SUPREME COURT NO. 101373-6

SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES,

Respondent,

v.

ALBERT W. COBURN,

Appellant.

DEPARTMENT'S ANSWER TO PETITION FOR REVIEW

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Unpublished Cases

I. INTRODUCTION

The Department of Social and Health Services (DSHS) began garnishing the wages of Albert Coburn after Lara Seefeldt requested support enforcement services in order to obtain his share of their daughter's uninsured medical expenses. Coburn now seeks review of an unpublished Court of Appeals decision that upheld a superior court ruling denying his motion to stop DSHS from garnishing his wages without first obtaining a wage assignment order. Coburn argues that the Court of Appeals erred by not interpreting oral statements by the trial court as evidence of its intent to prohibit DSHS from garnishing his wages without a court order. He also argues that the Court of Appeals erred when it found that DSHS provided him with adequate notice of the wage garnishment and ample opportunity to challenge the notice.

This petition does not merit review because the Court of Appeals decision is not in conflict with any other Court of Appeals decision, nor is it in conflict with a decision of this

Court. Further, the alleged errors do not present a significant question of law under either the State or United States Constitution, nor do they involve an issue of substantial public interest. The Court should deny Coburn's petition for review.

II. IDENTITY OF THE RESPONDENT

Respondent is the Washington State Department of Social and Health Services.

III. DECISION BELOW

Coburn seeks review of an unpublished opinion filed on September 19, 2022 by Division I of the Court of Appeals, *Coburn v. Dep't of Soc. and Health Servs.*, 83557-2-I, 2022 WL 4296181(Wash. Ct. App. Sep. 19, 2022) (unpublished), which upholds the denial of his Motion for Order for Enforcement of Child Support Order. That opinion is attached as Appendix A.

IV. COUNTERSTATEMENT OF THE ISSUES PRESENTED FOR REVIEW

A. Did DSHS have the authority to withhold Coburn's wages regardless of whether he is in arrears and without a modification of the child support order?

B. Did DSHS provide adequate notice and an opportunity to be heard to Coburn before garnishing his wages?

V. COUNTERSTATEMENT OF THE CASE

A. The Child Support Order

In 2018, the King County Superior Court entered a child support order requiring Coburn to pay Seefeldt $1,022.15 in monthly child support. CP at 47-54. The order requires each parent to pay proportionate expenses toward their child's medical, daycare, and education expense. CP at 52-53. The order permits Coburn to make payments directly to Seefeldt and does not explicitly authorize DSHS to take immediate wage withholding action. CP at 50.

B. DSHS Receives a Request for Non-Assistance Child Support Enforcement Services

Later in 2018, DSHS received a request for non-assistance child support enforcement services from Seefeldt. CP at 216. Seefeldt requested support enforcement services because Coburn was not paying co-payments for their daughter's medical or therapy appointments. CP at 185-214, 216.

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. The Notice advised Coburn that he needed to contact his support enforcement officer within twenty days if he wanted to contest the validity or administrative enforcement of the order. CP at 216.

Coburn did not contact DSHS to object to the notice within twenty days, but he obtained a court order on April 12, 2019, holding that he did not owe any *back* child support. CP at 55-56.

On April 19, 2019, DSHS sent its first Payroll Deduction Notice to Coburn's employer, which was limited to *current* child support. CP at 228. DSHS did not receive funds from the employer until June 11, 2019, and Coburn paid child support voluntarily in the interim. CP at 228-29.

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In December 2019, Seefeldt confirmed that she wanted DSHS to continue enforcing child support on her behalf and did not want DSHS to limit its role to forwarding Coburn's voluntary payments. CP at 217.

C. Coburn Files a Motion to Stop DSHS from Garnishing His Wages

In September 2021, Coburn filed a Motion for Order for Enforcement of Child Support Order. CP at 10-12. Coburn argued that DSHS could only implement income withholding if he was delinquent and the support order included language allowing it. CP at 3-12.

DSHS responded that it is authorized to enforce Coburn's child support obligation without amending the court order. CP at 18.

DSHS explained that it served Coburn with a Notice of Support Debt and Demand for Payment, and showed that the notice contained an income-withholding provision. CP at 19. DSHS also showed that it waited more than 20 days after notice

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before serving a Payroll Deduction Notice to Coburn's employer. CP at 20.

In November 2021, a court commissioner entered an order denying Coburn's motion to require DSHS to stop enforcing his child support obligation through a wage garnishment and allow him to make all payments voluntarily. CP at 177-78. The order held that DSHS has statutory authority to garnish Coburn's income under RCW 26.23.060 regardless of whether he is in arrears. CP at 177-78. The order further held that DSHS is authorized to garnish Coburn's wages and to take other enforcement action, as permitted by federal and state law, without first obtaining a court order. CP at 178.

In November 2021, Coburn filed a Motion for Revision of the court commissioner's order, arguing that DSHS was not authorized to garnish his wages and that his previous motion was not frivolous. CP at 135-43. On December 2, 2021, a Superior Court judge denied Coburn's motion, holding that DSHS is authorized to garnish his wages "without first obtaining a court

order," but the court did grant his motion regarding the sanction for filing a frivolous motion. CP at 162-63.

D. Coburn Appeals the Trial Court's Decision

Coburn appealed, arguing that DSHS was not authorized to garnish his wages because the trial court had determined that he was not in arrears. *Coburn*, 2022 WL 4296181 at 5. He further argued that DSHS was not authorized to garnish his wages without a court order. *Id*.

In an unpublished opinion, the Court of Appeals rejected Coburn's arguments and upheld the trial court's order. The opinion held that DSHS was authorized under federal and state law to enforce Coburn's child support obligations through garnishment of his wages regardless of whether he was in arrears and without a court order. The opinion also held that Coburn's due process rights were not violated because he "received ample notice of [DSHS's] intent to withhold his wages and gave him an opportunity to contest the notice." *Coburn*, 2022 WL 4296181 at 9.

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Coburn now seeks review of the Court of Appeals decision.

VI. REASONS WHY REVIEW SHOULD BE DENIED

Coburn filed his petition for review under RAP 2.3(b) and RAP 13.5(b), alleging that the trial court and the Court of Appeals committed obvious error or probable error, neither of which are ground under RAP 13.4(b), which provides that a petition for review will be accepted by the Supreme Court only under certain limited circumstances. In his petition for review, Coburn does not contend that the Court of Appeals decision in this matter is in conflict with another Court of Appeals decision or a decision of this Court. Nor does his petition involve an issue of substantial public interest that should be determined by this Court.

Although he contends that his due process right to notice was violated, a significant question of law under either the State or United States Constitution is not involved, as required under

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RAP 13.4(b). Pet. For Review at 17-18. As such, Coburn's disagreements with the opinion below does not warrant review.

A. The Court of Appeals Correctly Upheld the Superior Court's Denial of Coburn's Motion

1. The Court of Appeals correctly concluded that DSHS has the authority under federal and state law to garnish Coburn's wages regardless of whether he was in arrears.

The Court of Appeals determined that DSHS is authorized to enforce Coburn's child support obligation through garnishment without a court order, even if he is not delinquent. In doing so, the Court of Appeals applied state and federal law to Coburn's child support order in a straight-forward manner that does not conflict with other court decisions, raise a significant question of constitutional law, or involve an issue of substantial public interest.

In its opinion, the Court of Appeals correctly laid out the current system of child support enforcement under federal and state law. Under federal law, states must make available child support enforcement services to "any other child, if an individual

applies for such services with respect to that child[,]" in order to receive federal assistance funding. 42 U.S.C. § 654(4)(A)(ii); *Coburn*, 2022 WL 4296181 at 6. Federal law further mandates that Washington State have income withholding procedures in place to collect child support. 42 U.S.C. § 666(a)(1)(A). More specifically, when DSHS receives an application for child support enforcement services based on a Washington State order, federal law requires 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).

Even if a court has previously found that there is good cause not to require immediate wage withholding, as was the case for Coburn, DSHS *must* withhold wages if the custodial parent requests this service. *See* 42 U.S.C. § 666(b)(3)(B)(ii); 45 C.F.R. § 303.100(c)(2). 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." *See* 42 U.S.C. § 666(b)(3)(B); 45 C.F.R. § 303.100(c).

Where DSHS takes enforcement action, the noncustodial parent must be given prior notice of the withholding action. 45 C.F.R. § 303.100(d). The noncustodial parent's defenses are limited to asserting that the wrong amount of current or back support is being collected or that their identity has been mistaken. 45 C.F.R. § 303.100(c)(2).

RCW 26.23.060(1) implements the federal withholding requirements by permitting DSHS to issue a notice of payroll deduction if authorized by a court order or after service of a notice containing an income-withholding provision. It states:

> (1) The division of child support may issue an income withholding order:
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> (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

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> (b) *After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW*.

RCW 26.23.060(1) (emphasis added). RCW 74.20A.040 describes the requirements for notice. Collection action is lawful after twenty days from the date of service. RCW 74.20A.040(4).

Here, the Court of Appeals determined that DSHS had served Coburn with a Notice of Support Debt and Demand for Payment that met the requirements of RCW 26.23.060(1)(b). *Coburn*, 2022 WL 4296181 at 7. The Notice contained an income-withholding provision, advising Coburn that all future payments be made to the Washington State Registry through a payroll deduction or through the internet by deducting support payments from a checking or savings account. CP at 220-21. It also informed Coburn that state laws allow DSHS to take collection actions, including income withholding from his employer, at any time without further notice, and can take this action even if he is not behind on his payments. CP at 221.

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Because the Notice met the requirements of RCW 26.23.060(1)(b), DSHS was authorized to garnish wages without first modifying Coburn's child support order. Once twenty days elapsed after the Notice was served on Coburn, DSHS was authorized to issue a Payroll Deduction Notice to his employer and to take other enforcement action without prior notice or obtaining a court order. Because DSHS served the Notice of Support Debt and Demand for Payment on Coburn on March 11, 2019, and did not send the Payroll Deduction Notice to his employer until after twenty days, on April 19, 2019, DSHS' wage garnishment complied with the law.

2. The April 2019 trial court order does not address DSHS's authority to garnish Coburn's wages.

Coburn contends that comments made by the trial court during the April 12, 2019, hearing regarding Coburn writing a check for child support payments directly to DSHS amounts to a court order prohibiting DSHS from garnishing his wages. Pet. for Rev. at 16. His main argument appears to be that the Court of Appeals erred by not interpreting the judge's oral statement as

evidence of the trial court's intent to order that DSHS is prohibited from garnishing his wages. *Id*.

However, the Court of Appeals ruled that the plain language of the April 12, 2019, was so clear, any additional oral statements of the trial court were not relevant. Cite. The order is clear, as it only requires that Coburn "arrange to make child support payments to [DSHS] to avoid this problem in the future CP at 55-56. The order does not prohibit DSHS from garnishing his wages, nor does it address DSHS' legal authority to do so. And the judge's comments at hearing did not allude to DSHS' authority to garnish Coburn's wages. Instead, the judge stated that, "it's important that you write a check, send it in to [DSHS]. That's all it takes to make sure that the payments are made on time while we're waiting for your company to do direct deposit," which is in line with the language in the written order. Pet. For Rev. at 11.

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In sum, neither the oral statements nor the written order from the trial court on April 12, 2019, address DSHS' authority to garnish Coburn's wages. Further, there is no discrepancy or contradiction between the oral statements and the written order. Accordingly, the Court of Appeals did not err by concluding that DSHS was authorized to garnish his wages and thus Coburn's argument is not a basis to review this decision under RAP 13.4.

B. The Court of Appeals Correctly Concluded That Coburn's 14th Amendment Rights to Due Process Were Not Violated because he Received Adequate Notice

Coburn argues that, because the notice he received from DSHS on March 11, 2019, inaccurately indicated that he was in arrears, the Court of Appeals erred in finding that the notice was adequate. Pet. For Rev. at 17. Although Coburn contends that his constitutional rights were violated, this matter does not involve a "significant question of law under the Constitution of . . . the United States," as required under RAP 13.4(b) because Coburn's argument incorrectly presumes that a notice containing an inaccurate claim or statement is not constitutionally adequate. On

the contrary, due process only requires notice that "apprise[s] a party of the pendency of the action and provide[s] an opportunity to be heard." *In re Marriage of McLean*, 132 Wn.2d 301, 309, 937 P.2d 602, 606 (1997).

As explained above, prior to any garnishment of his wages, Coburn received notice from DSHS that clearly explained its intention to garnish his wages if he did not comply with the child support order and it gave him 20 days to contact DSHS to contest the information on the notice. CP at 216. Regardless of whether the notice mistakenly indicated that he was in arrears, the notice apprised Coburn of DSHS's authority to garnish his wages and gave him ample time to contest the information before DSHS took action against him, thus meeting the requirements for adequate notice. Therefore, the Court of Appeals did not err in finding that the notice was constitutionally adequate and met the requirements of RCW 74.20A.040.

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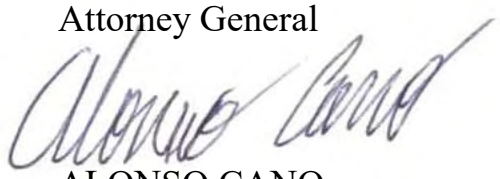
VII. CONCLUSION

Coburn has not demonstrated sufficient grounds to warrant review by this Court under RAP 13.4. His petition for review should be denied.

This document contains 2,681 words, excluding the parts of the document exempted from the word count by RAP 18.17.

RESPECTFULLY SUBMITTED this 22nd day of November, 2022.

ROBERT W. FERGUSON
Attorney General



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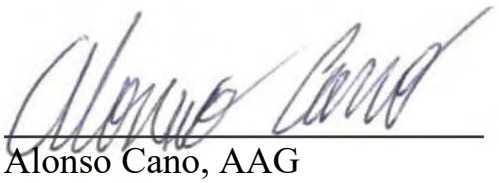
CERTIFICATE OF SERVICE

I certify that on the date indicated below, I caused to be served a copy of the foregoing document on all parties or their counsel of record via E-service through the Court's E-file Portal to:

Albert Coburn 7001 Seaview Avenue NW, Suite 160-836 Seattle, WA 98117	Appellant Email: *albert_coburn@hotmail.com*

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

EXECUTED this day 22nd of November, 2022 at Tumwater, WA.



Alonso Cano, AAG

APPENDIX A

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:

Bjrk, J. Chung, J.

SOCIAL AND HEALTH SERVICES DIVISION, ATTORNEY GENERALS OFFICE

November 22, 2022 - 3:17 PM

Transmittal Information

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