Supreme Court No. 101373-6

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Marriage of:

LARA BROOKE SEEFELDT,

Petitioner†,

and

ALBERT WHITNEY COBURN,

Appellant,

v.

DEPARTMENT OF SOCIAL AND

HEALTH SERVICES,

Respondent

ON APPEAL FROM THE SUPERIOR COURT OF THE

STATE OF WASHINGTON KING COUNTY

The Honorable Janet Helson, Judge

Motion for Discretionary Review

Treated as a Petition for Review

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IDENTITY OF PETITIONER

Petitioner is Albert Coburn, the Appellant in the below Court of Appeals Division One Case No. 835572.

COURT OF APPEALS DECISION

Petitioner (Albert Coburn) seeks review of decision of *LARA BROOKE SEEFELDT, Petitioner and ALBERT WHITNEY COBURN, Appellant, v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent Case No. 835572*. (Court of Appeals ruling is attached as Appendix A). This Court should reverse the Court of Appeals and grant review of the trial court's decision under RAP 2.3(b) and RAP 13.S(b)*.

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* Under RAP 2.3(b)(l), discretionary review of a court interpreting the orders of a trial judge is appropriate if the court "has committed obvious error which would render further proceedings useless.” Similarly, under RAP 13.S(b)(l) and (2), this Court's review of the decision by the Court of Appeals is appropriate where that court "committed an obvious error [that] would render further proceedings useless" or "committed probable error and the decision of [that court] substantially alters the status quo or substantially limits the freedom of a party to act[.]”

ISSUES FOR REVIEW

A. **Did the Court of Appeals error in ignoring relevant oral instructions of a trial judge before determining the intent of that trial judge's written orders**? Albert Coburn was requesting in his motion that the oral orders from a Superior Court Judge Craighead April 12, 2019 (Appendix C) be enforced. Superior Court Judge Helson (Appendix B) and Court of Appeals (Appendix A) declined to review the oral orders when interpreting if the written orders were followed. Court of Appeals writes, "*Given the clarity of this order, any additional oral statements of the trial court are not relevant to this matter."* No legal argument was ever made by the opposing party that there was a discrepancy between oral and written orders.

B. **Did Court of Appeals error in not recognizing an inaccurate notice of debt was presented as evidence by DCS when it determined if DCS satisfied the 14th Amendment due process of the law notification requirements**? Albert Coburn argued that when the DCS notice of debt presented in this case had already been ruled by a Superior Court Judge to be a "*mistake*" and no debt is owned, all collection actions described in that notice must be stopped. A new notice of debt was never sent, rather DCS presented as evidence an inaccurate notice, while arguing no debt was owed in court. Albert Coburn argued that *DCS deprived him of his 14th*

Amendment rights to due process when it failed to give him adequate notice and an opportunity to be heard because they implemented collection actions using a notice that did not accurately indicate to him the status of debt. The Court of Appeals dismisses that the notice DCS presented as evidence in this case was inaccurate as nothing more than a procedural complaint, and that, "*Coburn received ample notice of DCS's intent to withhold his wages and gave him an opportunity to contest the notice. Therefore, we reject his [14th Amendment] due process claim".*

STATEMENT OF CASE

Timeline of Key Events in Case

March 13, 2018

Divorce Settlement is signed which indicates payments of maintenance and child support shall be made to Lara Seefeldt from Albert Coburn directly through Electronic Funds Transfer (direct deposit), and payments must be made by the 1st of every month in a lump sum. Settlement further indicates that a request for wage garnishment must be made by Lara Seefeldt through a court motion if Albert Coburn is not in arrears.

~June 2018

Though payments for maintenance and child support have been made per settlement requirements, on time and via direct deposit, Lara Seefeldt contacts DCS and accusing Albert Coburn not paying child support by signing under penalty of perjury a request for non-assisted support enforcement. Non-assisted support enforcement form contains instructions that Lara Seefeldt shall both declare if money is being received by the payee and send that money to DCS directly. Lara Seefeldt does not follow these instructions.

~July 2018

DCS contacts Albert Coburn in a notice accusing Albert Coburn of being in arrears of payments. Albert Coburn responds to notice of debt with 20-days and provides proof in the form of employment payroll records that child support was deposited in Lara Seefeldt's bank account which proves he is not in arrears. DCS rejects the payroll records as proof and starts collection actions by requesting from the IRS a Federal Offset of Albert Coburn's taxes.

March 11, 2019

Though Albert Coburn continues to send payments on time, and Lara Seefeldt continues to both, not tell DCS she is receiving direct payments from Albert Coburn or send the money to DCS. DCS sends a notice of debt as described by Asst. Attorney General Joseph Christy own words:

Accordingly, on March 11, 2019, DSHS served Coburn with a Notice of Support Debt and Demand for Payment by certified mail, restricted delivery. CP at 216, 219-24. The Notice stated that Coburn owed $2,320.08 for current child support and $20,880.80 for back child support for July 1, 2017, through February 28, 2019. CP 216, 219-22

March 14, 2019

Albert Coburn responded to March 11, 2019 *Notice of Support Debt and Demand for Payment* by contacting DCS and the SEO (Support Enforcement Officer N. Saenz) in writing that he objected to the March 11, 2019 notice and all collection actions in that notice.

March 18, 2019

Albert Coburn contacts Superior Court Judge Susan Craighead requesting a hearing date to file a motion to dispute the March 11, 2019, *Notice of Support Debt and Demand for Payment* and stop DCS collection actions of debt he didn't owe. Both Lara Seefeldt and DCS were notified of motion to dispute. DCS SEO N. Saenz indicates to Albert Coburn verbally that the debt issue is between Lara Seefeldt and Albert Coburn, and DCS "*does not participate in Family Law cases between parties*".

March 25, 2019

Lara Seefeldt provides letter to DCS and responds to the Superior Corut motion of Albert Coburn indicating that she had been receiving direct deposit child support and maintenance payments all along, and he is not in arrears.

April 12, 2019

Though Lara Seefeldt admitted before court hearing Albert Coburn did not owe back child support, Albert Coburn received no notice from DCS that he would stop collection actions for debt he didn't own; therefor he proceeds with court hearing. The DCS March 11, 2019 *Notice of Support Debt and Demand for Payment* notice is presented to Judge Craighead in court. Judge Craighead is fully aware DCS is not present in court, though notification of the motion was sent to them. Judge Craighead ordered: "*Due to a misunderstanding the Division of Child Support mistakenly believed that Mr. Coburn owed 20,880.80 in back child support.".* Albert Coburn indicates to Judge Craighead his intent on proceeding in court hearing was to ensure all collection actions described in March 11, 2019 *Notice of Support Debt and Demand for Payment* are stopped. In oral instructions, Judge Craighead orders future child support payments to be made by check directly to DCS as opposed to going directly to Lara Seefeldt as original divorce settlement agreements specified. Judge Craighead furthermore indicates to Albert Coburn court order should stop all collection actions described in March 11, 2019 *Notice of*

Support Debt and Demand for Payment. Transcription of April 12, 2019 court appearance:

> *THE COURT: So it seems to me it's important that you write a check, send it in to DCS. That's all it takes to make sure that payments are made on time while we're waiting for your company to do direct deposit. Okay?*

> *THE COURT: So I think that this notice from DCS is probably enough for the IRS, but I will make it clear in a court order that there is no arrears owing, okay? So you can send it in with your taxes.*
>
> *MR. COBURN: And credit bureaus.*
>
> *THE COURT: Yeah. Just there is no arrearage signed by a judge and you can send it to whoever you want, okay?*
>
> *MR. COBURN: Well, and to be clear this is – DCS actually says this in their statement. I want to be very clear why I'm going in for a court order.*

NOTE: I am reading from the March 11, 2019 *Notice of Support Debt and Demand for Payment*

> *It says, "DCS may take the following actions at any time without further notice: File liens; seize or sell property or real estate; turn your case over to*

private collection agency; ask licensing authorities to suspend your license; attach the money to your bank accounts; refer to a prosecuting attorney."

NOTE: Judge Craighead cuts me off before I can read the wage garnishment area of the March 11, 2019 *Notice of Support Debt and Demand for Payment*

THE COURT: I know.

MR. COBURN: That's why I need a court order.

THE COURT: I know. I understand

MR. COBURN: Any of these actions can occur at any time.

THE COURT: Okay. This letter, Exhibit D, is your ticket, but, just in case, since we're here, I will write a court order. In the future I really want you to try to resolve these things without having to come to court, okay?

At no point does Lara Seefeldt ask for wage garnishment to start. To all parties in court it is clear that the intent of Judge Craighead's written order that states, "*[Coburn] shall make/arrange to make child support payments to DCS to avoid this problem in the future"* means, Albert Coburn will sent checks to DCS until direct deposit between Albert Coburn's employer and DCS can be arranged.

April 15, 2019

DCS is sent court order and Albert Coburn makes it very clear to DCS SEO N. Saenz that the intent of Judge Craighead's order was he should send checks to DCS for payments until direct deposit to DCS can be arranged. N. Saenz refuses and indicates DCS has "Federal authority" to implement the collection action of wage garnishment listed in March 11, 2019 *Notice of Support Debt and Demand for Payment* regardless of Judge Craighead's court order because Lara Seefeldt had indicated she still wants wage garnishment post the April 12, 2019 court trial.

April 19, 2019

DCS sends Albert Coburn's employer a demand to implement wage garnishment for future child support payments. No child support payment is due in the month of April as DCS was notified by Lara Seefeldt payment had been made. Albert Coburn is contacted by company management expressing grave concerns about wage garnishment being needed, and indicated they are authorized by state law and by the employee agreement Albert Coburn signed to charge fees for management of wage garnishment. Albert Coburn threatens to quit employment if fees are charged by his employer. Management relents and indicates verbally that no fees will be charged, though relationship between Albert Coburn and company management is permanently ruined. Albert Coburn begins to look for new employment due to the fear of being terminated after the permanently ruined relationship with management over wage garnishment issue.

April 29, 2019

Albert Coburn sends check to DCS for May child support payment, DCS returns check two weeks later. Albert Coburn demands DCS in writing follow Judge Craighead's April 12, 2019 court order of stopping all collection actions indicated in March 11, 2019 *Notice of Support Debt and Demand for Payment*, DCS refuses.

~March 2020

After many months of negotiation with DCS, Albert Coburn files a motion with Superior Court to enforce April 12, 2019 Judge Craighead court order, stopping wage garnishment. Case is postponed due to COVID-19 pandemic court closure.

November 10, 2021

Albert Coburn refiles motion to enforce April 12, 2019 Judge Craighead court order, stopping wage garnishment. King County Commissioner Pro Tem Shane Thompson rules, "*DCS is authorized to garnish Mr. Coburn's wages and take other enforcement actions, as permitted by federal and state law, without first obtaining a court order. Mr. Coburn's motion is frivolous*."

Dec 2, 2021

Albert Coburn files a Notice of Reconsideration against Nov 10, 2021 commissioner's ruling with Superior Court Judge Helson. Superior Court Judge

Helson denies to enforce Judge Craighead's court order. See Appendix B for ruling by Judge Helson.

Sept 19, 2022

Albert Coburn files a Notice of Appeal to Court of Appeals Division 1. See Appendix A for Court of Appeals ruling.

ARGUMENT SUPPORTING REVIEW

Question A: Did the Court of Appeals error in ignoring relevant oral instructions of a trial judge before determining the intent of that trial judge's written orders?

Argument A: Two Superior Court Judges and the Court of Appeal have all been presented with the same exact same notice, the March 11, 2019 DCS *Notice of Support Debt and Demand for Payment* that in DCS's own words states, "*Coburn owed $2,320.08 for current child support and $20,880.80 for back child support for July 1, 2017, through February 28, 2019."* The notice was first presented to Judge Craighead April 12, 2019 and it is this notice that is referred to in the written order as being a "*a mistake*". April 12, 2019 court order states: "*Due to misunderstanding the Division of Child Support mistakenly believed that Mr. Coburn owned $20,880.80 in back Child Support.".* Judge Susan Craighead orally states in court

"*THE COURT: So it seems to me it's important that you write a check, send it in to DCS. That's all it takes to make sure that payments are made on time while we're waiting for your company to do direct deposit. Okay?"*

This is the context as to why Judge Craighead writes in her court order:

"*The father shall make / arrange to make child support payments to DCS to avoid this problem in the future*."

The intent of the April 12, 2019 order is Albert Coburn makes direct payments to DCS via check, then direct deposit, to avoid DCS attempting collection actions for back child support Albert Coburn didn't owe. The intent of the order is not that wage garnishment is to occur. There is no discrepancy between oral and written orders of Judge Craighead, nor did DCS argue in this case there was a discrepancy. Lara Seefeldt and DCS in this case simply ignore the oral ruling of Judge Craighead, and Court of Appeal's refusal to review the oral ruling caused the 3-judge panel to misinterpret what is meant by Judge Craighead writing in the written order, "*father shall make / arrange to make child support payments to DCS".* When oral and written rulings are not in discrepancy, failure to follow the written order by any party is "Contempt of Court". *Disobedience of any lawful judgment, decree, order, or process of the court* RCW 7.21.010.

Question B: Did Court of Appeals error in not recognizing an inaccurate notice of debt was presented as evidence by DCS when it determined if DCS satisfied the 14th Amendment due process of the law notification requirements??

Argument B: The notice DCS presents in this case in DCS's own words states, "*Coburn owed $2,320.08 for current child support and $20,880.80 for back child support for July 1, 2017, through February 28, 2019."* DCS's legal argument consists of, as Court of Appeals writes, that, "*DCS has statutory authority to garnish Mr. Coburn's income under RCW 26.23.060 regardless of whether he is in arrears."* DCS argues Albert Coburn is not in arrears but presents a notice indicating he is in arrears. DCS knows full well that the rulings of Judge Helson, and Court of Appeals are all based on incorrect belief that the wage garnishment notice DCS is referring to in the case mirrors DCS's oral arguments, that Albert Coburn was not in arrears. DCS makes no attempt to correct the Court of Appeals and relied on false and misleading representations when it presented notice of wage garnishment that stated Albert Coburn owned $20,880.80 in back child support, while arguing in court Albert Coburn was not in arrears. This is a violation of the *Fair Debt Collection Practices Act, section 807. False or misleading representations - A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt*.

Wage garnishment is a collection of debt. The notice DCS presented as evidence in court a notice that was inaccurate. Albert Coburn argued that DCS violated the 14th Amendment rights to due process when it failed to give him accurate notice and an opportunity to heard. The Court of Appeals writes: '*The record here shows that Coburn received ample notice of DCS's intent to withhold his wages and gave him an opportunity to contest the notice. Therefore, we reject his due process claim".* Had Court of Appeals recognized that the notice was inaccurate, they would had determined that Albert Coburn could not respond adequately to an notice that is inaccurate, and therefore his 14th Amendment rights were violated by DCS.

CONCLUSION

In is ironic that Judge Craighead berated me for wasting the courts time, because Albert Coburn believe he needed a court order for DCS to stop their collection actions (wage garnishment), when Judge Craighead believed all that was needed the from Lara Seefeldt indicated Albert Coburn didn't own money, yet after getting a court order DCS did wage garnishment anyway 9 days later. If Judge Craighead had not retired, she would have placed harsh penalties on Lara Seefeldt for obviously not being forthright to DCS that she had ordered no wage garnishment in court April 12, 2019. Lara Seefeldt has furthermore not been forthright to Judge Helson and the Court of Appeals as well. Albert Coburn is the only one in this

case that can say they have followed April 12, 2019 court orders. All other parties are in contempt of court.

Total words (excluding Appendix) 3233

Respectfully submitted,

Albert W Coburn

APPENDIX A

Citations and pin cites are based on the Westlaw online version of the cited material.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON In the Matter of the Marriage of: LARA BROOKE SEEFELDT, Petitioner†, and ALBERT WHITNEY COBURN, Appellant, v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent. No. 83557-2-I DIVISION ONE UNPUBLISHED OPINION DÍAZ, J. —

Although Albert Coburn was not in arrears of his monthly child support obligations, the Department of Social and Health Services (DSHS) Division of Child Support (DCS) began garnishing his wages after Lara Seefeldt requested support enforcement services for his share of uninsured medical expenses. Coburn moved in superior court pro se to stop the garnishment and, as he characterized his motion, to enforce a provision of his child support order, which required Seefeldt to first obtain a wage assignment order if she (and not DCS) sought to garnish his wages. A court † Lara Seefeldt is not a party to this appeal. No. 83557-2-I/2 - 2 - commissioner denied Coburn's requests and sanctioned him for filing a frivolous motion. Coburn moved for revision. The superior court upheld the commissioner's denial but struck the sanction. Coburn now appeals the order of denial. We affirm. I. FACTS Coburn and Seefeldt share a child together. Pursuant to a March 2018 child support order, Coburn was ordered to make a monthly transfer payment directly to Seefeldt and to pay his proportional share of uninsured medical and other expenses. The child support order stated DCS was not enforcing Coburn's support obligation and would delay income withholding (garnishment) until a payment becomes past due because he had no history of late payments. But the order also indicated: DCS or the person owed support can collect the support owed from the wages, earnings, assets or benefits of the parent who owes support, and can enforce liens against real or personal property as allowed by any state's child

support laws without notice to the parent who owes the support. If this order is not being enforced by DCS and the person owed support wants to have support paid directly from the employer, the person owed support must ask the court to sign a separate wage assignment order requiring the employer to withhold wages and make payments. (Chapter 26.18 RCW.)[1] Coburn made his transfer payments timely but Seefeldt asked DCS to "handle all support payments" because Coburn allegedly was not paying his "co-pays" for their child's "medical appointments and therapy." In response, DCS opened a nonassistance support enforcement case against Coburn. On March 7, 2019, DCS served Coburn with a notice of support debt and demand for payment, stating that he owed $2,320.08 for current support and $20,880.80 for back 1 Bold face omitted. No. 83557-2-I/3 - 3 - support. The notice instructed Coburn, "If you want to contest the validity or administrative enforcement of your support order, contact your Support Enforcement Officer (SEO) . . . within 20 days after you received this notice." Coburn received the notice on March 11, 2019, but did not contact DCS or his SEO within 20 days to object to the enforcement action. Instead, he filed a motion for clarification of child support debt asking the superior court to declare that he was not in arrears. Seefeldt filed a response saying that she never alleged Coburn was in arrears for child support, she made his payment history clear to DCS, and she should be awarded attorney fees for responding to a frivolous motion.2 On March 25, 2019, DCS sent

Seefeldt a debt adjustment notice, explaining that Coburn did not owe any back child support payments, reducing the debt by $20,880.80, but indicating that "DCS will continue to enforce your support order." In its April 12, 2019 order on Coburn's motion for clarification, the superior court found that, due to a misunderstanding, DCS "mistakenly believed that Mr. Coburn owed $20,880.80 in back child support[,]" but "[t]here is no back child support owing on this case." The court then granted Coburn's motion and ordered: (1) "No back child support is owing in this case," (2) "[Coburn] shall make/arrange to make child support payments to DCS to avoid this problem in the future," and (3) "No attorney fees are ordered at this time, but if [Coburn] again sets an unnecessary court hearing, fees will be ordered. He shall make every effort to resolve issues with opposing counsel out of court." Given the clarity of this order, any additional oral statements of the trial court are not relevant to this matter. 2 DCS was not a party at this time and did not file a response to Coburn's March 2019 motion. No. 83557-2-I/4 - 4 - On April 19, 2019, DCS sent its first payroll deduction notice to Coburn's employer, which was limited to the current amount of child support owed. Coburn continued to voluntarily and timely pay child support until DCS received funds from his employer in June 2019. In December 2019, Seefeldt informed DCS that she wanted Coburn's child support obligation to remain in full enforcement status but was willing to sign an agreement to terminate withholding. Under that

agreement DCS would release its garnishment and allow Coburn to pay DCS directly but cautioned, in pertinent part, if Coburn failed to make a support payment, DCS would "take income withholding action immediately" and would "take this action without further notice to" him. Coburn was unwilling to sign this agreement. Nearly two years later, in October 2021, Coburn filed a motion to enforce his child support order primarily alleging that "Federal and State laws ONLY allow for DCS to implement income withholding when a support order has language supporting it."3 He requested an order instructing DCS to stop enforcing his child support obligation through a wage garnishment and allow him to make all payments voluntarily. DCS responded, claiming that after it had served Coburn with administrative notice prior to taking enforcement action, it had authority to garnish his wages regardless of any amount of arrearage, but was willing to allow him to pay child support voluntarily conditioned on Seefeldt's agreement.4 3 The record is silent on any pertinent events transpiring between December 2019 and October 2021. 4 Seefeldt did not file a response to Coburn's motion to enforce. No. 83557-2-I/5 - 5 - In November 2021, a court commissioner denied Coburn's motion, announcing that Seefeldt was "allowed to ask for support enforcement to collect" child support and that his "way out of that was to sign the agreement to terminate withholding." The commissioner then entered an order ruling that "DCS has statutory authority to garnish Mr. Coburn's income under RCW 26.23.060

regardless of whether he is in arrears" and "as permitted by federal and state law, without first obtaining a court order." The commissioner imposed a $500 sanction against Coburn for filing a frivolous motion. Coburn moved to revise the commissioner's order. On December 2, 2021, a superior court judge affirmed the commissioner, ruling that DCS has authority to take enforcement action and garnish Coburn's wages without first obtaining a court order. However, the superior court disagreed that Coburn's motion was frivolous and struck the $500 sanction. Coburn appeals pro se.5 II. ANALYSIS Coburn claims, as he did below, in pertinent part, that DCS lacked authority to enforce his child support obligation through wage garnishment because (a) it did not first modify his court order, (b) it "[r]euse[d]" the notice of support debt, and/or (c) it did so without considering whether he was actually in arrears. Thus, he contends the commissioner and superior court judge erred when they denied his motion to stop the wage garnishment. We disagree. 5 Pro se litigants on appeal are held to the same standards as attorneys and are bound by the same rules of procedure and substantive law. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). No. 83557-2-I/6 - 6 - A. Standard of Review A superior court judge reviews a commissioner's ruling de novo based on the evidence and the issues presented to the commissioner. RCW 26.12.215; RCW 2.24.050; In re Marriage of Moody, 137 Wn.2d 979, 992-93, 976 P.2d 1240 (1999). Once the superior court

makes a decision on revision, the appeal is taken from the superior court's decision, not the commissioner's. In re Estate of Wright, 147 Wn. App. 674, 680, 196 P.3d 1075 (2008). The superior court interpreted federal and state law to rule that DCS has authority to garnish Coburn's wages, regardless of Coburn's procedural complaints. The interpretation of a statute is a question of law we review de novo. In re Parentage of J.M.K., 155 Wn.2d 374, 386, 119 P.3d 840 (2005). B. Federal and State Law Authorize DCS to Enforce Child Support Obligations in the Manner It Did In order to receive federal funding, states are required to make nonassistance child support enforcement services available. 42 U.S.C. § 654(4)(A)(ii) (requiring state plans for child and spousal support to provide child support services to "any other child, if an individual applies for such services with respect to the child"). In Washington, DCS is authorized to "accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and [] take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys." RCW 74.20.040(2). A person can apply for nonassistance support enforcement services if they are the custodial parent. WAC 388-14A-2010. Here, Seefeldt applied for such services. In response, DCS was authorized to enforce Coburn's child support obligation through garnishment without a court order. No. 83557-2-I/7 - 7 - Federal child support enforcement law directs each state to have

income withholding procedures in place to collect child support, 42 U.S.C. § 666(a)(1)(A), and mandates that "withholding must occur without the need for any amendment to the support order involved or for any further action . . . by the court or other entity which issued such order." 42 U.S.C. § 666(b)(2)6. Such withholding must occur "without regard to whether there is an arrearage . . . [on] the date . . . the custodial parent requests that such withholding begin . . . or such earlier date as the State may select." 42 U.S.C. § 666(b)(3)(B)(ii),(iii). In compliance with federal law, RCW 26.23.060(1) permits DCS to issue a notice of payroll deduction if authorized by a court order or after service of a notice containing an income-withholding provision: (1) The division of child support may issue an income withholding order: (a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or (b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW. Here, DCS served Coburn with a notice of support debt and demand for payment in March 2019. This notice contained an income-withholding provision advising Coburn that he was required to make all future payments to the Washington State Registry through a payroll deduction or through the internet by deducting support payments from a checking or savings account. Further, the notice stated DCS was allowed to "take collection actions even if you

are not behind in support payments" pursuant to "Chapters 26.18, 26.23, and 74.20A RCW" and explained that in an effort to collect current support, DCS may, "at any time without further notice[,]" send Coburn's employer an order to 6 Emphases added. No. 83557-2-I/8 - 8 - withhold his wages. This notice met the requirements of RCW 26.23.060(1)(b), and Coburn had 20 days to contest it. Once 20 days elapsed after service of this notice, DCS was statutorily authorized to garnish Coburn's wages without modifying his child support order, regardless of whether he was behind in his support payments. The procedures Coburn complains were not followed are not required under federal and state law before DCS may garnish wages. The superior court did not err by denying Coburn's motion to stop the garnishment.7 C. The Child Support Order Authorizes the Same Contrary to Coburn's assertion, the language of his child support order does not require DCS to seek a modification of that order or take any other action prior to garnishing his wages to satisfy its nonassistance enforcement service obligations. Although the child support order contains language directing "the person owed support" to "ask the court to sign a separate wage assignment order requiring the employer to withhold wages and make payments," this is so only when the child support "order is not being enforced by DCS." When DCS is not enforcing an order, a parent owed support may move for a wage assignment order if the parent owing support is "more than fifteen days past due in child support . . . payments in an amount

equal to or greater than the obligation payable for one month." RCW 26.18.070(1)(b). A court shall issue a wage assignment order upon receipt of a motion that complies with RCW 26.18.070. RCW 26.18.080(1). But here, the wage assignment procedures set forth in chapter 26.18 7 In its briefing, DCS says that it remains willing to release its garnishment and permit Coburn to pay voluntarily "if he and Seefeldt were to agree and sign an Agreement to Terminate Income Withholding." No. 83557-2-I/9 - 9 - RCW are not implicated because Seefeldt asked DCS for nonassistance support enforcement services. Because DCS is authorized to garnish Coburn's wages without a court order, the superior court did not err in denying Coburn's request to "enforce" the provisions of his child support order. D. Coburn's Other Claims Fail Coburn also says DCS deprived him of his Fourteenth Amendment rights to due process when it failed to give him adequate notice and an opportunity to be heard prior to garnishing his wages. Due process under the Fourteenth Amendment requires " 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.' " In re Marriage of McLean, 132 Wn.2d 301, 308, 937 P.2d 602 (1997) (quoting Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 865 (1950)). The record here shows that Coburn received ample notice of DCS's intent to withhold his wages and gave him an opportunity to contest the notice.

Therefore, we reject his due process claim. Lastly, Coburn asserts it was improper for DCS to "[r]epresent" Seefeldt (or otherwise give her an "advantage" in the divorce proceedings) and for the commissioner to "accuse[ ]" him of filing a frivolous motion. However, we need not address this issue as there is no factual or legal basis supporting Coburn's claims about DCS and we review only the superior court's order, which in this case determined that Coburn's motion was not frivolous. No. 83557-2-I/10 - 10 - We affirm the superior court's order of denial.

WE CONCUR:

APPENDIX B

Order Denying Motion for Revision - SUPERIOR COURT OF WASHINGTON COUNTY OF K I N G In re: LARA BROOKE SEEFELDT, Petitioner, and ALBERT WHITNEY COBURN, Respondent. No. 16-3-06380-6 SEA ORDER DENYING MOTION FOR REVISION

This matter having come before the Court on Respondent's Motion for Revision of the Order Regarding DCS's Enforcement of Child Support Order, the Court having reviewed and considered the respondent's motion, the pleadings submitted below, the arguments of both parties at the hearing held on November 9, 2021, and the arguments of both parties before the court today, but not having considered the 11/22/21 Declaration of Kyle Killebrew in Response to Motion for Revision filed

in violation of the rules regarding revisions, and considering itself fully advised, the Court does hereby order: 1. The motion for revision is DENIED as to paragraph 1 regarding garnishment. DCS is authorized to garnish Mr. Coburn's wages and take other enforcement action, as permitted by federal and state law, without first obtaining a court order. Order Denying Motion for Revision - The motion for revision is GRANTED as to paragraph 2 and the court strikes the $500 sanction as the court finds that Mr. Coburn had an honest misunderstanding of the law and Judge Craighead's order. 3. The issue of an overpayment based on the 2018 paystub submitted by Mr. Coburn was not properly before the court below or before this court and so has not been addressed. If Mr. Coburn seeks to have that issue addressed, he may note a motion to this court but will be required to provide comprehensive evidence of all payments made by him, all Dated this 2 nd day of December, 2021. _Electronic signature attached_____ Judge Janet M. Helson King County Superior Court Judicial Electronic Signature Page Case Number: Case Title: Document Title: Signed By: Date: Judge: This document is signed in accordance with the provisions in GR 30.

ORDER RE DENYING MOTION FOR REVISION SEEFELDT VS COBURN 16-3-06380-6 Janet Helson December 02, 2021 Janet Helson

APPENDIX C

Seefeldt v's Coburn, Superior Court No. 16-3-06380-6 SEA

MOTION TO STOP FALSE ALLEGATIONS OF NOT PAYING CHILD SUPPORT AND ALIMONEY

April 19, 2019

Judge Susan Craighead

Order Clarifying that No Child Support Arrearage is Owed

Due to misunderstanding the Division of Child Support mistakenly believed that Mr. Coburn owned $20,880.80 in back Child Support. Mr. Coburn had paid Child Support directly to the mother, who clarified this with DCS. DCS sent the mother a letter on March 25, 2019 indicating that debt was no longer owned. This court concurs, there is no back child support owing in this case.

1. The motion the clarify is granted. No back child support owing in this case.
2. The father shall make / arrange to make child support payments to DCS to avoid this problem in the future
3. No attorney fees are ordered at this time, but if Respondent again sets an unnecessary court hearing, fees will be ordered. He shall make every effort to resolve issues with opposing counsel out of court.

ALBERT COBURN - FILING PRO SE

October 16, 2022 - 8:53 PM

Filing Motion for Discretionary Review of Court of Appeals

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	Case Initiation
Appellate Court Case Title:	DSHS, Respondent v. Albert Whitney Coburn, Appellant (835572)

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FILED
9/19/2022
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of: LARA BROOKE SEEFELDT, Petitioner†, and ALBERT WHITNEY COBURN, Appellant, v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	No. 83557-2-I DIVISION ONE UNPUBLISHED OPINION

DÍAZ, J. — Although Albert Coburn was not in arrears of his monthly child support obligations, the Department of Social and Health Services (DSHS) Division of Child Support (DCS) began garnishing his wages after Lara Seefeldt requested support enforcement services for his share of uninsured medical expenses. Coburn moved in superior court pro se to stop the garnishment and, as he characterized his motion, to enforce a provision of his child support order, which required Seefeldt to first obtain a wage assignment order if she (and not DCS) sought to garnish his wages. A court

† Lara Seefeldt is not a party to this appeal.

Citations and pin cites are based on the Westlaw online version of the cited material.

commissioner denied Coburn's requests and sanctioned him for filing a frivolous motion. Coburn moved for revision. The superior court upheld the commissioner's denial but struck the sanction. Coburn now appeals the order of denial. We affirm.

I. FACTS

Coburn and Seefeldt share a child together. Pursuant to a March 2018 child support order, Coburn was ordered to make a monthly transfer payment directly to Seefeldt and to pay his proportional share of uninsured medical and other expenses.

The child support order stated DCS was not enforcing Coburn's support obligation and would delay income withholding (garnishment) until a payment becomes past due because he had no history of late payments. But the order also indicated:

> DCS or the person owed support can collect the support owed from the wages, earnings, assets or benefits of the parent who owes support, and can enforce liens against real or personal property as allowed by any state's child support laws without notice to the parent who owes the support.
>
> *If this order is not being enforced by DCS and the person owed support wants to have support paid directly from the employer, the person owed support must ask the court to sign a separate wage assignment order requiring the employer to withhold wages and make payments. (Chapter 26.18 RCW.)*[1]

Coburn made his transfer payments timely but Seefeldt asked DCS to "handle all support payments" because Coburn allegedly was not paying his "co-pays" for their child's "medical appointments and therapy." In response, DCS opened a nonassistance support enforcement case against Coburn.

On March 7, 2019, DCS served Coburn with a notice of support debt and demand for payment, stating that he owed $2,320.08 for current support and $20,880.80 for back

[1] Bold face omitted.

support. The notice instructed Coburn, "If you want to contest the validity or administrative enforcement of your support order, contact your Support Enforcement Officer (SEO) . . . within 20 days after you received this notice." Coburn received the notice on March 11, 2019, but did not contact DCS or his SEO within 20 days to object to the enforcement action. Instead, he filed a motion for clarification of child support debt asking the superior court to declare that he was not in arrears. Seefeldt filed a response saying that she never alleged Coburn was in arrears for child support, she made his payment history clear to DCS, and she should be awarded attorney fees for responding to a frivolous motion.[2]

On March 25, 2019, DCS sent Seefeldt a debt adjustment notice, explaining that Coburn did not owe any back child support payments, reducing the debt by $20,880.80, but indicating that "DCS will continue to enforce your support order."

In its April 12, 2019 order on Coburn's motion for clarification, the superior court found that, due to a misunderstanding, DCS "mistakenly believed that Mr. Coburn owed $20,880.80 in back child support[,]" but "[t]here is no back child support owing on this case." The court then granted Coburn's motion and ordered: (1) "No back child support is owing in this case," (2) "[Coburn] shall make/arrange to make child support payments to DCS to avoid this problem in the future," and (3) "No attorney fees are ordered at this time, but if [Coburn] again sets an unnecessary court hearing, fees will be ordered. He shall make every effort to resolve issues with opposing counsel out of court." Given the clarity of this order, any additional oral statements of the trial court are not relevant to this matter.

[2] DCS was not a party at this time and did not file a response to Coburn's March 2019 motion.

On April 19, 2019, DCS sent its first payroll deduction notice to Coburn's employer, which was limited to the current amount of child support owed. Coburn continued to voluntarily and timely pay child support until DCS received funds from his employer in June 2019.

In December 2019, Seefeldt informed DCS that she wanted Coburn's child support obligation to remain in full enforcement status but was willing to sign an agreement to terminate withholding. Under that agreement DCS would release its garnishment and allow Coburn to pay DCS directly but cautioned, in pertinent part, if Coburn failed to make a support payment, DCS would "take income withholding action immediately" and would "take this action without further notice to" him. Coburn was unwilling to sign this agreement.

Nearly two years later, in October 2021, Coburn filed a motion to enforce his child support order primarily alleging that "Federal and State laws ONLY allow for DCS to implement income withholding when a support order has language supporting it."[3] He requested an order instructing DCS to stop enforcing his child support obligation through a wage garnishment and allow him to make all payments voluntarily. DCS responded, claiming that after it had served Coburn with administrative notice prior to taking enforcement action, it had authority to garnish his wages regardless of any amount of arrearage, but was willing to allow him to pay child support voluntarily conditioned on Seefeldt's agreement.[4]

[3] The record is silent on any pertinent events transpiring between December 2019 and October 2021.
[4] Seefeldt did not file a response to Coburn's motion to enforce.

In November 2021, a court commissioner denied Coburn's motion, announcing that Seefeldt was "allowed to ask for support enforcement to collect" child support and that his "way out of that was to sign the agreement to terminate withholding." The commissioner then entered an order ruling that "DCS has statutory authority to garnish Mr. Coburn's income under RCW 26.23.060 regardless of whether he is in arrears" and "as permitted by federal and state law, without first obtaining a court order." The commissioner imposed a $500 sanction against Coburn for filing a frivolous motion.

Coburn moved to revise the commissioner's order. On December 2, 2021, a superior court judge affirmed the commissioner, ruling that DCS has authority to take enforcement action and garnish Coburn's wages without first obtaining a court order. However, the superior court disagreed that Coburn's motion was frivolous and struck the $500 sanction.

Coburn appeals pro se.[5]

II. ANALYSIS

Coburn claims, as he did below, in pertinent part, that DCS lacked authority to enforce his child support obligation through wage garnishment because (a) it did not first modify his court order, (b) it "[r]euse[d]" the notice of support debt, and/or (c) it did so without considering whether he was actually in arrears. Thus, he contends the commissioner and superior court judge erred when they denied his motion to stop the wage garnishment. We disagree.

[5] Pro se litigants on appeal are held to the same standards as attorneys and are bound by the same rules of procedure and substantive law. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

A. Standard of Review

A superior court judge reviews a commissioner's ruling de novo based on the evidence and the issues presented to the commissioner. RCW 26.12.215; RCW 2.24.050; In re Marriage of Moody, 137 Wn.2d 979, 992-93, 976 P.2d 1240 (1999). Once the superior court makes a decision on revision, the appeal is taken from the superior court's decision, not the commissioner's. In re Estate of Wright, 147 Wn. App. 674, 680, 196 P.3d 1075 (2008).

The superior court interpreted federal and state law to rule that DCS has authority to garnish Coburn's wages, regardless of Coburn's procedural complaints. The interpretation of a statute is a question of law we review de novo. In re Parentage of J.M.K., 155 Wn.2d 374, 386, 119 P.3d 840 (2005).

B. Federal and State Law Authorize DCS to Enforce Child Support Obligations in the Manner It Did

In order to receive federal funding, states are required to make nonassistance child support enforcement services available. 42 U.S.C. § 654(4)(A)(ii) (requiring state plans for child and spousal support to provide child support services to "any other child, if an individual applies for such services with respect to the child"). In Washington, DCS is authorized to "accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and [] take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys." RCW 74.20.040(2). A person can apply for nonassistance support enforcement services if they are the custodial parent. WAC 388-14A-2010.

Here, Seefeldt applied for such services. In response, DCS was authorized to enforce Coburn's child support obligation through garnishment without a court order.

Federal child support enforcement law directs each state to have income withholding procedures in place to collect child support, 42 U.S.C. § 666(a)(1)(A), and mandates that "withholding *must* occur without the need for any amendment to the support order involved or for *any further action* . . . by the court or other entity which issued such order." 42 U.S.C. § 666(b)(2)[6]. Such withholding must occur "without regard to whether there is an arrearage . . . [on] the date . . . the custodial parent requests that such withholding begin . . . or such earlier date as the State may select." 42 U.S.C. § 666(b)(3)(B)(ii),(iii).

In compliance with federal law, RCW 26.23.060(1) permits DCS to issue a notice of payroll deduction if authorized by a court order *or after service of a notice containing an income-withholding provision*:

> (1) The division of child support may issue an income withholding order:
> (a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or
> (b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

Here, DCS served Coburn with a notice of support debt and demand for payment in March 2019. This notice contained an income-withholding provision advising Coburn that he was required to make all future payments to the Washington State Registry through a payroll deduction or through the internet by deducting support payments from a checking or savings account. Further, the notice stated DCS was allowed to "take collection actions even if you are not behind in support payments" pursuant to "Chapters 26.18, 26.23, and 74.20A RCW" and explained that in an effort to collect current support, DCS may, "at any time without further notice[,]" send Coburn's employer an order to

[6] Emphases added.

withhold his wages. This notice met the requirements of RCW 26.23.060(1)(b), and Coburn had 20 days to contest it.

Once 20 days elapsed after service of this notice, DCS was statutorily authorized to garnish Coburn's wages without modifying his child support order, regardless of whether he was behind in his support payments. The procedures Coburn complains were not followed are not required under federal and state law before DCS may garnish wages. The superior court did not err by denying Coburn's motion to stop the garnishment.[7]

C. The Child Support Order Authorizes the Same

Contrary to Coburn's assertion, the language of his child support order does not require DCS to seek a modification of that order or take any other action prior to garnishing his wages to satisfy its nonassistance enforcement service obligations.

Although the child support order contains language directing "the person owed support" to "ask the court to sign a separate wage assignment order requiring the employer to withhold wages and make payments," this is so only when the child support "order is not being enforced by DCS." When DCS is not enforcing an order, a parent owed support may move for a wage assignment order if the parent owing support is "more than fifteen days past due in child support . . . payments in an amount equal to or greater than the obligation payable for one month." RCW 26.18.070(1)(b). A court shall issue a wage assignment order upon receipt of a motion that complies with RCW 26.18.070. RCW 26.18.080(1). But here, the wage assignment procedures set forth in chapter 26.18

[7] In its briefing, DCS says that it remains willing to release its garnishment and permit Coburn to pay voluntarily "if he and Seefeldt were to agree and sign an Agreement to Terminate Income Withholding."

RCW are not implicated because Seefeldt asked DCS for nonassistance support enforcement services.

Because DCS is authorized to garnish Coburn's wages without a court order, the superior court did not err in denying Coburn's request to "enforce" the provisions of his child support order.

D. Coburn's Other Claims Fail

Coburn also says DCS deprived him of his Fourteenth Amendment rights to due process when it failed to give him adequate notice and an opportunity to be heard prior to garnishing his wages. Due process under the Fourteenth Amendment requires " 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.' " In re Marriage of McLean, 132 Wn.2d 301, 308, 937 P.2d 602 (1997) (quoting Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed. 865 (1950)). The record here shows that Coburn received ample notice of DCS's intent to withhold his wages and gave him an opportunity to contest the notice. Therefore, we reject his due process claim.

Lastly, Coburn asserts it was improper for DCS to "[r]epresent" Seefeldt (or otherwise give her an "advantage" in the divorce proceedings) and for the commissioner to "accuse[ ]" him of filing a frivolous motion. However, we need not address this issue as there is no factual or legal basis supporting Coburn's claims about DCS and we review only the superior court's order, which in this case determined that Coburn's motion was not frivolous.

We affirm the superior court's order of denial.

Díaz, J.

WE CONCUR:

Birk, J. Chung, J.