

715 25-9

71525-9

NO. 71525-9-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

ROBERT HENSLEY

Appellant,

v.

GLORIA HENSLEY (BRINKLEY)

Respondent.

RESPONDENT'S BRIEF

Prepared by:

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Table of Contents

Introduction	3
Reply to Assignments of Error	3
Issues Considered	4
Argument	5
Conclusion	6
Laws Relied Upon	6

INTRODUCTION

This case arises from a motion for an order of interest on past due child support arrears. At no time was it for an award of child support after the children turned eighteen, nor was it for post secondary support. It appears Mr Hensley was under the impression that his debt to me for child support arrears would simply go away as soon as our last child turned 18. He also appears to have been under the impression that his considerable arrearages would not accrue interest. Prior to this action brought by me, since 2003, he has never made any mention of fraud or incorrect calculation of support or past due support, and has never requested any review or modification through the court or Division of Support Enforcement.

REPLY TO ASSIGNMENTS OF ERROR

The court with due consideration ruled that Mr Hensley does owe interest on back child support, and rejected his subsequent motion for reconsideration. The court **did not** err in its judgment by reviewing the

declarations, then evaluating the credibility and motivation of the parties involved. Thus, arriving at the conclusion that the original child support order was not obtained by fraud is is therefore still valid. (items 395, and 404)

ISSUES CONSIDERED

1. Support debt includes interest under RCW 74.20A.020.10
2. Under RCW 26.23.030(2), 12% annual interest may be accessed and collected by the Division of Child Support.(DCS)
3. Under WAC 388-14A-8600, DCS does not collect interest unless it has been reduced to a judgement.
4. Under RCW 74.20A.020, Support debt includes accrued interest (interest earned since last settlement date, but not yet due or payable.
5. Under RCW 4.16.020(3), actions to collect past due child support (including interest, see above) must commence within 10 years of the youngest child's eighteenth birthday.
6. Under RCW 74.20A.220, The statute of limitations waiver signed by Mr Hensley allows DCS to collect from him until the debt is paid in full.
7. The order for child support is valid, no fraud was comitted.

ARGUMENT

To support his allegation of fraud, all Mr Hensley and his attorney have shown is that there was a mathematical error of \$6,846.66 in his favor. The court reviewed both declarations (398, and 400) and did not accept this allegation, and did not set aside the order of child support as requested. I had no knowledge of any errors on the order of child support, and I did not instruct my attorney to submit a false order with a sum well over six thousand dollars less than I was owed. Mr Hensley has produced no evidence of fraud other than his own allegation that came only after he was found to continue to be liable for back child support with interest until his debt is paid in full to me.

CONCLUSION

For the reasons stated above, I respectfully request this Court should affirm the Superior Court's findings of November 6, 2013 entering a judgment of \$33,350.12, and the ruling of January 6, 2014 Denying the Motion for Reconsideration based on fraud obtaining the original child support order.

LAWS RELIED UPON

RCW 74.20a.020

Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the

reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

RCW 26.23.030

Registry — Creation — Duties — Interest on unpaid child support — Record retention.

(2) The division of child support may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

WAC 388-14A-8600

Does the division of child support enforce interest on unpaid support arrears?

(1) Under RCW 26.23.030(2), the division of child support (DCS) has the authority to assess and collect interest on unpaid child support that has accrued under any support order entered into the Washington state support registry (WSSR).

(2) DCS does not assess or collect interest on administrative or court orders for support entered in the state of Washington unless the amount of interest has been reduced to a judgment.

RCW 74.20a.020

Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

RCW 4.16.020

Actions to be commenced within ten years — Exception.

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child

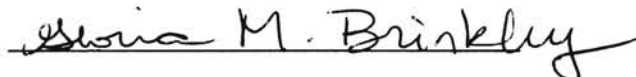
support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after July 23, 1989

RCW 74.20A.220

Waiver of any bar to collection.

The responsible parent owing a support debt may execute a written extension or waiver of any statute which may bar or impair the collection of the debt and the extension or waiver shall be effective according to its terms.

Respectfully submitted, June 23, 2014.



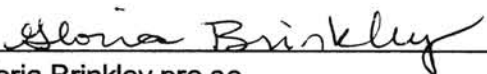
Gloria M. Brinkley, (aka Gloria Hensley(Brinkley)) pro se.

CERTIFICATE OF SERVICE

The undersigned now certifies that a true copy of this RESPONDENT'S BRIEF was served on the following:

Robert Hensley
via
Stephen Pidgeon
Attorney at Law, PS
3002 Colby Avenue
Suite 306
Everett WA 98201

by first class U.S. Mail, this 23rd day of June, 2014.


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