

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-973**

Sherburne County,  
Respondent,

Tracy Beth Lind,  
Plaintiff,

vs.

Dale Allen Lindsey,  
Appellant.

**Filed April 2, 2012  
Affirmed  
Klaphake, Judge**

Sherburne County District Court  
File No. 71-F9-02-001496

Erin E. O'Toole-Tomczik, Timothy A. Sime, Sherburne County Attorney's Office, Elk River, Minnesota (for respondent)

Dale A. Lindsey, Moose Lake, Minnesota (pro se appellant)

Considered and decided by Klaphake, Presiding Judge; Stoneburner, Judge; and Cleary, Judge.

**UNPUBLISHED OPINION**

**KLAPHAKE**, Judge

In this pro se child support appeal, Dale Allen Lindsey challenges an order of a Sherburne County child support magistrate (CSM) that denies his motion to suspend the

state's collection of his federal tax refund under a federal intercept program that mandates recoupment of his child support payment arrearages. Appellant seeks suspension of the tax intercept due to the fact that he is currently civilly committed as a sexually dangerous person and has limited income. Because the child support arrearages accrued before appellant's motion to modify and because appellant offers no legal authority or basis for this court to stay the tax intercept, we affirm.

### DECISION

“On appeal from a CSM's ruling, the standard of review is the same as it would be if the decision had been made by a district court.” *Hesse v. Hesse*, 778 N.W.2d 98, 102 (Minn. App. 2009). The CSM therefore has broad discretion to decide an issue involving child support, and this court will uphold the decision unless it is “against logic and the facts of record.” *Id.* However, this court's scope of review is limited when a party appeals directly from the decision of a CSM, and we will consider only whether the evidence supports the findings of fact and whether the findings support the conclusions of law and decision. *Kahn v. Tronnier*, 547 N.W.2d 425, 428 (Minn. App. 1996), *review denied* (Minn. July 10, 1996); *see* Minn. R. Gen. Pract. 378.01 advisory comm. cmt. (noting distinction in scope of review depending upon whether appeal is sought from district court decision or CSM decision).

Appellant requests to stay recoupment of \$2,325.61 he owes in child support arrearages. We conclude that the CSM properly rejected this claim for two reasons. First, Minn. Stat. § 518A.39, subd. 2(e) (2010), provides that “[a] modification of support . . . may be made retroactive only with respect to any period during which the petitioning

party has pending a motion for modification but only from the date of service of notice of the motion on the responding party[.]” Thus, appellant could not seek a retroactive modification of child support beyond the date that he served notice on respondent. *See Allan v. Allan*, 509 N.W.2d 593, 597 (Minn. App. 1993) (“Because forgiveness of arrearages is a retroactive modification of support, arrearages accruing prior to service of the modification motion may not be forgiven.”).

Second, appellant’s request violates aspects of subchapter IV-D of the Social Security Act. 42 U.S.C. §§ 601-19 (2010). In exchange for providing federal grants to states to support low income families, the act requires states to, among other things, establish enforcement procedures to withhold from obligors’ federal income tax refunds amounts owed for child support. 42 U.S.C. § 666(a) (2010). *See* Minn. Stat. § 518A.26, subd. 10 (2010) (defining “IV-D” case as one “where a party has assigned to the state rights to child support because of the receipt of public assistance . . . or has applied for child support services under title IV-D of the Social Security Act”). Consistent with the requirements for a “IV-D” case, appellant’s federal tax refunds were intercepted in 2010 to provide reimbursement for his owed child support arrearages. Appellant has enumerated no reason why the federal tax intercept should not apply to him, or suggested a legal basis for this court to assert its authority over a federal tax refund.

Appellant’s pro se brief also includes additional arguments that do not apply to any issues related to this case. For example, he makes arguments that depend on calculation of his current income for purposes of establishing child support. However, as appellant’s child support obligation is suspended due to his incarceration and civil

commitment, his federal tax fund is intercepted only to collect child support arrearages, and as the CSM did not consider or address any issues related to the amount of child support, any arguments based on calculation of his income are misplaced. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate court will not consider issues that were not raised before the district court). In addition, appellant cites no authority related to wage withholding to collect child support payments or recovery of child support overpayments, and these topics do not touch upon issues related to this case. *See State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002) (stating that pro se appellant's assertions are deemed waived if they contain no argument or citation to legal authority to support allegations).

For all of these reasons, we affirm the decision of the CSM.

**Affirmed.**