

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,
IN AND FOR LAKE COUNTY, FLORIDA**

STATE OF FLORIDA, Department of
Revenue Child Support Enforcement Program
o/b/o ROXANA M. HERMIDA

Petitioner,

vs.

EDWARD L. SILER,
Respondent.

CASE NO: 35-2019-DR-100828-A

2023 MAY 19 AM 11:42
CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
TAVARES, FLORIDA

ORDER ON PETITION FOR WRIT OF HABEAS CORPUS

THIS CAUSE came before the Court on a PETITION FOR WRIT OF HABEAS CORPUS filed by the Respondent, EDWARD L. SILER, on or about May 9, 2023 (“Petition”). Upon review of the Petition and the case records, this Court finds and concludes as follows:

PROCEDURAL BACKGROUND

1. On or about November 16, 2019, the STATE OF FLORIDA, in the role of Petitioner, began proceedings to establish an administrative support order to require the Respondent to pay child support to ROXANA M. HERMIDA (“Hermida”). Hermida is the other parent of the Respondent’s child, HORIZON SARIYAH SILER (“minor child”).

2. On February 10, 2020, a FINAL ADMINISTRATIVE SUPPORT ORDER was entered in this case which established the Respondent has a legal duty to contribute to the support of the minor child (“Final Administrative Support Order”). On April 19, 2022, a PETITION FOR ENFORCEMENT OF ADMINISTRATIVE SUPPORT ORDER was filed which requested that the Court enforce the Final Administrative Support Order.

3. On June 7, 2022, a FINAL JUDGMENT FOR ENFORCEMENT OF ADMINISTRATIVE SUPPORT ORDER REPORT OF THE CHILD SUPPORT HEARING

OFFICER was entered in this case following a hearing held on May 26, 2022, before the Child Support Hearing Officer on the Department of Revenue's petition to enforce the Final Administrative Support Order.

4. On January 25, 2023, an ORDER ON MOTION FOR CONTEMPT and ATTACHMENT and ORDER DIRECTING WRIT OF ATTACHMENT TO ISSUE REPORT OF THE CHILD SUPPORT HEARING OFFICER was filed in this case finding that the Respondent has failed to pay all or part of the required obligations concerning child support and issuing a Writ of Bodily Attachment. Said Writ was issued to have the Respondent brought before this Court to determine whether Respondent had the ability to pay child support and whether his failure to do so was willful.

5. An ARREST AFFIDAVIT was filed in the Court system on or about February 2, 2023, when the Respondent was booked into the Lake County Jail.

6. On February 2, 2023, the Child Support Hearing Officer in this case filed a REPORT AND RECOMMENDATION OF THE CHILD SUPPORT HEARING OFFICER AND AMENDED ORDER ON REVIEW AFTER INCARCERATION ON WRIT OF BODILY ATTACHMENT FOR NON-PAYMENT OF CHILD SUPPORT which recommended that the Respondent shall be incarcerated in the Lake County Jail for a period of 179 days, or until such time as he has paid a purge in the amount of \$934.00.

ANALYSIS

7. The Respondent, who is currently still incarcerated, now files the instant Petition before the Court requesting that he be discharged from custody on the grounds that he is unlawfully imprisoned. However, the Respondent did not add a statement of facts or an argument informing

this Court as to why the requested relief should be granted. The absence of such basic information renders the instant Petition legally insufficient.

8. In order to state a *prima facie* case for a writ of habeas corpus, the complaint must allege: 1) that the petitioner is currently detained in custody; and show 2) “by affidavit or evidence probable cause to believe that he or she is detained without lawful authority.” § 79.01, Fla. Stat. See also *Smith v. Kearney*, 802 So.2d 387, 389 (Fla. 4th DCA 2001) (“To show a *prima facie* entitlement to habeas relief, the petitioner must show that he is ‘unlawfully deprived of his liberty and is illegally detained against his will.’ ”).

CONCLUSION

In view of the foregoing findings, the pertinent portions of the record, and applicable law, it is **ORDERED** and **ADJUDGED** as follows:

A. The PETITION FOR WRIT OF HABEAS CORPUS is **STRICKEN WITHOUT PREJUDICE**.

B. Respondent may file another petition consistent with the legal requirements stated in this Order.

DONE and **ORDERED** in chambers at Tavares, Lake County, Florida this 18th day of May 2023.

DEFENDANT HAS THIRTY (30) DAYS FROM THE DATE OF RENDITION OF THIS ORDER TO FILE A NOTICE OF APPEAL. FAILURE TO TIMELY FILE A NOTICE OF APPEAL MAY RESULT IN THE FORFEITURE OF THAT RIGHT.



Larry Metz, Circuit Judge

CERTIFICATE OF SERVICE

I certify a true copy of the foregoing has been furnished by mail/inter-office mail/or electronic service this _____ day of May 2023 to the following:

Edward L. Siler
Respondent
Jail Inmate Number: 61752
Lake County Jail
551 W. Main St.
Tavares, FL 32778
Via U.S. Mail

Jodi Zakaria, Esq.
Attorney for the Other Parent
307 North Apopka Avenue
Inverness, FL 34450
Email: jzakaria@dnzlaw.com
By E-Portal

Florida Department of Revenue
Child Support Enforcement Program
P.O. Box 5330
Tallahassee, FL 32314-5330
Via U.S. Mail

Office of the State Attorney,
Fifth Judicial Circuit,
Lake County
550 West Main Street
Tavares, FL 32778
By E-Portal

Judicial Assistant