

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA,  
DEPARTMENT OF SOCIAL  
SERVICES

FIFTH CIRCUIT

COURT OF APPEAL

VERSUS

COURT OF APPEAL  
FIFTH CIRCUIT

STATE OF LOUISIANA

STEPHEN F. HURSTELL

FILED MAY 29 2002

NO. 01-CA-1383

APPEAL FROM JUVENILE COURT OF THE PARISH OF JEFFERSON  
STATE OF LOUISIANA  
DOCKET NO. 95-NS-200, SECTION "B"  
HONORABLE ANDREA PRICE JANZEN, JUDGE

MAY 29, 2002

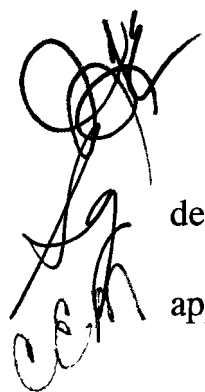
**MARION F. EDWARDS  
JUDGE**

Panel composed of Judges Sol Gothard,  
Marion F. Edwards and Clarence E. McManus

PAUL D. CONNICK, JR.  
DISTRICT ATTORNEY  
24<sup>th</sup> Judicial District  
TIMOTHY P. O'ROURKE  
ASSISTANT DISTRICT ATTORNEY  
ATTORNEYS FOR APPELLEE  
Gretna Courthouse  
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Gretna, Louisiana 70053

PIERRE V. MILLER, II  
ATTORNEY FOR APPELLANT  
400 Poydras Street, Suite 1680  
New Orleans, Louisiana 70130

**APPEAL DISMISSED**



Appellant Stephen Hurstell appeals a judgment of the Juvenile Court denying his Rule to Modify Support. For the reasons herein, we dismiss the appeal.

Mr. Hurstell and his former wife, Karen Kroll, are the divorced parents of the minor child Malcolm. The parties have been in continuous litigation over support and visitation matters since 1992 when the Petition for Divorce was initiated. In June of 1995, the 24<sup>th</sup> Judicial District Court ordered Mr. Hurstell to pay child support in the amount of \$1,103.00 per month. Numerous Rules for Contempt for failure to pay support, and motions to re-set, amend, and/or clarify custody and visitation were filed into the record. In September, 1999, the State of Louisiana, Department of Social Services, filed an Ex Parte Motion And Order To Change Payee And Transfer Case. The motion urged that the Department of Social Services (DSS) was furnishing enforcement services to Ms.

Kroll and that pursuant to LSA R.S. 46:236.2 A(1), (2), and (3), the court should require that Mr. Hurstell make all subsequent child support payments payable to DSS and that the child support order should be transferred to the Juvenile Court for the Parish of Jefferson for subsequent enforcement and modification. The motion was granted in accordance with the statute.

The appeal record was designated by Mr. Hurstell. The transcript of proceedings held on September 5, 2000, indicates that before the court on that date were a Rule for Contempt, a Rule to Impose Sentence, and two Motions to Modify Support—one from Ms. Kroll for an increase, and one from Mr. Hurstell for a decrease.

Following a hearing, and for reasons stated in open court, both the rule to reduce and the rule to increase support were denied. Mr. Hurstell appeals the denial of his rule to reduce.

The record reveals that the judgment was rendered and signed on September 5, 2000. On October 4, 2000, Mr. Hurstell filed a Petition For Appeal from that judgment. LSA Ch.C. Art. 332 governs appeals from the Juvenile Court and reads as follows:

A. Except as otherwise provided within a particular Title of this Code, appeals shall be taken within fifteen days from the signing of a judgment or from the mailing of notice of the judgment when required. However, if a timely application for a new trial is made pursuant to Paragraph C, the delay for appeal commences to run from the date of the mailing of notice of denial of the new trial motion.

B. Notice of judgment, including notice of orders or judgments taken under advisement, shall be as provided in the Code of Civil Procedure, except no notice is required for counsel or parties not represented by counsel who are present when the judgment is rendered and signed.

C. After judgment is signed, a party may make a written

request for a motion for new trial on any ground provided by law. The delay for applying for a new trial is three days, exclusive of holidays, and shall commence to run from the signing of the judgment or the mailing of notice of judgment, when required. A motion for new trial shall be decided expeditiously and within seven days from the date of submission for decision.

The above article governs the present proceedings. The transcript indicates that the parties and their respective counsel were present in court when the judgment was rendered from the bench, so that notice of judgment was not required. There is no Motion For New Trial in the record. Thus, Mr. Hurstell had 15 days from September 5, 2000, the date that the judgment was written and signed, within which to perfect his appeal. The Petition For Appeal filed on October 4, 2000, was untimely.

For the foregoing reasons, the appeal is dismissed.

**APPEAL DISMISSED**



EDWARD A. DUFRESNE, JR.  
CHIEF JUDGE

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JAMES L. CANNELLA  
THOMAS F. DALEY  
MARION F. EDWARDS  
SUSAN M. CHEHARDY  
CLARENCE E. MCMANUS  
WALTER J. ROTHSCHILD

JUDGES

# Court of Appeal

FIFTH CIRCUIT  
STATE OF LOUISIANA  
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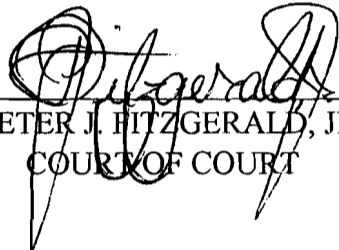
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FIRST DEPUTY CLERK

JERROLD B. PETERSON  
DIRECTOR OF CENTRAL STAFF

(504) 376-1400  
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## CERTIFICATE

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN MAILED OR DELIVERED THIS DAY MAY 29, 2002 TO ALL COUNSEL OF RECORD AND TO ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

  
PETER J. FITZGERALD, JR.  
COURT OF COURT

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