

IN THE UTAH COURT OF APPEALS

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Michael E. Wolfe,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20090120-CA
v.)	
)	
Tina Jo Wolfe,)	F I L E D
)	(July 9, 2009)
)	
Respondent and Appellee,)	2009 UT App 186
)	
and)	
)	
State of Utah, Office of)	
Recovery Services,)	
)	
Intervenor and Appellee.)	

Fourth District, Provo Department, 034400054
The Honorable James R. Taylor

Attorneys: Michael E. Wolfe, Lehi, Appellant Pro Se
Tina Jo Wolfe, Spokane, Washington, Appellee Pro Se
Mark L. Shurtleff and Karla Block, Salt Lake City,
for Appellee State of Utah, Office of Recovery
Services

Before Judges Greenwood, Thorne, and Davis.

PER CURIAM:

This matter is before the court on the Office of Recovery Services's (ORS) motion for summary disposition, reversal, and remand. ORS agrees with Appellant, Michael E. Wolfe, that the district court incorrectly included his social security disability payments as income when calculating his child support obligation.

Utah Code section 78B-12-203(1) defines "gross income" for purposes of determining child support. See Utah Code Ann. § 78B-12-203(1) (2008). However, Utah Code section 78B-12-203(3)(b) specifically excludes the following from gross income: "benefits received under a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security

Disability Insurance, Medicaid, Food Stamps, or General Assistance." Id. § 78B-12-203(3)(b). In this case, ORS acknowledges that at trial Mr. Wolfe presented evidence that he received social security disability benefits in the amount of \$776.00 per month. The district court inadvertently used these payments in calculating Mr. Wolfe's gross income for purposes of determining his child support obligations. In so doing, the district court erred. Accordingly, the order of the district court is reversed, and this matter is remanded to the district court for further proceedings consistent with this decision.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

James Z. Davis, Judge