

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

MICHAEL JOSEPH MARTOWSKI, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 DEPARTMENT OF REVENUE, on )  
 behalf of JESSE MILLER WYATT, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Case No. 2D07-4458

Opinion filed June 17, 2009.

Appeal from the Circuit Court  
for Pinellas County;  
Jack R. St. Arnold, Judge.

Michael Joseph Martowski, pro se.

Bill McCollum, Attorney General, and  
William H. Branch, Assistant Attorney  
General, Tallahassee, for Appellee.

KELLY, Judge.

Michael Martowski appeals from the default judgment which legally establishes him as the father of K.W. He argues that he did not receive notice of trial and requests that the default be vacated so that the matter can proceed on the merits. The Department of Revenue (DOR) does not agree that Martowski lacked sufficient

notice of the proceedings. However, DOR concedes and we agree, that the case should be remanded for an evidentiary hearing on the merits because there is no evidence to support the trial court's findings in the final judgment. See Locklear v. Sampson, 478 So. 2d 1113 (Fla. 1st DCA 1985) (holding that a judgment establishing paternity must not be entered solely upon the basis of unadmitted and unproven allegations of paternity, but must be based upon competent, substantial evidence). Accordingly, we reverse and remand for an evidentiary hearing.

Reversed and remanded.

FULMER and LaROSE, JJ., Concur.