

Third District Court of Appeal

State of Florida

Opinion filed September 30, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-2092
Lower Tribunal Nos. 18-0022090 & 2001314104

State of Florida Department of Revenue,
Appellant,

vs.

Jonathon Jerome Taylor, et al.,
Appellees.¹

An Appeal from the Circuit Court for Miami-Dade County, Arthur L. Rothenberg, Senior Judge.

Ashley Moody, Attorney General, and Toni C. Bernstein (Tallahassee), Senior Assistant Attorney General, for appellant.

Jonathon Jerome Taylor and Francean Decese, in proper persons.

Before EMAS, C.J., and LOGUE, and LINDSEY, JJ.

¹ By order of this Court, Appellees were precluded from filing an Answer Brief for failure to timely file same.

PER CURIAM.

The Department of Revenue appeals an order ratifying a recommended order denying the Department and Francean Decese's petition for child support and other relief. For the reasons set forth below, we reverse.

Decese, the Mother, was the recipient of public assistance. In the lower court, the Department filed a petition requesting support for the benefit of her minor child from Jonathon Jerome Taylor, the Father. The Department filed its Income Declaration for Noncooperative Public Assistance Recipient.² And, because Decese failed to appear in the lower court, after notice, for two hearings, the Department requested to proceed with establishing the amount of child support in her absence. The lower court denied the Department's request to do so and, because no amount of child support could therefore be established, denied the Department's petition. The Department timely appealed.

The standard of review on a lower court's denial of an award of child support is abuse of discretion. See Smith v. Smith, 872 So. 2d 397, 399 (Fla. 1st DCA 2004). However, the issue of the Department's statutory authority is a purely legal question

² "For purposes of establishing an obligation for support in accordance with this section, if a person who is receiving public assistance is found to be noncooperative as defined in s. 409.2572, the department may submit to the court an affidavit or written declaration signed under penalty of perjury as specified in s. 92.525(2) attesting to the income of that parent based upon information available to the department." § 61.30(15), Fla. Stat. (2019).

of statutory interpretation that we review de novo. See Fla. Dep't of Env'tl. Prot. v. ContractPoint Fla. Parks, L.L.C., 986 So. 2d 1260 (Fla. 2008).

On appeal, the Department contends Decese's presence at the hearing was not required. We agree. "The Department is designated as the state agency responsible for the administration of the child support enforcement program, Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq." § 409.2557(1), Fla. Stat. (2019). The Department has the authority, among other things, to establish paternity or support obligations and to seek modification and collection of support obligations. See § 409.2557(2), Fla. Stat. (2019). Further, the Department may maintain any support action on behalf of the parent seeking support as an assignee-subrogee. See §§ 409.2551, 409.2557(2), 409.2561(1)-(3), Fla. Stat.; see also State Dep't of Revenue ex. rel. Screws v. Screws, 688 So. 2d 391, 392 (Fla. 2d DCA 1997) ("By accepting public assistance from the Department for the support of dependent children, the Department acquires the authority to proceed with all remedies available to the child's custodian.").

Thus, the Department was entitled to proceed in Decese's absence. See Dep't of Revenue O/B/O Gaines v. Curtis, 247 So. 3d 715 (Fla. 5th DCA 2018). As such, we reverse and remand for further proceedings consistent herewith.

Reversed and remanded.