

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

PEOPLE OF THE VIRGIN ISLANDS	)	
EX REL: ANGELA CHAPMAN,	)	FAMILY NO.: ST21/1999
Petitioner/Appellee	)	
	)	ACTION FOR SUPPORT ON APPEAL
vs.	)	FROM DEPARTMENT OF JUSTICE
JEROME BLYDEN,	)	DIVISION OF PATERNITY AND
Respondent/Appellant	)	CHILD SUPPORT.
	)	

Dionne G. Sinclair, Esq.
(For the Petitioner /Appellee)

Jerome Blyden
(Pro se Respondent/Appellant)

WATLINGTON, Judge.

MEMORANDUM OPINION¹

THIS MATTER is before the Family Division of the Superior Court, on the Appeal filed by the Respondent/Appellant Jerome Blyden (Blyden) *pro se*, on September 6, 2016 appealing the Child Support Order from the Virgin Islands Department of Justice, Paternity and Child Support Division (PCSD) dated June 11, 2009. The People of the Virgin Islands represents the PCSD on behalf of Angela Chapman, the mother of the parties' son J. B. born July 18, 1998. PCSD was given an opportunity to respond to the Appeal by the Court's Order of June 21, 2017 and to provide the record for review. PCSD responded on August 21, 2017.²

RELEVANT FACTS

Upon review of the parties' pleadings and records filed herein, the Court finds the following facts:³

¹ The caption for which Blyden filed his appeal, ST14/2001, is a case that was dismissed without prejudice on December 18, 2001 in the Superior Court. However, it was then transferred to PCSD on February 10, 2005 and there is no decision based on this case number to file an appeal. Despite advising the parties in the June 21, 2017 Order, PCSD and Blyden filed their responses with said caption, ST14/2001. The Court shall construe the caption to be ST-21/1999 as supported and reflected from the records received from PCSD and their Notice of Appearance filed on June 22, 2017.

² The parties filed the following documents:

- Petitioner Request for "Judicial Notice" of Adjudicative Facts in support of request for Notice of Appeal to Terminating an Illegal Support Order with Points of Authorities filed on January 5, 2017.
- Opposition to the Request for "Judicial Notice" of Adjudicative Facts and Motion to Dismiss filed on August 15, 2017.
- Reply to Government's Opposition filed on August 21, 2017.

³ A transmittal memo from Judy Gomez, Esq. Administrative Hearing Officer, provided records relating to this case from which the appeal is based. The PCSD failed to provide a written transcript for the August 13, 2008 child support hearing to support their June 11, 2009 Order.

- i. A Permanent Restraining Order, **DV242/1998** dated **August 24, 1998** was granted by Judge Ishmael A. Myers, Territorial Court of the Virgin Islands against Jerome Blyden and in favor of Angela Chapman with an expiration date of twenty-four (24) months from the date of its entry.
- ii. On **September 1, 1998**, Angela L. Chapman filed a Petition for Support, **ST21/1999** with the Paternity and Child Support Division for the parties' then minor child, J.B. born on July 18, 1998.
- iii. On **December 11, 1998**, Judge Ishmael A. Myers by his Order dated **December 22, 1998**, **Case No.: DV242/1998** continued the Permanent Restraining Order and ordered Blyden to pay **Temporary Child Support** in the sum of \$100.00 monthly. The Order also reflected that the temporary child support may be adjusted by the Office of PCSD.
- iv. On **January 22, 1999** a Subpoena Duces Tecum executed by Administrative Hearing Officer (AHO) Willie McGowen, **Case No.: ST21/1999** was sent to Blyden for a hearing on child support for **March 11, 1999 at 10:30 a.m.** There was proof that Blyden was served on **January 26, 1999**.
- v. On **March 12, 1999** Blyden filed a letter with PCSD explaining that he was not able to make the hearing on **March 11, 1999 at 10:30 a.m.**, because it conflicted with another matter in the Criminal Court.
- vi. On **March 29, 1999** PCSD Hearing Officer Assistant, Charlene Hendricks- Knight notified Blyden that the next hearing in the Child Support **Case No.: ST21/1999** is scheduled for **May 20, 1999 at 9:45 a.m.** (Blyden acknowledged notice of the hearing in his Motion to Terminate Child Support Order filed with PCSD on October 8, 2015).
- vii. An Order dated **June 8, 1999** by AHO Willie McGowen reflected that a hearing for the child support matter **ST21/1999** was held on **May 20, 1999** and both parties appeared. The Hearing Officer noted that in **DV242/1998** Blyden was ordered to pay \$100.00 per month for child support. Blyden testified at the hearing that he was on leave without pay from the Virgin Islands Police Department pending the outcome of a criminal case, and "he gets by doing odd jobs". The Administrative Officer lacking the authority to impose sanctions on Blyden for his non-compliance with the temporary support ordered in the domestic violence action, transferred the matter to the then Territorial Court.

- viii. In a Petition filed in Georgia dated **October 17, 2000**, Angela Chapman pursuant to the **Uniform Interstate Family Support Act**, made a request for modification of the child support ordered in **Case No.: DV242/1998**.
- ix. A hearing relating to Blyden's non-compliance of the temporary support in **DV242/1998** was held on **May 23, 2001 and July 18, 2001** before Judge Ive Arlington Swan, **Family No.: ST14/2001**. At both hearings, Judge Swan alerted PCSD to the fact that there was no Order upon which an enforcement for continued child support could be pursued against Blyden, as the temporary support for \$100.00 per month pursuant to **Case No.: DV242/1998** expired in August of 2000. Judge Swan insisted that PCSD expedite a hearing and enter an order for support. Judge Swan continued the May 23, 2001 hearing until July 18, 2001 for the parties to resolve Blyden's dispute as to arrears owed from the temporary support for \$100.00 per month. At the hearing on July 18, 2001, Blyden paid \$1,000.00 towards his arrears with a balance of \$1,500.00 remaining.
- x. On **December 18, 2001, Family No.: ST14/2001** was dismissed without prejudice by Judge Audrey Thomas of the Superior Court of the Virgin Islands. Judge Thomas excused Blyden's non-appearance as he was represented by Jesse Bethel, Esq., Territorial Public Defender, and Blyden paid all arrears owed pursuant to **DV242/1998**.
- xi. On **August 10, 2004**, AHO Willie McGowen issued a Subpoena Duces Tecum which was served on Blyden for a hearing in **ST21/1999** for **September 7, 2004 at 11:15 a.m.** The accompanying **Summons indicated that the hearing is for Blyden to answer a Motion to Modify**. The Motion to Modify was on Angela Chapman's prior application to modify child support in **DV242/1998**. However, there was no previous Administrative Order issued regarding support. *See vii. supra.*
- xii. On **September 7, 2004** AHO Willie McGowen issued a Subpoena Duces Tecum in **ST 21/1999** which was served on Blyden on **September 24, 2004** for a hearing on **October 12, 2004 at 3:15 P.M.** The accompanying **Summons indicated that the hearing is for Blyden to answer a Motion to Modify**. (Blyden acknowledged receipt of the notice for the hearing in his Motion to Terminate Child Support

Order filed with PCSD on October 8, 2015.)

- xiii. On **December 1, 2004** on behalf of PCSD, Assistant Attorney General, Dean L. Barnes, Esq. made a Motion in **Family No.: ST14/2001** for an Order transferring the Petitioner's Action for Paternity and Child Support to PCSD as the Petitioner made a request for a modification even though it was already dismissed. *See X* above.
- xiv. In spite of dismissal, on **February 10, 2005** Judge Leon Kendall of the Superior Court granted the Government's Motion Requesting transfer of **Family No.: ST14/2001** to PCSD, where a request was made by Ms. Chapman for modification of child support. It was error to transfer **Family No.: ST14/2001** since it was dismissed three (3) years earlier by Judge Audrey Thomas on December 18, 2001.
- xv. On **May 30, 2006** a notice for hearing was directed to Blyden, **Case No.: ST21/1999** from AHO Willie McGowen, scheduling the matter for **June 19, 2006**. There is no proof of service of the notice on Blyden.
- xvi. On **January 31, 2007** another notice of hearing was directed to Blyden, **Case No.: ST21/1999** by AHO Charlotte Poole Davis scheduling a hearing for **February 12, 2007 at 10:30 a.m.**, again, there is no proof of service of the notice on Blyden.
- xvii. On **May 6, 2008**, Assistant Attorney General, Carol Moore, Esq. filed with the PCSD a Motion for three-year review of **Case No.: DV242/1998 despite the expiration of the Temporary Support Order since August 2000**. The motion indicated that thirty-six (36) months have passed since the Order in this case was entered, last modified or last reviewed, that there is a request for modification pursuant to Title 16 V.I.C. §369 and an attempt was made to effect an administrative modification of the support obligation, but these efforts have not been successful.
- xviii. On **May 21, 2008**, in the case of **ST 21/1999**, AHO Elaine Lockhart-Mollah, Esq. granted the People's Motion for a Three Year Review and scheduled a hearing for **June 2, 2008 at 3:15 p.m.**
- xix. On **July 15, 2008** AHO Elaine Lockhart Mollah issued a Summons and Subpoena Duces Tecum in

ST21/1999 for a hearing on **August 13, 2008 at 9:00 a.m.** relating to a motion to modify child support.

There is no proof of service of the notice on Blyden.

- xx. On **May 14, 2009** Assistant Attorney General, Carol S. Moore, Esq. filed a Motion to establish Child Support, **Case No. ST21/1999** (Certificate of service attached indicated service was made by mail on **May 14, 2009** to Blyden and Angela Chapman)
- xxi. On **June 11, 2009** following the child support hearing of **August 13, 2008**, AHO Alaine Lockhart Mollah, Esq. entered a Support Order in **Case No.: ST21/1999 for \$788.00** per month effective September 1, 1998, some ten (10) years and nine (9) months after the Petition for Support was filed on September 1, 1998. Importantly, the hearing AHO recognized that:
- a. The Motion for review was improperly made pursuant to the Order entered in **DV242/1998** whose Order expired.
 - b. That no hearing was previously held on Ms. Chapman's petition for child support filed since September 1, 1998.
 - c. That the hearing could not proceed on a Motion for Modification based on **DV242/1998**. Instead, it proceeded as an establishment for support on the September 1, 1998 Petition.
 - d. The Order for Child Support shall be retroactive to the date the petition was filed on September 1, 1998 and Blyden was credited \$5,200.00, the sum he paid for child support pursuant to Order of **DV242/1998**.
 - e. Pursuant to Title 16 V.I.C. §354(b) the decision of the Hearing Officer can be appealed within 20 days after the date the Order is filed by filing a Notice of Appeal.
- xxii. On **June 19, 2009**, Blyden acknowledged receipt of the Default Support Order and indicated he was in jail in Puerto Rico. ⁴
- xxiii. On **May 21, 2015** PCSD received a letter from the US Probation Office of the District Court that reflected that Blyden was sentenced in the District Court of the USVI on October 7, 2010 and released from prison on March 29, 2015.
- xxiv. On **October 8, 2015**, Blyden filed a Motion to Terminate the Support Order of June 11, 2009 which he claims he hand delivered to Carol S. Moore, Esq., Assistant Attorney General at Nisky Center located in St. Thomas, USVI on the same date.

⁴ As a result of the criminal matter 3:09CR00020-G-002, Blyden was detained by U.S. Marshals on May 20, 2009. On **May 26, 2009** he was imprisoned in Puerto Rico and in **March 2015** he was released from imprisonment.

- xxv. On **June 1, 2016**, the Government by its Attorney Aquanette Y. Chinnery, filed with PCSD an Opposition to Blyden's Motion to Terminate the Support Order.
- xxvi. On **August 29, 2016** PCSD entered an Order denying Blyden's Motion to Terminate the support Order of June 11, 2009 after a hearing was held on **August 22, 2016** in which Blyden (in person) and Angela Chapman (via telephone) both appeared.
- xxvii. On **September 6, 2016**, Blyden filed a Notice of Appeal in the Superior Court of the Virgin Islands, **Family No.: S14/2001**.

ANALYSIS

I. Whether the untimely filing of an appeal automatically deprives the Court of its Jurisdiction to entertain the appeal.

PCSD in their Motion in Opposition to this appeal, relied upon the Supreme Court of the Virgin Islands holding in *Pichardo v. Commissioner of Labor*, 49 V.I. 447, 450 (V.I. 2008) that stated, "When the time to appeal or seek review is established by statute, timeliness is a jurisdictional issue therefore, a petition filed out of time deprives the court of jurisdiction to entertain the appeal."⁵ However, the Supreme Court of the Virgin Islands in *Brooks v. Gov't of the Virgin Islands*, 58 V.I. 417, 450 (V.I. 2013) clarified its holding in *Pichardo* and asserted that "this Court never broadly held that in every context, any requirement in any statute is a jurisdictional one." Instead, the Supreme Court in *Brooks* held that that there must be a clear sign that it was the Legislature's intent to make the statute jurisdictional.

In the Virgin Islands the time to appeal is established by statute, and in accordance with Title 16 V.I.C. §354 (b), the Family Division Judge of the Superior Court has jurisdiction over appeals of Orders entered by the Administrative Hearing Officer of the Paternity and Child Support Division. However, the appeal should be made within twenty (20) days from the entry of the Order and only be made where there was a material mistake of fact or conclusion of law. The burden of proof is on the party seeking the appeal.⁶

⁵ *Pichardo v. Commissioner of Labor*, 49 V.I. 447 *450

⁶ Title 16 V.I.C. §354 (b), "Orders entered by a hearing officer shall be in writing, shall contain specific findings of fact and conclusions of law, shall be served on all parties, and shall have the same force and effect as orders entered by judges of the Superior Court, except that an appeal from an order of a hearing officer may be taken to a Family Division judge of the Superior Court within (20) days of the

In the instant matter, Blyden is appealing PCSD Child Support Order entered on June 11, 2009 that awarded a sum of \$788.00 per month to be paid as Child Support by Blyden to Angela Chapman effective September 1, 1998. Blyden filed his appeal with PCSD by his Motion to Terminate the Support Order of June 11, 2009 on October 8, 2015. Blyden's filing is five (5) years after the entry of PCSD's Order and it is beyond the twenty (20) days stated by Title 16 V.I.C. §354 (b).

Yet, for this Court to be deprived of its jurisdiction to entertain this appeal it must be established that timeliness pursuant to Title 16 V.I.C. §354 (b) is a jurisdictional issue. A statute that is plain and unambiguous requires no further inquiry as to its meaning.⁷ A clarification of when a statute is considered to be jurisdictional was provided by the Supreme Court of the Virgin Islands in two cases. Firstly, in *Jean –Baptiste v. Virgin Islands Taxicab Commission*, 2016 V.I. Lexis 61, the Supreme Court of the Virgin Islands underscored the difference between a jurisdictional and claims processing statute and affirmed that a claims processing statute can be **equitably tolled or even waived**.

The Court reflected,

A statute is 'jurisdictional' if 'it governs a court's adjudicatory capacity, that is, its subject- matter or personal jurisdiction,' while a statute is 'claims-processing' if it seeks to promote the orderly progress of litigation by requiring that the parties take certain procedural steps at certain specified times,' but does not intend to limit a court's authority to hear a case. Claims-processing rules or statutes may "be equitably tolled or even waived" but, with respect to jurisdictional statutes, the Court has "no authority to create equitable exceptions to jurisdictional requirements and litigants cannot by waiver or forfeiture confer jurisdiction where it is otherwise lacking." Consequently, the failure to comply with a jurisdictional statute can never be excused and such failure may be invoked at any stage of the proceedings, even sua sponte by the court.

Secondly, in *Edwards v. GEC, LLC*, 2017 V.I. Supreme Lexis 46*12 citing *Brooks*, the Court stated that a "statute is not jurisdictional when statute does not mention dismissal or other language commonly associated with jurisdictional statutes."

entry of the order. Such appeal shall only be made upon a showing of material mistake of fact or conclusion of law, with the burden of proof upon the challenger, and unless the court finds good cause, the paternity or support order entered by the hearing officer shall continue in force while the matter is on appeal."

⁷ *In re L.O.F.* 62 V.I. 655 *661. "The first step when interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning. If the statutory language is unambiguous and the statutory scheme is coherent and consistent, no further inquiry is needed."

In the instant case, an examination of Title 16 V.I.C. §354(b) reveals that the language of the statute is plain and unambiguous, there is no mention of dismissal or other similar language identifying a jurisdictional statute. The statute is also a claims processing statute as it seeks to ensure the progress of litigation, requiring parties to take a particular procedural step within a specified time. Therefore, the statute is non-jurisdictional and the untimely Notice of Appeal filed by Blyden does not divest the Court of its jurisdiction to entertain his appeal.

Importantly, the Family Court of the US Virgin Islands is not only a Court of Law but a Court of Equity. **As a Court of Equity the Superior Court of the Virgin Islands is vested with the power to fashion any remedy it deems both necessary and appropriate to ensure that justice is rendered in a particular case.**⁸ Therefore, it is appropriate for the Court sitting as a Court of Equity to consider if there are any meritorious issues to Blyden's appeal.

II. Whether Blyden's Appeal warrants relief pursuant to the Court's equitable authority.

In sum, Blyden seeks the following:

- a) Termination of the PCSD Child Support Order of June 11, 2009;
- b) Reimbursement of all monies paid after expiration of the Court's Order of August 24, 1998, **Family No.: DV242/1998**; and
- c) An Order initiating a fraud investigation against PCSD and reasonable attorney fees in defending this action.

In Opposition, PCSD requests that this Court dismiss the action as untimely, because an untimely appeal deprives the Court of the jurisdiction to entertain the appeal.

As demonstrated, *supra*, the Court carefully reviewed the records obtained from PCSD pursuant to its Order dated June 21, 2017. Critically, PCSD failed to provide a written transcript for the hearing of August 13, 2008 from which it entered its June 11, 2009 Child Support Order.⁹ Although a certified copy of the Order was

⁸ *Hamed v. Yusuf*, 2017 V.I. Lexis 114*16

⁹ PCSD in its Supplemental Transmittal Memo filed with the Court on July 7, 2017 indicated that after searching diligently, the tape recording of the Hearing held on August 13, 2008 cannot be located, "the Administrative Hearing Office utilized cassette recordings and the automated system now utilized by the Court was not in effect." Also, that pursuant Title 16 V.I.C. VIRR Sections 354-09 recordings are to be kept for only 30 days after the appeals time period expired.

received, the Court's ability to provide a full review of what transpired at the administrative hearing is limited. *In the People of the Virgin Islands in the Matter of M.R.*, 64 V.I. 333 the Supreme Court of the Virgin Islands highlighted how important the transcript of a hearing is noting that, "it is the transcript of the hearing prepared by the court reporter, and not the judge's post hoc personal recollections of the hearing, that constitutes the record on appeal to this court."

Notwithstanding, an examination of the procedural events of this case reveals extensive delays, extraordinary errors and a confusing scenario by PCSD that resulted in unfair treatment of the child support claim against Blyden. PCSD failed to hold a hearing on the Petition for Child Support filed by Angela Chapman on September 1, 1998 **until August 2008**. The AHO at the August 2008 hearing recognized that there was no prior child support established by PCSD, and there was no child support to modify. Therefore, the AHO held a hearing to establish support.

The first hearing in **ST21/1999** by PCSD was on May 20, 1999 at which time the AHO failed to exercise the authority to adjudicate and enter a final Order of Support on the Petition for Child Support filed on September 1, 1998. Instead, PCSD erroneously relied on the temporary child support entered by the Superior Court (formerly the Territorial Court of the USVI). The AHO rightly asserted a lack of authority to impose sanctions on Blyden for his non-compliance with the Superior Court's Order in **DV242/1998**.¹⁰

As a result of PCSD's failure to enter a child support order on May 20, 1999, more delays followed. It was not until May 23, 2001 that a hearing was held at the Superior Court in what became **Case No.: ST14/2001**.

At the hearings held in the Superior Court on May 23, 2001 and July 18, 2001, PCSD was admonished that there was no Order upon which continued child support could be enforced against Blyden as the temporary child support pursuant to **DV24/1998** expired August 24, 2000. Further on December 18, 2001, the Superior Court dismissed without prejudice **Family No.: ST14/2001** on the basis that Blyden was current in his child support

¹⁰ Title 16 V.I.C. §354 (a)(1) reflects that the Administrative Hearing Officer of PCSD has the authority to "administer oaths, take testimony establish a record, make findings of fact and conclusion of law, issue subpoenas, and enter judgments, orders and default orders in cases of paternity, contested or uncontested, and child support or child support."

obligation. Despite due notice given to PCSD, it took another five years (May 30, 2006) to schedule a hearing on the Petition of Support, **Case No.: ST21/1999**.

PCSD argued in their motion that the delay of the support case was due to Blyden's failure to appear at scheduled hearings. However, PCSD's records do not reflect that Blyden was consistently served with notice of the hearings scheduled after May 30, 2006. Specifically, there is no proof of service of the notice on Blyden for hearings on May 30, 2006 and January 21, 2007. Significantly, there is no evidence of service of the notice of hearing for August 13, 2008 for which the June 11, 2009 Child Support Order was entered. It was Blyden who acknowledged by return of service his receipt of the Default Support Order dated June 11, 2009 and informed PCSD that he was in jail in Puerto Rico. In fact, Blyden was detained by US Marshals days before the hearing on May 10, 2009 and did not receive notice of the hearing.

PCSD's verified Child Support Order of June 11, 2009 reflects that they calculated Blyden's available income at \$5,837.55. This amount is based on a gross monthly salary of \$2,840.25 from the Virgin Island National Guard and monthly income of \$3,131.70 received while on leave from the Virgin Islands Police Department or on active duty as he was believed to be by PCSD, according to the Order. PCSD asserts that Blyden's income was ascertained from subpoenaed wage information received by the Government and submitted to PCSD. The June 11, 2009 Child Support Order appears to be based exclusively on the subpoenaed wage report.

Ironically, the Government asserts in its motion that it, "invites the Respondent to bring all his accurate income information so that child support can be accurately assessed back to the effective date. The above figures is the best the Government can do under the circumstances. If the Respondent dispute these figures the burden is on him to come forward with accurate information."¹¹ The Court finds that the child support calculated from the "income information" is speculative. It appears that Blyden was improperly treated as if he was in default, when the parties had reason to know of his unavailability due to incarceration. Moreover, even when notice of his incarceration was provided no reasonable effort was made to recalculate income or determine how his wages were affected by his incarceration. Blyden was denied a fair and impartial hearing.

¹¹ Motion to Establish Support filed May 14, 2009 at page 4.

III. Whether the conduct of the PCSD warrants a fraud investigation.

Notwithstanding the above discussion, Blyden's assertion of fraud on the part of the Petitioner is unsupported by the facts of this case or even any authority. Under the Virgin Islands Rules of Civil Procedure Rule 60 (b) on motion and where the terms are just, the court may provide relief from an order based on fraud (intrinsic or extrinsic). However, V.I. R. CIV. P. Rule 60 (c)(1) requires that a motion based on an allegation of fraud must be made within the year following the entry of the judgment, order or date of the proceedings. In the instant matter, on June 11, 2009 PCSD entered a final order of child support against Blyden which he attempted to appeal on October 8, 2015 by filing a Motion to terminate the support order. Blyden's Motion to terminate the support order was filed six (6) years following the judgment and entry of the order for child support. Therefore, an application of fraud pursuant to V.I. R. CIV. P. Rule 60 (b) is not applicable.

However, the savings clause in V.I. R. CIV. P. Rule 60 (d)(1) provides that the Court has the power to entertain an independent action for relief from a final order. Therefore, Blyden's motion alleging fraud can be construed as an independent action for fraud on the Court. The Superior Court in *Issac v. Crichlow*, 2015 V.I. Lexis 15*23, as a guiding principle, provided that,

An independent action for fraud on the court should be available only to "prevent a grave miscarriage of justice." *United States v. Beggerly*, 524 U.S. 38, 47, 118 S. Ct. 1862, 141 L. Ed. 2d 32 (1998). Such claims of fraud upon the court are not governed by a limitation period but must be commenced within a "reasonable time of the discovery of the fraud." *Apotex Corp. v. Merck & Co., Inc.*, 507 F.3d 1357, 1361 (Fed. Cir. 2007). In order to prove fraud on the court, a party must show: "(1) an intentional fraud; (2) by an officer of the court; (3) which is directed at the court itself; and (4) that in fact deceives the court," by clear and convincing evidence. *Herring v. United States*, 424 F.3d at 390. This is a "demanding standard", reserved for "egregious misconduct", perpetrated by an "officer of the court."

There is insufficient evidence to make a determination of any act of intentional fraud throughout the child support proceedings by any AHO or other officer of the Court, or any fraudulent information or evidence directed at the Court with the clear and convincing intent of deceiving PCSD or the Superior Court. Although, the evidence suggests a litany of errors by many actors resulting in a miscarriage of justice.

CONCLUSION

Based on all of the above, the Court is compelled to assume jurisdiction of Blyden's appeal and apply principles of equity to prevent unjust enforcement of the child support order issued on June 11, 2009. This Court is not only bound by the rules of law but the rules of equity. Blyden was denied notice of the hearing for August 13, 2008 and there is no record to substantiate the child support determination. Moreover, the delay in the determination of child support was inexcusable and without good cause. PCSD committed gross procedural delays and blatant errors. PCSD's improper reliance on the expired Domestic Violence Order from which temporary support was established, is incomprehensible and inexcusable and represents misfeasance.

A Court of Equity not only seeks to ensure that equity follows the law but also should act consistently with the equitable maxim that equity will not suffer a wrong without a remedy. Accordingly, the proper remedy here is to vacate the June 11, 2009 decision and prevent enforcement of any outstanding support due pursuant to that Order.

The Appellant, Blyden does not dispute the existence of the minor child and that the child was entitled to support. Therefore, the Court will not require reimbursement of any support already paid.

There is no evidence of legal costs incurred since Blyden appeared pro se throughout the proceedings except in one instance when he was represented by the Territorial Public Defender's Office.

Consistent with this Memorandum Opinion, an Order shall issue on even date. Accordingly, it is hereby

ORDERED that copies of this Memorandum Opinion and accompanying Order shall be served on Jerome Blyden and directed to Dionne G. Sinclair Esq.

DATED: July 20, 2018


DEBRA S. WATLINGTON
Judge of the Superior Court
of the Virgin Islands

ATTEST:
Estrella H. George
Clerk of the Court

By: 
Brenda Monsanto
Court Clerk Supervisor 7/20/18