

NO. 2011-02-0106

IN THE INTEREST OF

ADALIA SAMARA WEST AND
TAKODA JACKSON WEST

CHILDREN

§ IN THE COUNTY COURT AT LAW
§
§ OF
§
§
§ CHEROKEE COUNTY, TEXAS

**ORDER HOLDING RESPONDENT IN CONTEMPT FOR FAILURE TO PAY CHILD
SUPPORT, GRANTING JUDGMENT, AND FOR COMMITMENT TO COUNTY JAIL**

On June 11, 2013, the Court called this case which had been reset from a prior hearing conducted on May 6, 2013.

Appearances

Movant, BETHLEHEM ROSE KINCADE, appeared in person and through attorney of record, Steven R. Guy, and announced ready for trial.

Respondent, GREGORY LEE WEST, appeared in person and, having waived the right to counsel, announced ready for trial.

Jurisdiction

The Court, after examining the record and the evidence and argument of counsel, finds that it has jurisdiction over the subject matter and the parties in this case. All persons entitled to citation were properly cited.

Record

The record of testimony was duly reported by the court reporter for this Court.

Jury

A jury was waived, and all questions of fact and of law were submitted to the Court.

Findings

The Court finds that on May 6, 2013, this Court found Respondent to be in arrears and in contempt of court in the cumulative amount of \$1,464.64 for child and medical support; and, the Court further ordered Respondent on that day to pay \$5,000 in attorney's fees to counsel for Movant, to-wit: Steven R. Guy. The Court then reset the case for June 11, 2013, for the purpose of assessing punishment.

On June 11, 2013, Respondent under oath advised the Court that he remained on V.A. Disability and Respondent did not dispute that he continues to live with his girlfriend and that his disability is in excess of \$2,000 per month, tax free. Respondent advised the Court, and the Court finds, that Respondent has made no payments toward his obligations in the pendency of this punishment proceeding.

The Court further finds that Respondent has failed to comply with the provisions of the order as follows.

Contempt Findings and Findings on Arrearages

The Court finds that Respondent has failed to pay child support, attorney's fees and court costs as ordered to BETHLEHEM ROSE KINCADE through the Texas State Disbursement Unit in the amounts and on the dates shown below:

<u>Violation</u>	<u>Date Due</u>	<u>Amount Due</u>	<u>Date Paid</u>	<u>Amount Paid</u>
1.	03/01/2013	\$407.00 (current support)	03/06/2013	\$180.00
		\$85.00 (medical support)	03/15/2013	\$.64
2.	04/01/2013	\$407.00 (current support)	04/09/13	\$180.00
		<u>\$85.00</u> (medical support)		<u> </u>

The Court finds that Respondent was able to pay child support, attorney's fees and court costs in the amounts and on the dates ordered as set out above and that Respondent is guilty of a separate act of contempt for each such separate failure to pay child support, attorney's fees and court costs in the amounts ordered.

The Court further finds that on the day of this hearing Respondent has the ability to comply with the order of the Court by paying the child support arrearages, attorney's fees and court costs set forth in the violations enumerated above.

The Court finds and confirms that the balance owed by Respondent on previously confirmed child support arrearages is \$1,464.64. The Court further finds and confirms that Respondent is in arrears in the additional amount of \$407.00 for current support due June 1, 2013, \$85.00 medical support due on June 1, 2013, plus \$68.00 due on June 1, 2013 for prior arrearages, bringing the total \$2,024.64, as of and including June 11, 2013. Judgment should be awarded against Respondent in the total amount of ^{\$2,024.64}~~\$2,246.64~~ for the arrearages, plus interest.

The Court further finds that attorney's fees, expenses, in the amount of \$5,000.00, plus all costs of Court, should be assessed against Respondent.

The Court further finds that, at the time the motion requesting withholding from earnings for child support was filed, Respondent had been in arrears for an amount due for more than thirty days and the amount of the arrearages included an amount equal to or greater than that due for a one-month period.

The Court further finds that all arrearages, current child support, attorney's fees, and costs amounts should be withheld from Respondent's earnings.

Relief Granted

IT IS ADJUDGED that Respondent, GREGORY LEE WEST, is in contempt for each separate violation enumerated above.

Punitive Contempt - Child Support

The Court is going to again recess the punishment phase of this proceeding until 9:00 a.m. on October 24, 2013, and the parties are ORDERED to appear before this Court at that time.

Revocation of Prior Probation

The Court finds that on November 1, 2012, Respondent was held in contempt and sentenced to confinement for 180 days in the Cherokee County Jail by Order signed November 1, 2013, incorporated herein by reference, and Respondent was so confined. Thereafter, Respondent was ordered released from Jail on November 20, 2013 conditioned on payment of some arrearages previously ordered and further compliance on a month to month basis with the Court's orders concerning child support and other terms and conditions. The Court finds that Respondent, GREGORY LEE WEST, has a remaining term of 161 days owed to the Court and that he has breached and contemptuously violated the conditions of his release. The November 20, 2012 suspension of his confinement is revoked and he is ordered returned to confinement in the Cherokee County Jail to serve his 161 days, day for day.

SIGNED on June 11, 2013

Craig A. Fletcher
JUDGE PRESIDING *By permission*
on

FILED
AT 4:25 O'CLOCK P M.
JUN 13 2013
JANET GATES
CLERK, DISTRICT COURT
CHEROKEE COUNTY, TEXAS
BY [Signature] DEPUTY