

No. _____

IN THE

Supreme Court of the United States

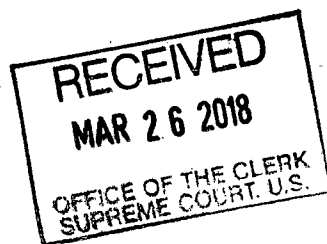
Nancy Luma, Petitioner,

v.

Florida Department of Revenue, Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of the State of Florida

PETITION FOR A WRIT OF CERTIORARI



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QUESTIONS PRESENTED

1. Whether the courts ignored Rules of Appellate Procedure 9.200(b)(4)?
2. Whether See Applegate v, Barnett Bank of Tallahassee, 377 SO. 2d 115 (Fla. 1980) can be used even when substantial evidence is presented to the court showing proof of errors made by a lower court?
3. Whether the Department of Revenue conducts private hearings?
4. Did the Department of Revenue announce a new rule of constitutional and ignored Florida Rule 61.30?
5. Does the Department of Revenue not consider the non-custodial parent total combine income when establishing a child support amount?

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner Nancy Luma respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The opinion of the Florida Supreme Court appears at Appendix A to this petition.

JURISDICTION

The Florida Supreme Court issued its decision on February 07, 2018. A copy is attached at Appendix A. The jurisdiction of this Court is invoked under 28 U.S.C § 1257(a).

CONSTITUTIONAL PROVISIONS

U.S. Const. Amend. XIV, sec 1:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The Petitioner, Nancy Luma whom is the Custodial Parent in the lower style case seeks the assisting of the Department of Revenue Child Support Enforcement Program like any other Citizen in this United State of American to obtain a child support determination amount base on the Florida Child Support guidelines in § 61.30, Fla. Stat.

The Administrative Law Judge refusal to order the support obligation amount based on the evidence available to him resulted in a child support determination that is lower than what the law requires, thus depriving the child of

the appropriate amount of support.

The Administrative Law Judge was required to consider all available income when calculating a Child Support amount. The trial court ultimately has the duty to determine the appropriateness of child support based upon the best interest of the child. See Cross v. Cross, 490 So. 2d 958, 960 (Fla. 1st DCA 1986). The Petitioner Nancy Luma and the Non-Custodial Parent Mr. James whole financial picture, including their assets, liabilities, annual income, and additional income should have been consider.

The Administrative Law Judge concluded that the Non-Custodial parent Mr. James monthly support amount is \$1200. An inadequate amount considering the Non-Custodial parent Mr. James total combine income. The Administrative Law Judge erred when calculating the monthly support amount giving fact the Non-Custodial parent Mr. James tax return shows the Non-Custodial parent Mr. James making anywhere from \$97437.13 to 10529.37 a year. Proof was Attached Hereto Exhibit I to the lower court. The Non-Custodial parent Mr. James also has the benefit of receiving additional income. The Non-Custodial parent Mr. James lease his condo monthly in the amount of \$900.00.

The Non-Custodial parent Mr. James received a total deposit in the amount of \$1843.55 on 08/04/2015 for renting his condo. Proof was Attached Hereto Exhibit E to the lower court. This information was also giving to the Department of Revenue prior to the September 20, 2016 hearing, which the Department of Revenue acknowledge they received the documents. Each document was clearly labeled as instructed (Attention Legal Team along with the case number). The Petitioner Nancy Luma also made The Administrative Law Judge fully aware of the Non-Custodial parent Mr. James additional income. The Administrative Law Judge refused to view the documents presented to him at the hearing and include the Non-Custodial parent Mr. James additional income. The Administrative Law Judge quoted it was Penny Less. Another source shows the Non-Custodial parent Mr. James pocketing an additional amount of \$14 thousand dollars on May 27, 2015 and \$4 thousand dollars on September 16, 2015. Proof was Attached hereto Exhibit D. The Non-Custodial parent Mr. James additional income was required to be included in gross income under section 61.30(2)(a), Fla. Stat.). See Colston v. Green, 742 So.2d 280 (Fla. 1st DCA 1998). See Dep't of Revenue v. Hinnerschietz, 850 So.2d 625 (Fla. 2d DCA 2003). The Administrative Law Judge was required to consider all available income from all source when calculating a Child Support

amount. See Armour v. Allen, 377 So. 2d 798, 800 (Fla. 1 st DCA 1979). The Administrative Law Judge failure to input Mr. James total combine income resulted in a miscalculation of arrears and support amount.

The Petitioner Nancy Luma has income amount range from \$28091.03 to \$31335.01 a year since the year of 2014 - to Present. Proof was Attached Hereto Exhibit C to the lower court. The Petitioner Nancy Luma has no additional income from any other source and does not have or own any assets. The Non-Custodial parent income is much higher than the Petitioner Nancy Luma. Base on the Non-Custodial parent Mr. James total assets and income proves the Non-Custodial parent Mr. James can afford to pay a reasonable amount of support under the statutory child support guideline. The Non-Custodial parent Mr. James has two known properties. The first home (Condo) located at 809 NE 199th unit 205 Miami, Florida 33179 has an estimate value of \$80, 031, the second home located at 3181 NW 43rd Place, Oakland Park Florida 33309 has an estimate value of \$243, 279.

The Administrative Law Judge conducted a verbal Child Support hearing. Given fact the Administrative Law Judge would not look at any of the documents the Petitioner Nancy Luma had to present to him. The Administrative Law Judge

allowed the Non-Custodial parent Mr. James to verbally state his income as well as cost of insurance without requesting the Non-Custodial parent to show proper proof. This is one of the many reason the Non-Custodial parent Mr. James was able to get away with perjury during the September 20, 2016 hearing. The Support Order is not supported by competent, or substantial evidence. The Administrative Law Judge findings of fact must be based on a preponderance of the evidence from the evidence of record and matters officially recognized. § 120.57(1)(j) Fla. Stat.

The Administrative Law Judge failed to seek written proof of insurance cost for the minor child. The Administrative Law Judge allowed the Non-Custodial parent Mr. James to verbally state that the insurance cost is \$364.00 dollars. The Administrative Law Judge failure to seek written proof of insurance cost from the Non-Custodial parent Mr. James resulted in the Administrative Law Judge inputting an incorrect amount that the Non-Custodial parent Mr. James was never paying. The Administrative Law Judge erred when giving the Non-Custodial parent Mr. James credit for insurance from the time the minor child on this case was born. The Non-Custodial parent Mr. James effective due date with Medical Insurance for Minor Child began on November 01, 2016. The Non-Custodial parent Mr. James gave falsify information to the Administrative Law Judge on how

much health insurance cost to try and lower his monthly support amount knowingly that this amount will be subtracted from his support obligations.

The amount the Non-Custodial parent Mr. James was paying beginning November 01, 2016, where verification was obtained from Companion Life Insurance billing representative (1-877-376-5831) stated was \$279.63 not \$365.00. The monthly amount of \$ 279.63 dollars does include the amount for both the minor child on the case and the Non-Custodial parent Mr. James. The cost of insurance for the minor child should be rounded off to the percentage it would cost just for the minor child. The Non-Custodial parent Mr. James was giving full credit for an amount which he was never paying. Proof was Attached Hereto Exhibit G to the lower court.

The minor child on this case has an outstanding balance of unpaid Medical bills that has not been paid. See Imami v. Imami, 584 So. 2d 596, 598 (Fla. 1 st DCA 1991). Proof of the minor child unpaid Medical bills was given to Department of Revenue and presented to the Administrative Law Judge which the Administrative Law Judge failed to review the documents during the September 20, 2016 hearing, leaving the Petitioner Nancy Luma to foot the outstanding Medical bills on her own. 409.2535 Fla Stat.

The Administrative Law Judge applied the wrong amount of arrears. The Department of Revenue first conducted a Proposed Administrative Support Order which indicated the Non-Custodial parent Mr. James retroactive support amount is \$35153.30 which credit was also given to the Non-Custodial parent Mr. James which is included in the \$35153.30. Proof was given Attached Hereto Exhibit A to the lower Court. The \$35153.30 does not include the Non-Custodial parent Mr. James total combine income. The Administrative Law Judge set the Non-Custodial parent Mr. James retroactive support amount at \$26,819.00 which is an incorrect amount. An extremely low amount from the Proposed Child Support amount given fact the Proposed amount does not include the Non-Custodial parent Mr. James total combine income. See Dep't of Revenue v. Strickler, III, 702 So. 2d 277, 278 (Fla. 1st DCA 1997)."); State Dep't of Health and Rehab. Servs. o/b/o Davis v. Canady, 473 So. 2d 273 (Fla. 2d DCA 1985)

The Administrative Law Judge failure to input the correct amount of income for the Petitioner Nancy Luma and the Non-Custodial parent Mr. James from date to date as shown in the Proposed Child Support order resulted in the Administrative Law Judge miscalculating both arrears and support amount. The Administrative Law Judge according to the Law was supposed to calculating what

the parties combine income was from:

- 05/01/2014 to 06/30/2014
- 07/01/2014 to 12/31/2014
- 01/01/2015 to 12/31/2015
- 01/01/2016 to 06/30/2016

Proof Attached Hereto Exhibit A was given to the lower court. The Administrative Law Judge Child Support Guidelines Worksheet is inconsistent with the Petitioner Nancy Luma and the Non-Custodial parent actual income. Proof Attached Hereto Exhibit B was given to the lower court. The amount of arrears set fourth that is owe to the Petitioner Nancy Luma should have be greater than \$35153.30 given fact the Non-Custodial parent Mr. James total combine income was not included, and credit was given to the Non-Custodial parent Mr. James. The Administrative Law Judge failed to input the correct amount of income from year 2014- 2016 when calculated both parents total combine income left the Petitioner Nancy Luma with an incorrect amount of arrears then what is owe to the Petitioner Nancy Luma.

REASON FOR GRANTING THE PETITION

**THE COURT SHOULD GRANT THE WRIT TO DECIDE WHEN WAS
IT LAWFULL FOR THE DEPARTMENT OF REVENUE TO DISREGARD
RULE 61.30**

The Legislature's expression of the public policy of the State that children shall be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs § 409.2551 Fla Stat. The Administrative Law Judge decision was not based on substantial evidence. The Administrative Law Judge decision must be based on substantial record evidence. See Williams v. Bowen, 844 F.2d 748, 750 (10th Cir.1988). In addition, the failure to apply the appropriate legal standards also constitute grounds for reversal. See Andrade v. Secretary of Health & Human Servs., 985 F.2d 1045, 1047 (10th Cir.1993).

Administrative Law Judge is required to consider all available and admissible information as provided in to determine the true value of the components that factor into the father's child support obligation § 409.2563(5)(a). When a trial court either establishes an initial child support order, the Child Support guidelines must be followed pursuant to the standard laid out in See Marker v. Grimm (1992), 65 Ohio St.3d 139, 601 N.E.2d 496. The law states If, after serving the proposed Administrative Support Order but before a final Administrative support order is rendered, the Department receives additional information that makes it necessary to amend the proposed Administrative Support

Order, it must do so and send the parents copies of the amended proposed order along with a completed child support worksheet, any financial affidavits that were completed, and the same notice of rights previously provided. § 409.2563(5)(d). Which the Department of Revenue did not comply with.

The Administrative Law Judge erred when he refused to enter a Final Administrative Support Order based on all the information available to him, which lead the Petitioner Nancy Luma to receive a lesser amount of support than what is obligated by law. For this reason, the Petitioner is entitled for retroactive amount consistent with the support amount the Non-Custodial parent Mr. James should have been paying the Petitioner Nancy Luma monthly. See Herrero v Pearce, 571 So.2d 96, 97 (Fla. 1 st DCA 1990). Argonaut Ins. Co. v. May Plumbing Co., 474 So. 2d 212(Fla. 1985); Zafrilla v. Volare Shoes Inc., 394 So. 2d 146 (Fla. 1 st DCA 1981).

The Department of Revenue argues that Administrative Law Judge calculation is correct, which is incorrect the Administrative Law Judge calculation is incorrect. The Department of Revenue contacted the Petitioner Nancy Luma on February 22, 2017 at 10:58 AM via email to set a date for a modification hearing while an Appeal was in progress with the Third District Court of Appeal of Florida

Violating court procedures and the full faith. Proof was attach Hereto Exhibit H to the lower court. The Department of Revenue acted upon as if there were unaware of an Appeal in Progress. The Department of Revenue filed a motion to strike the Petitioner Nancy Luma Appeal which the Third District Court of Appeal of Florida Denied the Department of Revenue Motion to strike on January 20, 2017. The Department of Revenue was fully aware that an appeal was in progress. The Petitioner Nancy Luma received proof of acknowledgement from The Department of Revenue that a notice of appeal was filed. The Department of Revenue attempted to conduct another hearing for a modification for the same style case within 6 months from when the Administrative hearing took place.

Section 409.2563(7)(e) allowed the Administrative Law Judge to also include a parenting time plan or a Title IV-D Standard Parenting Time plan agreed to and signed by both parents. Instead the Administrative Law Judge instructed the Non-Custodial parent Mr. James that he will receive his Final Administrative Order via mail, once he receive the Order to take the Final Support order to the Circuit Court in Miami Dade to have his Child Support amount lowered.

Applegate v, Barnett Bank of Tallahassee will allow many courts to violate the laws by implemented this case instead of looking into the evidence. When the

style case above is used as an opinion to deny any Citizen a granted Appeal, it does nothing but allow the courts to demolish the case and leave any Citizen seeking justice for wrong doing unjustified. It violates parties' rights under the Federal and Florida constitutions.

It is in the child's best interest that the proper amount of support be ordered. The public policy of the child support guidelines statues is to standardize and facilitate each parent's fundamental obligation to support his or her minor or legally dependent child and is based on the parent's combined net income estimate to have been allocated to the child as if the parents and children were living in an intact household. §61.29, Fla. Stat. The Department of Revenue Child Support Enforcement Program calculate the Custodial and Non-Custodial parent's combine income on a daily base using Florida Child Support Guidelines § 61.30, Fla. Stat. The Department of Revenue deals with cases after cases reassuring that the appropriate amount of child support is awarded. The whole United States of America for those who are obligated to pay support by law was required to pay for their minor child unpaid medical bills. The Department of Revenue has a Non-Custodial parent Mr. James who was not required to obey by rule § 61.30. A Non-Custodial parent whom income is over \$100 thousand and receives additional

income was given such a low amount support when establishing a current monthly child support amount. The Supreme Court stands for Equal Justice Under Law.

The Petitioner Nancy Luma prays that Justice is served,

Thank you

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

Nancy Luma (Pro Se)

 3/21/18

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For the foregoing reasons it is respectfully requested that the Supreme Court grant this petition of certiorari.