

**DISTRICT OF COLUMBIA**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
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ALVIN C. DURHAM  
Petitioner,

v.

DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL  
CHILD SUPPORT SERVICES DIVISION  
Respondent.

Case No.: 2011-OAG-00010

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**FINAL ORDER**

**I. Summary of this Final Order**

This Final Order grants the Child Support Services Division's (CSSD) oral motion to dismiss and dismisses this case.

**II. Procedural History**

On September 26, 2011, Petitioner Alvin C. Durham requested a hearing to appeal CSSD's Order of Condemnation, by which CSSD seized \$1,950.09 from his account at the Federal Retirement Thrift Investment Board. Consequently, on September 28, 2011, this administrative court issued a Hearing Notice and Order, scheduling a hearing on October 17, 2011.

On October 17, 2011, the hearing was convened as scheduled. Mr. Durham appeared and represented himself. Kevin McIntyre, Esq., Assistant Attorney General appeared on behalf of CSSD.

### **III. CSSD's Motion for Summary Dismissal**

At the onset of the hearing, Mr. Durham explained his grounds for contesting the Order of Condemnation: He has made payments toward the arrears, but acknowledges that the unpaid arrears exceed \$1,950.09; the child for whom child support was ordered is now 28 years old; and, the monies CSSD seized from the Federal Retirement Thrift Investment Board are for his retirement. Following Mr. Durham's explanation, CSSD moved for summary dismissal of the case, arguing that the facts are undisputed and none of the grounds Mr. Durham presented are valid grounds for challenging the Order of Condemnation.

### **IV. Analysis**

CSSD has authority to enforce child support orders by attaching and seizing assets owned by obligors and held in financial institutions without obtaining a court order. D.C. Official Code § 46-226.03. CSSD is responsible for implementing this enforcement authority. 81 DCMR 8101.2. It may seize funds in financial institutions when, among other things, the case is an arrears-only case, as here, and the total amount of arrears is greater than or equal to five hundred dollars (\$500). 81 DCMR 8103.1.

After CSSD issues an Order of Condemnation a party whose funds have been seized may ask for a hearing at the Office of Administrative Hearings (OAH) to review CSSD's action. 29 DCMR 8103.9, 8104. Grounds for contesting the Order of Condemnation include the following:

- (a) Notice was issued to the wrong person;
  
- (b) Arrears are incorrect because of a failure to account for all child support payments, an incorrect computation of the balance due, or a failure to give effect to a prior suspension or modification of the support obligation; or

(c) Any affirmative defense to enforcement of this money judgment authorized by applicable law, but nothing in these rules authorizes any modification of the support order or any underlying money judgment.

29 DCMR 8103.5 and 8104.1.

Mr. Durham has failed to assert any grounds that are allowed to contest CSSD's Order of Condemnation. He has not asserted that notice was issued to the wrong person, that the arrears are incorrect, or any affirmative defense to enforcement of the money judgment. Rather, Mr. Durham has argued that he has made some payments toward the arrears, that the child is now emancipated, and that he needs the funds seized by CSSD for his retirement. As presented, none of Mr. Durham's assertions serve as allowable grounds to contest the seizure.

Because Mr. Durham has failed to assert any grounds that are allowed to defend an order of condemnation at the OAH, his appeal of the Order of Condemnation will be dismissed.

Any challenge Mr. Durham may wish to raise concerning his payments toward or the remaining balance of unpaid arrears, which amount appears to be in excess of \$15,000 after the seized \$1950.59 is applied, would be appropriately raised in the Family Division of Superior Court, where Mr. Durham has stated he will seek an accounting.

## **V. Conclusion**

For the foregoing reasons, CSSD's oral motion for summary dismissal is granted and this case is dismissed.

## **VI. Order**

Therefore, it is, this 2<sup>nd</sup> day of November 2011:

**ORDERED**, that, pursuant to OAH Rule 2819.1, CSSD's oral motion for summary dismissal is **GRANTED** and this case is **DISMISSED**; and it is further

**ORDERED**, that the reconsideration and appeal rights of any party aggrieved by this Order are stated below.

Dated: November 2, 2011

\_\_\_\_\_/s/\_\_\_\_\_  
Elizabeth Figueroa  
Administrative Law Judge

