

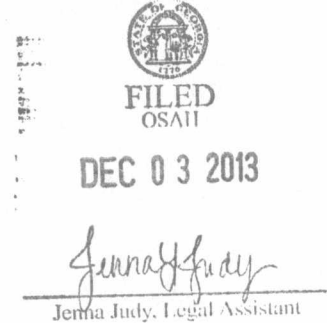
**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

ROHAN WRIGHT,
Petitioner,

v.

**DEPARTMENT OF HUMAN
SERVICES, DIVISION OF CHILD
SUPPORT SERVICES,**
Respondent.

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: **Docket No.: OSAH-CSE-REPAY-**
: **11417235-33-Woodard**
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: **Agency Reference Number: 210023545**
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INITIAL DECISION

I. FINDINGS OF FACT

The following findings of fact are based solely on a preponderance of the evidence produced at the hearing held on December 2, 2013, at Marietta Municipal Court, Cobb County, Georgia. Authority: OSAH Rule 21(4).

1. Petitioner is liable for child support payments pursuant to a Consent Final Order issued on April 12, 2013 in *Docket No.: OSAH-CSS-EST-1331230-33-Woodard*. He is required to pay \$360.00 per month through the state's Family Support Registry, and an Income Deduction Order has been issued to his employer.
2. Petitioner failed to make child support payments as required by the Consent Final Order. As of November 1, 2013, he owes \$705.00 in past-due support, according to the Arrears and Interest Calculator prepared by Respondent's agent.
3. Respondent seeks to have an additional amount added to Petitioner's child support obligation each month to repay the past-due amount. Respondent suggests an extra \$65.00 per month, which is less than 10% of the outstanding balance owed, and considerably less than the usual 20% that agents request in similar cases.
4. Petitioner is currently employed by the Atlanta Downtown Improvement District, Inc. He is paid \$11.41 per hour for regular time, and \$17.11 per hour for overtime. He provided the court with a recent pay stub which shows he worked 81 hours over a two week pay period, and earned \$963.52 in gross wages. His take home pay was \$803.68. There is no evidence to explain why Petitioner's employer has been deducting less than the full amount per month, even though Petitioner earns more than \$1,200 per month more than his child support obligation.
5. Petitioner testified that he is unable to make additional payments each week. In support of this contention, he stated that he pays child support for two children in Jamaica. However, there is no formal order for support for either child, and thus there is no legal requirement for him to make any

payments. He claims that he is presently living out of his vehicle due to his inability to make rent payments.

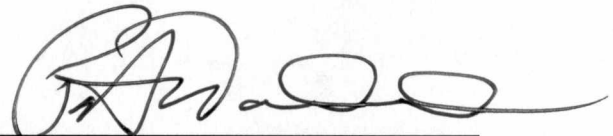
III. CONCLUSIONS OF LAW

1. The burden of proof is upon Respondent to show it is entitled to issue an income deduction order and an order to Petitioner's employer to withhold and deliver funds. OSAH Rule 7.
2. O.C.G.A. §19-11-19 allows the Department of Human Services' Division of Child Support Services to obtain an order for the garnishment (also called an Income Deduction Order) of the child support obligor's wages under O.C.G.A. §§19-11-19 and 19-11-20, or for the child support obligor's employer to "withhold and deliver to the department the disposable earnings which are due, owing, or belonging to the responsible parent" pursuant to O.C.G.A. §19-11-19(g) (1).
3. Respondent has established that Petitioner is legally obligated to pay child support, and thus is an "obligor" as defined in Title 19, Chapter 11, O.C.G.A. Respondent has issued an IDO as authorized by the Consent Final Order, and Petitioner's employer is obligated to pay Respondent for the current support he owes.
4. Respondent has also established that the amount due to the custodial parent for delinquent child support is \$705.00. Respondent requested that Petitioner repay the child support arrearage at the rate of \$65.00 per month, to be added to his current support payment. While the judge believes this amount is quite low, as it will not pay off the delinquency for 11 months, he is not inclined to raise the amount beyond what Respondent has proposed. Petitioner's claim that he cannot pay any more in support is not evidenced by his pay stubs, which show that he earns well over five times the amount of the support obligation every month. The court admires Petitioner's willingness to make payments to his children in Jamaica, but there is no support order in place in that country and his obligation is more in the nature of a "moral" one, rather than the "legal" obligation he is under in Georgia.

IV. DISPOSITION

Respondent has met its burden of proof, and Petitioner is ordered to repay child support arrearage of \$3,070.00, at the rate of \$65.00 per month, in addition to his current support payment of \$370.00. Respondent may issue a new Income Deduction Order to Petitioner's employer for the total amount of \$435.00 per month.

SO ORDERED, this 3rd day of December, 2013.



M. PATRICK WOODARD JR.
Administrative Law Judge