

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

DR 2000-090543

04/20/2006

HONORABLE DAVID P. ARROW

CLERK OF THE COURT
J. Skuza
Deputy

IV-D ATLAS NO. 00039178670
STATE OF ARIZONA, EX REL, DES
WALTER J BURIEN JR.

FILED: 04/24/2006

WALTER J BURIEN JR.
PO BOX 42
EAST BRUNSWICK NJ 08816

AND

DEBBIE C WATTON

TROY L BROWN

AG-CHILD SUPPORT-EAST VALLEY
OFFICE
SUPPORT SERVICES-CCC

MINUTE ENTRY

Courtroom 305 – SEA

9:27 a.m. This is the time set for Establishment Hearing re child support. Petitioner/Father, Walter J. Burien, is neither present nor represented by counsel. Respondent/Mother, Debbie C. Watton, is present and represented by the above-named counsel. The State is represented by Assistant Attorney General Paula J. Cotitta.

A digital audio recording of this proceeding is being made by the "For The Record" recording system in lieu of a court reporter.

Counsel for the State advises the Court that Father filed a Petition and in it requested to appear telephonically, but the State did not receive a copy of it. Father called earlier to the Court's Division, but the hearing was not able to proceed at that time.

Counsel for the Respondent advised they received a copy of the Petition. Counsel addresses the Court as to the issues.

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A discussion ensues regarding continuing this matter until Father calls the Court for the hearing.

Pursuant to stipulation of both counsel and Mother,

9:40 a.m. The Court stands at recess pending Father telephoning the Court for the hearing.

10:02 a.m. The Court reconvenes with the respective parties and both counsel present.

Petitioner/Father, Walter J. Burien, appears telephonically on his own behalf.

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Walter J. Burien requests that his April 13, 2006 "Notice of Indigent Status and Motion Requiring Stay Per Any Further Hearings or Enforcement of Monetary Awards Before the Court Pending Petitioner's Return to Arizona or Change of Indigent Status," be addressed first. Walter J. Burien also requests to retain an attorney as he no longer has one.

The Court denies Petitioner's request for a stay of proceedings.

Walter J. Burien requests a continuance in this matter so he can come to Arizona and procure documents necessary for this matter.

A discussion ensues regarding a continuance. Counsel for the State objects on the grounds that Father has not provided any documentation of his indigence, and that he can give testimony today as to his income and earning capacity. Father previously had legal counsel, and he knew that this hearing was scheduled as Judge Flores referred this matter on February 23, 2006, and Father testified that he received notice of today's hearing.

Counsel for the Respondent objects on the same grounds. Due to Father's purported indigence, he would not be able to retain and pay for counsel and has not paid his last attorney of record.

The Court denies Father's request for a continuance.

Walter J. Burien addresses the Court telephonically as to the issues in this matter.

The Court asks Father to be sworn and testify.

Father declines and advises the Court as to his reasons.

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LET THE RECORD REFLECT that Mr. Burien has requested that this matter be stayed and that request has been denied. Mr. Burien has requested in the alternative that this matter be continued so that he can appear at these proceedings at a later date.

THE COURT FINDS that Mr. Burien is available for testimony at this time, but chooses not to proceed. Mr. Burien has not provided the Court with any specific information as to what evidence he needs to secure for these proceedings.

IT IS ORDERED denying his request for a continuance. The Court has offered Mr. Burien the opportunity to testify today, but he has refused to testify today and does not intend to provide any evidence to the Court today, therefore, in light of Mr. Burien's position, the State may proceed by default.

Counsel for the State advises the Court of the State's position and recommendations. Counsel represents each parent had one child in their custody until December 2005 when Judge Flores awarded temporary custody to Mother of both children. Counsel further represents that according to Father's previous earning capacity entered into the child support guideline calculations, his child support payment would be \$663 per month effective January 1, 2006.

A discussion ensues regarding taking Father's testimony.

Walter J. Burien, is sworn.

Counsel for the State defers to counsel for the Respondent.

Counsel for the Respondent/Mother asks direct questions of Father.

Walter J. Burien, having previously been sworn, now testifies telephonically.

Counsel for the State asks direct questions of Father.

Walter J. Burien further testifies telephonically.

Debbie C. Watton is sworn and testifies.

Walter J. Burien asks direct questions of Mother.

Debbie C. Watton further testifies.

Counsel presents closing argument. Father claims to have a child support order for another child, however has never paid any support for that child and should get no credit for another child.

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A discussion ensues regarding Father's claim to being on assistance in the State of New Jersey. Father advises the Court that he is waiting resolution of pending criminal charges.

The Court accepts Mr. Burién's testimony at this time that he is on assistance in the State of New Jersey.

Based upon the matter presented herein,

THE COURT FINDS it appropriate to attribute Father's income at \$2,500 per month (\$30,000 per year) based on his previous earning capacity as a commodities broker.

IT IS ORDERED that Father shall pay to Mother as support for the minor child of the parties \$663 per month commencing on January 1, 2006, and continuing on the same day of each month thereafter. Said amount is to be paid through the Support Payment Clearinghouse by Order of Assignment.

Until the wage assignment becomes effective, it is the responsibility of the party obligated to pay support/maintenance to pay the support to **Support Payment Clearinghouse, P. O. Box 52107, Phoenix, Arizona 85072-2107**. The payment should show the case number and/or ATLAS case number and the name of the party paying support and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within ten (10) days of the change (A.R.S. 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

Obligor/Father is personally responsible for the timely payment of support as well as the \$2.25 monthly handling fee. At any time an employer and/or payor is not paying pursuant to the Order of Assignment, Obligor/Father must make timely payment of support and fees directly to the Support Payment Clearinghouse. Failure to make timely payment of support may result in a finding of contempt which may result in sanctions, including incarceration.

The Court's further findings and orders are as contained in the formal written Establishment Judgment and Order signed by the Court.

IT IS FURTHER ORDERED approving and settling formal written Order of Assignment (Current Child Support \$663) signed by the Court.

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FILED: Establishment Judgment and Order; Child Support Guideline Worksheet; Order of Assignment; Current Employer Information Sheet.

11:01 a.m. Matter concludes.

PLEASE NOTE: This Court utilizes a digital audio recording system to preserve the official record of proceedings. Persons requesting copies of recorded proceedings do not have to provide blank CDs. All CDs will be provided by the Court, regardless of when the copies are made. A fee of \$20.00 will apply to all copies requested, either on the day of the hearing or for hearings recorded on an earlier date. Counsel or litigants must complete the appropriate request form which may be obtained from the Self-Service Center or from Court staff and present the completed form to the Self-Service Center. All fees must be handled through the Self-Service Center. Upon payment of the appropriate fees through the Self-Service Center, a receipt will be issued which shall then be presented to Court staff for preparation of the CD.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.