement Program, may levy upon the funds in Petitioner's credit union account with Suncoast Schools Federal Credit Union, Tampa, Florida, up to the amount of unpaid child support as of November 21, 2003, i.e., \$16,121.06, or to the full amount frozen, whichever is less; (2) apply the funds levied to satisfy all or part of Petitioner's past due child support obligation; and (3) credit Petitioner for the amount so applied.

This Order is effective and final upon filing with the Deputy Agency Clerk, subject only

to the Notice of rights attached hereto and incorporated herein by reference.

DONE and ORDERED in Tallahassee, Florida this 28<sup>th</sup> day of January, 2004.

  
LILLIE BOGAN, Director  
Child Support Enforcement Program  
State of Florida Department of Revenue

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the foregoing Final Order has been filed in the official records of the Department of Revenue, this 28<sup>th</sup> day of January, 2004.

  
EUREKA JENKINS  
Deputy Agency Clerk

Attachments: Notice of Right to Appeal  
Recommended Order

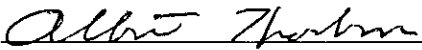
**NOTICE OF RIGHT TO APPEAL**

ANY PARTY WHO IS ADVERSELY AFFECTED BY THE FOREGOING FINAL ORDER HAS THE RIGHT, PURSUANT TO SECTION 120.68, FLORIDA STATUTES, TO SEEK JUDICIAL REVIEW WITHIN THIRTY (30) DAYS OF THE DATE OF THE FILING OF SAID FINAL ORDER, BY: (1) FILING AN ORIGINAL NOTICE OF APPEAL, AS PRESCRIBED BY THE FLORIDA RULES OF APPELLATE PROCEDURE, WITH THE DEPUTY AGENCY CLERK OF THE DEPARTMENT AT POST OFFICE BOX 8030, TALLAHASSEE, FLORIDA 32314-8030, AND BY (2) FILING A COPY OF SAID NOTICE OF APPEAL, TOGETHER WITH THE FILING FEE PRESCRIBED BY SECTION 35.22, FLORIDA STATUTES, OR OTHER APPLICABLE

LAW, WITH THE CLERK OF THE FIRST DISTRICT COURT OF APPEAL OR THE APPROPRIATE DISTRICT COURT OF APPEAL. FILING WITH THE CLERK MEANS WHEN THE CLERK RECEIVES THE NOTICE, NOT WHEN IT WAS MAILED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order and Notice of Right to Appeal has been served by U.S. Mail to **Michael L. Wright** c/o Carolyn David Adult Family Home, 446 Porpoise Drive, Tampa, Florida 33617-8316 this 28<sup>th</sup> day of January, 2004.

  
Albert Thorburn, Senior Attorney  
Florida Bar No. 0064866  
(850) 922-9590

Copies furnished to:

Albert Thorburn, Senior Attorney  
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Child Support Enforcement Program  
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The Hon. Jeff B. Clark  
Division of Administrative Hearings  
The DeSoto Building  
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Tallahassee, Florida 32399

Bruce Hoffman, General Counsel  
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