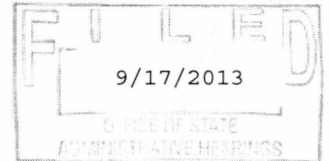


**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

MALCOLM ASKIN, :
Petitioner, : Docket No.: OSAH-CSS-GLS-1406401-126-
v. : Walker
DHS, Office of Child Support Services, : Agency Reference No.: 340011738
Respondent. :
:



INITIAL DECISION

I. Introduction

In response to Respondent's proposed action to suspend Petitioner's driver's license in Georgia for the non-payment of child support arrears, Petitioner requested a hearing. The hearing took place on September 16, 2013. Petitioner represented himself at the hearing, and Child Support Agent Lana Lacombe (hereinafter "Agent") appeared for the Respondent. For the reasons indicated, Respondent's action is **AFFIRMED** subject to the following terms: Respondent may suspend Petitioner's license for non-payment of child support arrears **unless** Petitioner makes three separate arrears payments of \$1000.00 each, the first by September 30, 2013, the second by October 15, 2013, and the third by November 1, 2013. **Petitioner must also continue to make his monthly child support and arrears payments in a timely manner.** Should Petitioner fail to make either his monthly child support payments, or any ordered arrears payments, the Department is authorized to suspend his license.

II. Findings of Fact

1.

Per the terms of a Henry County Superior Court Order, Petitioner must pay child support of \$376.00 per month. *Testimony of Agent; Exhibit R-1.*

2.

At present, Petitioner is an obligor whose name appears on the agency's certified list of delinquent child support obligors. He owes a total of \$30,573.85 in arrears as of September 12, 2013. Given this amount, he has an arrears repayment obligation of \$150.00 per month. *Testimony of Agent; Exhibit R-1.*

3.

The custodial parent applied for assistance from Respondent on February 22, 2011. Since that date, Petitioner has accrued \$3897.00 in arrears. While he has made occasional payments towards these arrears, almost all of those payments have been because of pending legal action or the threat of legal action. Moreover, the agent reported that Petitioner has failed to abide by prior agreements made with Respondent. Given these circumstances, Respondent asks that Petitioner

be ordered to pay the debt accrued since February 2011 in full in order to avoid license suspension. *Testimony of Agent; Exhibit R-1.*

4.

Petitioner states that used to own a business, but it closed due to the poor economy, and this is the reason he has not made payments. He explained that he pawned his car title immediately prior to the instant hearing and thus was able to pay a \$1000.00 toward his arrears. *Testimony of Petitioner.*

III. Conclusions of Law

1.

Respondent has the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

"Delinquent obligor" means any obligor who is not in compliance with an order for child support and who appears on the agency's certified list. O.C.G.A. § 19-11-9.3(a)(5). "License" means a certificate, permit, registration, or any other authorization issued by any licensing entity that allows a person to operate a motor vehicle or to engage in a profession, business, or occupation. O.C.G.A. § 19-11-9.3(a)(7). While an obligor may request a hearing regarding a proposed suspension, the only issues at the hearing will be the following:

- (1) Whether there is an order for child support being enforced pursuant to this article;
- (2) Whether the licensee or applicant is the obligor covered by that order;
- (3) Whether the support obligor is or is not in compliance with the order for child support;
- (4) Whether the support obligor shall be entitled to pay past due child support in periodic payments; and
- (5) Whether the support obligor has been able and willing to comply with such order for support. O.C.G.A. § 19-11-9.3(h).

An Administrative Law Judge (ALJ) may consider evidence relating to a delinquent obligor's ability and willingness to comply with such order for support in making the decision to either suspend a license or deny the issuance or renewal of a license under this code section. Further, an ALJ is authorized to enter an order requiring such periodic payments and issue a release for the obligor to obtain each license or licenses; however, such an agreement will not act to modify an existing child support order, but rather only affects the payment of arrears which have accrued subsequent to any prior order. Id.

IV. Decision

For the reasons stated, the undersigned **AFFIRMS** Respondent's action subject to the following condition: Respondent may suspend Petitioner's license for non-payment of child support arrears **unless** Petitioner makes three separate arrears payments of \$1000.00 each, the first by September 30, 2013, the second by October 15, 2013, and the third by November 1, 2013. **Petitioner must also continue to make his monthly child support and monthly arrears payments in a timely manner.** Should Petitioner fail to make either his monthly child support payments, or any ordered arrears payments, the Department is authorized to suspend his license.

SO ORDERED, this 17 day of September, 2013



RONIT WALKER, ALJ