

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

- Mr.
Mrs.
Ms.
Miss

RICKY D. IVY, JR., Claimant

vs.

State of Arkansas, Respondent

DFA/Office of Child Support Enforcement COMPLAINT

Do Not Write in These Spaces
Claim No. 08-0508-CC
Date Filed December 26, 2007
Amount of Claim \$?
Fund DFS/OCSE

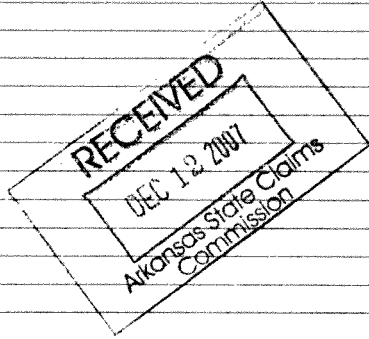
ref. of exps., mental anguish

Ricky D. Ivy, Jr. the above named Claimant, of 1755 Porter Batesville
AR 72501 County of Independence represented by Chaney Taylor & Tom Thompson
of 1141 E. Main, Ste. 300 Batesville AR 72501 870-793-3821

State agency involved: Office of Child Support Enforcemnt. Amount sought: \$13,076.10

Month, day, year and place of incident or service:

Explanation: See attached.



As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

No when? to whom? (Yes or No) (Month) (Day) (Year) (Department)

and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address

and that the nature thereof is as follows: (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and was acquired on in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

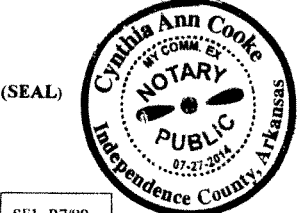
Ricky D. Ivy Jr. & Tom Thompson atty (Print Claimant/Representative Name) Chaney Taylor (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Batesville, Arkansas (City) (State)

on this 5th day of July, 2007 (Date) (Month) (Year)

Cynthia A. Cooke (Notary Public)

My Commission Expires: 07-27-2014 (Month) (Day) (Year)



SF1- R7/99

BETTE GREEN--PLEASE PAY IN CHECK OR MO!!

**Child Support
Payment History Report**

te: 12/27/2007

se No: E-91-290
se Name: FLENOY VS IVY

Payor: IVY, RICKY JR
Payee: FLENOY, ANGELA C.

08-0508-00

Frequency:
Support Amt: \$ 30.00

<u>te</u>	<u>Curr Chg</u>	<u>Curr Pmt</u>	<u>Curr Bal</u>	<u>Arrears Pmt</u>	<u>Arrears Bal</u>	<u>Admin Fee</u>	<u>Receipt</u>	<u>M/P</u>	<u>Comments</u>
03/1995		\$2,700.00					154806	JU	NO ARRS. OWED LP
14/1995		\$45.00	\$45.00				155884	DP	8 OF 21 SANYO 279 LP
22/1995		\$45.00	\$45.00				156593	DP	8 OF 21 SANYO 484 LP
28/1995		\$45.00	\$45.00				157194	DP	8 OF 21 SANYO 663 LP
08/1995		\$45.00	\$90.00				158125	DP	8OF21 SANYO 886 LP
14/1995		\$45.00	\$90.00				158717	DP	6OF23 SANYO 111 LP
07/1995		\$45.00	\$180.00				161349	DP	6OF21 SANYO 666 LP
12/1995		\$45.00	\$180.00				161889	DP	8OF21 SANYO 882 LP
20/1995		\$45.00	\$180.00				162675	DP	6OF20 SANYO 087 LP
27/1995		\$45.00	\$180.00				163373	DP	8OF19 SANYO 301 LP
03/1995		\$45.00	\$180.00				163999	DP	6OF20 SANYO 515 LP
10/1995		\$45.00	\$180.00				164742	DP	7OF19 SANYO 726 LP
28/1995		\$45.00	\$630.00				172973	DP	25OF26 SANYO 982 LP
02/1995		\$45.00	\$630.00				173541	DP	25OF26 SANYO 183 LP
07/1995		\$45.00	\$675.00				175130	DP	25OF26 SANYO 388 LP
07/1995		\$45.00	\$630.00				175180	DP	26OF27 SANYO 627 LP
05/1995		\$45.00	\$720.00				176804	DP	25 OF 26 SNAYO 248 MS
08/1995		\$45.00	\$765.00				178202	DP	23OF24 SANYO 452 LP
00/1995		\$45.00	\$720.00				178529	DP	20F23 SANYO 656 LP
02/1995		\$45.00	\$765.00				179674	DP	22OF23 SANYO 894 LP
05/1995		\$45.00	\$720.00				180095	DP	22OF23 SANYO 130 LP
01/1995		\$45.00	\$675.00				180686	DP	20F23 SANYO 388 LP
01/1995		\$675.00					180783	CO	OLD ARREARS AMT LP
01/1995				(\$765.00)	\$765.00		180784	JU	NEW ARREARS AMT LP
03/1995					\$765.00		181068	CO	FRQ RMV CLRNGHSE 10/1/95 LP
03/1996				\$765.00			188476	CO	OLD ARRFARS AMT LP
03/1996				(\$1,765.50)	\$1,705.50		188477	JU	NEW ARREARS AMT LP
00/1999						\$36.00			
02/2001						\$36.00			
02/2002						\$36.00			
02/2003						\$36.00			
05/2004						\$36.00			
03/2005						\$36.00			
03/2006						\$36.00			
02/2007						\$36.00			
			<u>\$0.00</u>		<u>\$1,705.50</u>	<u>\$478.00</u>			

RECEIVED

JAN 02 2008

**Arkansas State
Claims Commission**

IN THE CIRCUIT COURT OF ST. FRANCIS COUNTY, ARKANSAS
DIVISION

Angela C. Flenoy

PLAINTIFF

OCSE CASE NO. 178120560

VS. DOCKET NO. 682E9100290

Ricky D. Ivy Jr.

DEFENDANT

OCSE CHILD SUPPORT PAYMENT HISTORY

I, Ruth Ann Jefferies, Custodian of the Records do hereby certify that the below set out payment record is the child support payment history as collected by OCSE for this case.

Total Child Support Paid: From October 1, 1995 through December 18, 2007
\$ 9,566.10

I, Ruth Ann Jefferies, hereby certify, under penalty of perjury, that the above and forgoing is true and correct to the best of my knowledge and belief.

Ruth Ann Jefferies 12/20/07
Custodian of Records

by

RECEIVED

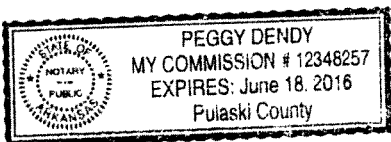
[Signature]

Account/Custodian of Records

DEC 26 2007

Subscribed and sworn to before me, a notary public, under penalty of perjury this 20th day of December, 20 07.

**Arkansas State
Claims Commission**



Peggy Dendy
Notary Public

My commission expires this 18th day of June, 20 16.

Year	Month	NCP Pymnt	Total Paid	Other	Code
1995	October	\$ 279.00	\$ 279.00		
	November				
	December	\$ 148.50	\$ 148.50		
1996	January	\$ 198.00	\$ 198.00		
	February	\$ 99.00	\$ 99.00		
	March	zero	zero		
	April	zero	zero		
	May	zero	zero		
	June	\$ 779.50	\$ 779.50		
	July	zero	zero		
	August	\$ 40.00	\$ 40.00		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		
	December	zero	zero		
1997	January	zero	zero		
	February	zero	zero		
	March	\$ 1,180.00	\$ 1,180.00		
	April	zero	zero		
	May	zero	zero		
	June	zero	zero		
	July	\$ 99.00	\$ 99.00		
	August	\$ 198.00	\$ 198.00		
	September	\$ 247.50	\$ 247.50		
	October	\$ 49.50	\$ 49.50		
	November	zero	zero		
	December	zero	zero		
1998	January	zero	zero		
	February	zero	zero		
	March	\$ 1,405.00	\$ 1,250.50	\$ 154.50	3
	April	\$ 100.00	\$ 100.00		
	May	\$ 20.00	\$ 20.00		
	June	zero	zero		
	July	zero	zero		
	August	zero	zero		
	September	\$ 24.00	zero	\$ 24.00	1
	October	zero	zero		
	November	zero	zero		
	December	zero	zero		
1999	January	zero	zero		
	February	zero	zero		
	March	zero	zero		
	April	zero	zero		
	May	\$ 547.00	\$ 547.00		
	June	zero	zero		
	July	zero	zero		
	August	zero	zero		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		

Codes: 1-fees 2-money on hold 3-return money to non-custodial parent

Year	Month	NCP Pymt	Total Paid	Other	Code
1999	December	zero	zero		
2000	January	zero	zero		
	February	zero	zero		
	March	zero	zero		
	April	\$ 50.00	\$ 50.00		
	May	zero	zero		
	June	zero	zero		
	July	zero	zero		
	August	zero	zero		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		
	December	\$ 132.00	\$ 132.00		
2001	January	zero	zero		
	February	zero	zero		
	March	\$ 2,703.00	\$ 2,703.00		
	April	\$ 99.00	\$ 99.00		
	May	zero	zero		
	June	zero	zero		
	July	zero	zero		
	August	zero	zero		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		
	December	zero	zero		
2002	January	zero	zero		
	February	zero	zero		
	March	zero	zero		
	April	zero	zero		
	May	zero	zero		
	June	zero	zero		
	July	zero	zero		
	August	zero	zero		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		
	December	zero	zero		
2003	January	\$ 125.00	zero	\$ 125.00	1
	February	zero	zero		
	March	zero	zero		
	April	\$ 736.00	\$ 736.00		
	May	zero	zero		
	June	zero	zero		
	July	\$ 363.60	\$ 363.60		
	August	zero	zero		
	September	zero	zero		
	October	zero	zero		
	November	zero	zero		
	December	zero	zero		
2004	January	zero	zero		
	February	zero	zero		

Codes: 1-fees 2-money on hold 3-return money to non-custodial parent

Year	Month	NCP Pymt	Total Paid	Other	Code	
2004	March	\$ 247.00	\$ 247.00			
	April	zero	zero			
	May	zero	zero			
	June	zero	zero			
	July	zero	zero			
	August	zero	zero			
	September	zero	zero			
	October	zero	zero			
	November	zero	zero			
	December	zero	zero			
	2005	January	zero	zero		
		February	zero	zero		
March		zero	zero			
April		zero	zero			
May		zero	zero			
June		zero	zero			
July		zero	zero			
August		zero	zero			
September		zero	zero			
October		zero	zero			
November		zero	zero			
December		zero	zero			
2006	January	zero	zero			
	February	zero	zero			
	March	zero	zero			
	April	zero	zero			
	May	zero	zero			
	June	zero	zero			
	July	zero	zero			
	August	zero	zero			
	September	zero	zero			
	October	zero	zero			
	November	zero	zero			
	December	zero	zero			
2007	January	zero	zero			
	February	zero	zero			
	March	zero	zero			
	April	zero	zero			
	May	zero	zero			
	June	zero	zero			
	July	zero	zero			
	August	zero	zero			
	September	zero	zero			
	October	zero	zero			
	November	zero	zero			
	December	zero	zero			

RECEIVED

DEC 26 2007



STATE OF ARKANSAS

**Department of Finance
and Administration**

**CHILD SUPPORT ENFORCEMENT
CLEARINGHOUSE STATE DISBURSEMENT UNIT**
Post Office Box 8128
Little Rock, Arkansas 72203-8128
Phone: (501) 683-7900
Fax: (501) 683-7912
<http://www.state.ar.us/dfa>

Please note, this Certified Payment History begins with October 1, 1995 but the court order was established prior to October 1, 1995. OCSE became the official record keeper for title IV-D child support payments as of October 1, 1995. For a Certified Payment History for payments made prior to October 1, 1995, please contact the court clerk for the county that issued this court order.

Sincerely,

A handwritten signature in cursive script that reads "Keith Brown".

Keith Brown
Accountant Technician II
501-683-7910

RECEIVED

DEC 26 2007

**Arkansas State
Claims Commission**

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR.

CLAIMANT

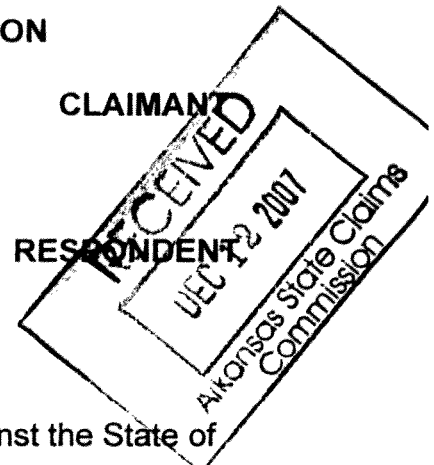
VS.

NO. _____

STATE OF ARKANSAS
OFFICE OF CHILD SUPPORT ENFORCEMENT

RESPONDENT

CLAIM FOR REMUNERATION



Comes now the Claimant, Ricky D. Ivy Jr., and for his claim against the State of Arkansas, Office of Child Support Enforcement, states as follows:

1. That on or about August 6, 1991, Respondent Office of Child Support Enforcement (hereinafter "Respondent") acting as assignee of Angela Flenoy, filed a complaint against Claimant alleging him to be the biological father of her minor child and requesting that the court enter an order setting child support. Respondent failed to have Claimant duly and properly served with a copy of the Summons and Complaint, yet a hearing was subsequently held, and the St. Francis County (Arkansas) Circuit Court nonetheless entered a default order and judgment against Claimant, stating the court had jurisdiction over him and ordering him to pay \$15 per week in child support.

2. During the approximately twelve year period following the entry of the said default order and judgment, Respondent, acting as assignee of Angela Flenoy, filed numerous motions for citation against Claimant for failure to pay child support. As a result, Claimant was found to be in contempt of court on approximately eight (8) different occasions for non-payment, and Claimant spent a total of 390 days in jail during the approximately twelve year period.

3. That on or about December 2, 2002, Claimant filed a motion for paternity testing, pursuant to A.C.A. 9-10-115(e)(1)(A). The St. Francis County Circuit Court

granted Claimant's motion and ordered paternity testing. Paternity testing was subsequently performed and the results conclusively established that Claimant was not the biological father of Angela Flenoy's child. A copy of the paternity test results are attached hereto, marked Exhibit A, and incorporated herein as if restated word for word.

4. That on or about December 2, 2005, Claimant filed a motion to set aside the default order and judgment, based on defective service of process.

5. The parties appeared before the St. Francis County Circuit Court on January 17, 2006 on the motion to set aside the default order and judgment. The Court denied Claimant's motion.

6. That the Claimant filed a timely appeal and a decision was issued by the Arkansas Court of Appeals on or about June 27, 2007. The Arkansas Court of Appeals ruled the default order and judgment to be void *ab initio*, and remanded the case to St. Francis County Circuit Court with instructions to enter an order setting aside the default order and judgment. A copy of the Court of Appeals opinion is attached hereto, marked Exhibit "B" and incorporated herein as if restated word for word.

7. That Claimant seeks from the State of Arkansas all monies he has paid in on a child determined by DNA testing to not be his biological child. That attached hereto, marked Exhibit "C" and incorporated herein as if restated word for word, is a copy of Respondent's affidavit, dated 9-27-2002, showing Claimant having paid to Respondent at least \$2,571, as of 9-27-2002.

9. That Claimant seeks from the State of Arkansas damages for the time Claimant spent in jail, approximately 390 days, over a 12-year period.

10. That Claimant seeks from the State of Arkansas damages for the monies spent on health insurance for the benefit of a minor child, determined by DNA testing to not be his biological child.

11. It is unknown at this time how much money Ricky D. Ivy, Jr. wrongfully paid to the State of Arkansas as child support and for health insurance premiums, but an updated total will be provided at any hearing of this matter.

WHEREFORE, Claimant Ricky D. Ivy, Jr., prays that the Arkansas State Claims Commission order the Office of Child Support Enforcement to remunerate Claimant for the monies wrongfully paid to OCSE as child support, that he be awarded damages for the time spent in jail, for the monies wrongfully paid for health insurance, for his costs, and for all other relief to which he may be entitled.

RESPECTFULLY SUBMITTED,

RICKY D. IVY, JR.

BY:



TOM THOMPSON

**Attorney at Law
P. O. Box 2595
Batesville, AR 72503
(870) 793-3821**

AND



CHANEY Taylor

**Attorney at Law
P.O. Box 2721
Batesville, AR 72503
(870) 793-5297**



GENETIC TEST REPORT

Ms. Carolyn Michael
Forrest City Regional OCSE
St. Francis County
P O Box 1855, 248 Barton Lane
Forrest City, AR 72336-1855

GS Case/Test Set: 817038 / 544294

Customer Number: 178120560

E-91-29D

	Race	Specimen ID	Specimen Collection
Mother: FLENOY, ANGELA	Black	1242319	02/05/2003
Child: FLENOY, RICKY		1242320	02/05/2003
Alleged Father: IVY JR, RICKY	Black	1242321	02/05/2003

Combined Paternity Index = 0
Probability of Paternity = 0.00%

Conclusion

The alleged father, RICKY IVY JR, cannot be the biological father of RICKY FLENOY, since he and the child do not share necessary paternal markers in multiple genetic systems.

System	Mother	Child	Alleged Father	Paternity Index	
D13S317	12	12, 13	12, 13	3.55	
D18S51	14, 20	17, 20	11, 17	3.05	
D21S11	28, 30	28, 31	28, 30	0.00	EXCLUSION
D3S1358	15, 16	15, 16	15, 16	1.66	
D5S818	11, 12	10, 12	11, 12	0.00	EXCLUSION
D7S820	10	10	10	2.98	
D8S1179	13	12, 13	14, 15	0.00	EXCLUSION
FGA	22, 23	22, 23	21, 24	0.00	EXCLUSION
vWA	14, 18	15, 18	17	0.00	EXCLUSION

Subscribed and sworn before me on February 12, 2003 in Ingham County, Michigan.

Oliver A. Tomarica
Notary Public, State of Michigan

My commission expires: 10/27/06

I certify that the forgoing testing was conducted in accordance with the standard protocol and the results contained herein are true and correct to the best of my knowledge.

Savithiry S. Natarajan
Savithiry S. Natarajan, Ph.D., Associate Laboratory Director

EXHIBIT A

FILED

MAR 3 - 2003

TIME: _____ M
BETTE S. GREEN, CLERK
ST. FRANCIS COUNTY

Accredited by the American Association of Blood Banks

2047 Evde Parkway, Suite 110 East Lansing, MI 48823 517-349-3890

DIVISION I
ARKANSAS COURT OF APPEALS

RICKY D. IVY, JR.	No.	CA06-1165
		Opinion Delivered JUNE 27, 2007
APPELLANT		
v.		
OFFICE OF CHILD SUPPORT ENFORCEMENT	SUPPORT	APPEAL FROM THE ST. FRANCIS COUNTY CIRCUIT COURT [DR-91-290]
	APPELLEE	HONORABLE BAIRD KINNEY, JUDGE
		REVERSED AND REMANDED

KAREN R. BAKER, Judge

Appellant, Ricky D. Ivy, Jr., appeals from the denial of a motion to set aside a default judgment entered against him in St. Francis County Circuit Court. On appeal, appellant argues that “the trial court erred in denying his motion to set aside the default judgment because service of process was completely failed.” Since “no notice was obtained, in derogation of due process, the default judgment obtained against him was void *ab initio*, and all proceedings founded upon that judgment are likewise void.” Appellant also argues that “even if service of process was merely insufficient, and not completely failed, he never waived his objection to jurisdiction because he never filed any responsive pleading under Ark. R. Civ. P. 7.” We agree with appellant that the judgment was void *ab initio*, and we reverse and remand with instructions to enter an order setting aside the default order and judgment.

Angela Flenoy filed a complaint on August 6, 1991, alleging that appellant was the biological father of her minor child and requesting that the court enter an order setting child support. After no responsive pleading was filed, the trial court entered a default order and judgment against

EXHIBIT B

Forrest City Machine Works, Inc., 301 Ark. 559, 785 S.W.2d 220 (1990) (under Rule 4(i), the trial court's dismissal of the case for failure to make service of summons was mandatory); *see also Southeast Foods, Inc. v. Keener*, 335 Ark. 209, 979 S.W.2d 885 (1998); *Dougherty v. Sullivan*, 318 Ark. 608, 887 S.W.2d 305 (1994); *Lawson v. Edmondson*, 302 Ark. 46, 786 S.W.2d 823 (1990).

Our case law is equally well-settled that statutory service requirements, being in derogation of common-law rights, must be strictly construed and compliance with them must be exact. *Carruth v. Design Interiors, Inc.*, 324 Ark. 373, 921 S.W.2d 944 (1996) (citing *Wilburn v. Keenan Cos.*, 298 Ark. 461, 768 S.W.2d 531 (1989), and *Edmonson v. Farris*, 263 Ark. 505, 565 S.W.2d 617 (1978)). In *Carruth*, this court held that the same reasoning applies to service requirements imposed by court rules, and that proceedings conducted where the attempted service was invalid renders judgments arising therefrom void *ab initio*. The *Carruth* court, quoting from *Tucker v. Johnson, supra*, further held that actual knowledge of a proceeding does not validate defective process. *Carruth*, 324 Ark. at 375, 921 S.W.2d 944. Stated in different terms, the general rule is that a judgment entered without jurisdiction of the person or the subject matter or in excess of the court's power is void. *Neal v. Wilson*, 321 Ark. 70, 900 S.W.2d 177 (1995).

Here, service on appellant was unquestionably defective. Angela Flenoy indisputably failed to serve appellant with a copy of the complaint or summons. There was no service on appellant within the 120-day time frame required by Ark. R. Civ. P. 4(i), which states that "if service of summons is not made upon a defendant within 120 days after the filing of the complaint, the action *shall* be dismissed as to that defendant without prejudice upon motion or upon the court's initiative." (Emphasis added.) Angel. Flenoy also failed to file a motion to extend the time or obtain a waiver and entry of appearance whereby appellant waived service of summons or process. Under such circumstances, the circuit court had jurisdiction over this matter only to the extent needed to dismiss the case as required by Ark. R. Civ. P. 4(i) and nothing more. *See Boyd v. Sharp County Circuit Court*, 368 Ark. 566, ___ S.W.3d ___ (Jan. 25, 2007). In going beyond that point, the circuit court clearly exceeded its jurisdiction and its failure to enter an order dismissing the case constituted a plain, manifest, clear, and gross abuse of discretion. *Id.* Any judgment entered without jurisdiction of the person or the subject matter or in excess of the court's power is void *ab initio*. *Raymond,*

appellant. The default order and judgment specifically stated that the court had jurisdiction over appellant and that he was ordered to pay child support in the amount of \$15 per week.

Over the next twelve years, Angela Flenoy filed numerous motions for citation against appellant for failure to pay child support. As a result, appellant was held in contempt approximately eight times for non-payment of child support and ordered to spend a total of 390 days in jail. Appellant first retained counsel in 2002, and on December 2, 2002, filed a motion for paternity testing pursuant to Ark. Code Ann. § 9-10-115(e)(1)(A) (Repl. 2002). This was the first document filed by appellant. Appellee, Office of Child Support Enforcement (OCSE), filed a response to the petition for paternity testing. The court granted appellant's petition for paternity testing and ordered a paternity test. The test conclusively established that appellant was *not* the biological father of Angela Flenoy's child.

On December 2, 2005, appellant filed a motion to set aside default order and judgment, based on the fact that the proof of service revealed that the complaint and summons were served upon Derrick Ivy, appellant's brother, and contained a note that appellant was living in Springfield, Missouri. A hearing was held on January 17, 2006, and his motion was denied. From that ruling, comes this appeal.

In *Raymond v. Raymond*, 343 Ark. 480, 484–85, 36 S.W.3d 733, 735 (2001), our supreme court stated:

Arkansas law is long settled that service of valid process is necessary to give a court jurisdiction over a defendant. *Tucker v. Johnson*, 275 Ark. 61, 628 S.W.2d 281 (1982) (citing *Halliman v. Stiles*, 250 Ark. 249, 464 S.W.2d 573 (1971), and *Southern Kansas Stage Lines Co. v. Holt*, 192 Ark. 165, 90 S.W.2d 473 (1936)). Moreover, a summons is necessary to satisfy due process requirements. *Thompson v. Potlatch Corp.*, 326 Ark. 244, 930 S.W.2d 355 (1996). It is also mandatory under Arkansas law that *service of process must be made within 120 days* after the filing of the complaint unless there is a motion to extend, and if service is not obtained within the 120 day period and no such motion is made, dismissal is required upon motion or upon the court's own initiative. *See* Ark. R. Civ. P. 4(i); *Lyons v.*

supra (citing *Carruth, supra*).

OCSE concedes that service was invalid, but argues that appellant waived jurisdiction under Ark. R. Civ. P. 12(h) both by making an appearance and by filing a responsive pleading (the petition for paternity testing). OCSE cites three cases in support of the argument that appellant waived jurisdiction: *Burrell v. Ark. Dep't of Human Servs.*, 41 Ark. App. 140, 850 S.W.2d 8 (1993) (father's failure to raise claim of defective service before the middle of the second hearing amounted to a waiver and precluded him from thereafter taking advantage of the defect); *Blankenship v. Office of Child Support Enforcement*, 58 Ark. App. 260, 952 S.W.2d 173 (1997) (putative father's failure to assert defense of lack of personal jurisdiction until halfway through the second trial amounted to a waiver of defense); and *Hamm v. Office of Child Support Enforcement*, 336 Ark. 391, 985 S.W.2d 742 (1999) (father's failure to timely file a motion raising the insufficiency-of-service-of-process defense or failure to raise the defense in the answer that he filed, amounted to a waiver of the defense under the terms of Rule 12). However, each of these cases is distinguishable because in these cases the defendants' appearance and participation occurred before the entry of the judgment; therefore, the defense of lack of personal jurisdiction was waived prior to the entry of the judgment, and the trial court could rely on that waiver in entering judgment against the defendant. In contrast, the trial court here did not have personal jurisdiction over appellant, and appellant had not waived the issue at the time the judgment was entered.

Although the appellant was required to participate in subsequent enforcement proceedings on the judgment, his participation could hardly be construed as voluntary, nor could it cure the void judgment. Likewise, the fact that appellant filed a petition for paternity testing did not validate the void judgment. See *Raymond*, 343 Ark. 480, 488, 36 S.W.3d 733, 737-38 (finding that where it was undisputed that the former wife was never served with process or received a copy of the complaint

for divorce, thus rendering the divorce decree void *ab initio*, a reconciliation agreement signed by the former wife prior to the entry of the decree did nothing to validate defective service). For the foregoing reasons, we reverse and remand with instructions to enter an order setting aside the default order and judgment.

BIRD and VAUGHT, JJ., agree.

IN THE CIRCUIT COURT OF ST. FRANCIS COUNTY, ARKANSAS

Angela Flenoy
V
Ricky Ivy Jr

E-91-290

PLAINTIFF
DEFENDANT

1178120560

AFFIDAVIT OF ARREARS

2000	Monthly Obligation	Monthly Amount Paid	Monthly Balance	Excess to Jdg/Bal	Excess to Costs
January	\$ -	\$ -	\$ -	\$ -	\$ -
February	\$ -	\$ -	\$ -	\$ -	\$ -
March	\$ -	\$ -	\$ -	\$ -	\$ -
April	\$ -	\$ -	\$ -	\$ -	\$ -
May	\$ 30.00	\$ 54.00	\$ -	\$ 24.00	\$ -
June	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
July	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
August	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
September	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
October	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
November	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
December	\$ 150.00	\$ 132.00	\$ 18.00	\$ -	\$ -
TOTALS	\$ 960.00	\$ 186.00	\$ 798.00	\$ 24.00	\$ -

2001	Monthly Obligation	Monthly Amount Paid	Monthly Balance	Excess to Jdg/Bal	Excess to Costs
January	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
February	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
March	\$ 150.00	\$ 132.00	\$ 18.00	\$ -	\$ -
April	\$ 120.00	\$ 99.00	\$ 21.00	\$ -	\$ -
May	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
June	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
July	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
August	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
September	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
October	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
November	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
December	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
TOTALS	\$ 1,560.00	\$ 231.00	\$ 1,329.00	\$ -	\$ -

EXHIBIT C

IN THE CIRCUIT COURT OF ST. FRANCIS COUNTY, ARKANSAS

Angela Flenoy
V
Ricky Ivy Jr

E-91-290

PLAINTIFF

DEFENDANT

AFFIDAVIT OF ARREARS

2002	Monthly Obligation	Monthly Amount Paid	Monthly Balance	Excess to Jdg/Bal	Excess to Costs
January	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
February	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
March	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
April	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
May	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
June	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
July	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
August	\$ 150.00	\$ -	\$ 150.00	\$ -	\$ -
September	\$ 120.00	\$ -	\$ 120.00	\$ -	\$ -
October	\$ -	\$ -	\$ -	\$ -	\$ -
November	\$ -	\$ -	\$ -	\$ -	\$ -
December	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ 1,170.00	\$ -	\$ 1,170.00	\$ -	\$ -

	Monthly Obligation	Monthly Amount Paid	Monthly Balance	Excess to Jdg/Bal	Excess to Costs
January	\$ -	\$ -	\$ -	\$ -	\$ -
February	\$ -	\$ -	\$ -	\$ -	\$ -
March	\$ -	\$ -	\$ -	\$ -	\$ -
April	\$ -	\$ -	\$ -	\$ -	\$ -
May	\$ -	\$ -	\$ -	\$ -	\$ -
June	\$ -	\$ -	\$ -	\$ -	\$ -
July	\$ -	\$ -	\$ -	\$ -	\$ -
August	\$ -	\$ -	\$ -	\$ -	\$ -
September	\$ -	\$ -	\$ -	\$ -	\$ -
October	\$ -	\$ -	\$ -	\$ -	\$ -
November	\$ -	\$ -	\$ -	\$ -	\$ -
December	\$ -	\$ -	\$ -	\$ -	\$ -
TOTALS	\$ -	\$ -	\$ -	\$ -	\$ -

IN THE CIRCUIT COURT OF ST. FRANCIS COUNTY, ARKANSAS

Angela Flenoy
V
Ricky Ivy Jr

E-91-290

PLAINTIFF

DEFENDANT

AFFIDAVIT OF ARREARS

Computation Page

Type in years covered in affidavit

TAX INTERCEPTS

Date Intercepted	State/Fed/Year	Amount
3/1/2001	fed	\$ 1,874.00
3/1/2001	fed	\$ 534.00
3/13/2001	state	\$ 163.00
		\$ -
		\$ -
		\$ -
Total		\$ 2,571.00

PREVIOUS JUDGMENTS

File Date	Effective Date	Amount
5/31/2000	5/19/2000	\$ 3,314.00
Subtotal		\$ 3,314.00
Excess applied		\$ 24.00
Total		\$ 3,290.00

COSTS ASSESSED

Type	Date	Amount
Subtotal		\$ -
Excess applied		\$ -
Total Costs owed		\$ -

Unadjudicated Arrearage	\$ 3,297.00	as of	2002
Previous Judgments (less excess applied)	\$ 3,290.00		
Subtotal	\$ 6,587.00		
Tax Intercepts Applied	\$ 2,571.00		
Total Unadjudicated & Adjudicated Arrearage	\$ 4,016.00	as of <u>9/27/</u>	2002

I swear and affirm that the calculation for the arrearage as stated in this affidavit is true and correct to the best of my knowledge.

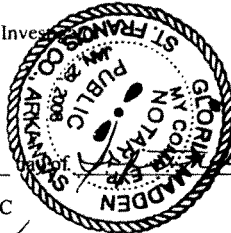
Quetta Whitby, OCSE Investigator

STATE OF ARKANSAS
COUNTY OF ST. FRANCIS

Subscribed and sworn to me, a Notary Public, on this 27 day of September, 2002

Gloria Madden, NOTARY PUBLIC

MY COMMISSION EXPIRES Jan 29, 2008



On what date did the statute of limitations begin to run regarding his allegations of being improperly incarcerated for civil contempt? DFA alleges that it was, at the very latest, when he was incarcerated in 2002, which would mean that the limitations period ran sometime in 2005, two years before he filed his claim with the Commission. Claimant argues that it was in June of 2007, when the Arkansas Court of Appeals issued its opinion regarding the 1991 order and holding that, because service was not perfected then, the default judgment should be set aside.

RECEIVED

JAN 16 2008

Arkansas State
Claims Commission

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

Ricky D. Ivy, Jr

CLAIMANT

VS

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
OFFICE OF CHILD SUPPORT ENFORCEMENT

RESPONDENT

ANSWER

Comes now the Respondent, by and through counsel, and for its answer to the complaint states:

1. All allegations not specifically admitted herein are hereby specifically denied.
2. Respondent admits that a contract attorney for the Department of Human Services, the state agency charged with the child support function in 1991, filed a complaint upon which a default judgment was granted on August 6, 1991 against Claimant by the St. Francis County Chancery Court, docket number, DR-91-290, awarding child support in the amount of \$15 per week. Respondent further admits that, though the trial court found that it had jurisdiction, the Arkansas Court of Appeals held in its opinion, delivered June 27, 2007, that service was defective. Respondent denies all further allegations contained in paragraph 1 of the complaint.
3. Respondent admits that Claimant was found to be in civil contempt of court eight times for failure to follow the court's orders. Pleading further, Respondent states that it is without sufficient knowledge to form a belief as to the accuracy of the allegation that Claimant spent 390 days in jail since much of it was deferred on condition on making some specified amount of child support payment or once deferred due to Claimant's incarceration at that time on unrelated charges. Respondent admits that, as the Arkansas Court of Appeals found, he had been sentenced to spend 390 days in jail during the twelve years since the order of August 6, 1991. Respondent denies all other allegations contained in paragraph 2 of Claimant's complaint.
4. Respondent admits allegations contained in paragraph 3 of Claimant's complaint.
5. Respondent admits allegations contained in paragraph 4 of Claimant's complaint.
6. Respondent admits allegations contained in paragraph 5 of Claimant's complaint.

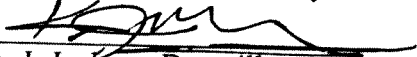
7. Respondent admits allegations contained in paragraph 6 of Claimant's complaint in that the Arkansas Court of Appeals found the order and judgment to be *void ab initio* based on defective service.
8. Respondent admits that Claimant is due, and has received, \$9,686.60 by check number 50027090 for \$3,579.00 and check number 1011466114 for \$6107.60 as reimbursement for monies paid by him and retained by the State of Arkansas as reimbursement for public assistance paid on behalf of the child in this case. Respondent denies that Claimant is entitled to any additional sums prayed for in paragraph 7 of Claimant's complaint.
9. Respondent denies that Claimant is entitled to any damages prayed for in paragraph 9 [sic] of Claimant's complaint.
10. Respondent denies that Claimant is entitled to any damages or reimbursement prayed for in paragraph 10 [sic] of Claimant's complaint.
11. Respondent denies that Claimant is entitled to any damages prayed for in paragraph 11 [sic] of Claimant's complaint.
12. Respondent denies that Claimant is entitled to any relief prayed for in his prayer for relief in his complaint, but in the event that this Commission grants further relief, that it offsets the \$9,686.60 paid by check number 50027090 and check number 1011466114 against that amount.
13. Affirmatively pleading Respondent states, Arkansas Code Annotated § 19-10-204 (b) grants jurisdiction to this Commission for the repayment of child support, only when the underlying support order is set aside as *void ab initio* by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.
14. Affirmatively pleading Respondent states, of the total of \$10,674.50 collected by the state, \$9,686.60 was retained by the state as reimbursement for public assistance and that amount has been refunded to the Claimant by check number 50027090 and check number 1011466114.
15. Affirmatively pleading Respondent states that all tort claims in this case are barred by the three-year statute of limitations. Pleading that the last time Claimant was ordered incarcerated by the court for civil contempt in the underlying child support case was on December 10, 2002 and the action before this Commission was not filed until more than five years later on December 27, 2007.
16. Affirmatively pleading Respondent states, this Commission lacks subject matter jurisdiction over this action since the amount retained by the state as reimbursement for public assistance has been refunded to the Claimant by check number 50027090 and check number 1011466114.

17. Affirmatively pleading Respondent states that the \$2,700 entry listed on the clerk's payment history report for February 3, 1995 and the \$675 entry listed on October 11, 1995 were not payments made by the Claimant but were entries made by the St. Francis County Clerk in order to reflect orders of the court. Pleading further the columns headed M/P and Comments on the payment history report provided by the Claimant indicate that on February 3, 1995 the \$2700 entry reflects M/P as JU for judicial and the comments state, "NO ARRS. OWED". Respondent further pleads that the October 11, 1995 entry was also marked as JU and was made to zero out that amount in order to enter the amount of the new judgment granted of \$765. Respondent pleads that neither of the cited amounts were paid by the Claimant and are not properly included in the amount requested by Claimant as paid by him.
18. Affirmatively pleading Respondent states that, except as previously noted, Claimant's claim is barred by principals of estoppel and laches.
19. Affirmatively pleading Respondent states that to require the refund of money not paid by Claimant would result in unjust enrichment.

Wherefore, Respondent prays that this Commission dismiss this complaint for lack of subject matter jurisdiction in light of the refund by Respondent of the full amount of the child support paid that was retained by the state as reimbursement for public assistance paid on behalf of the child in the underlying child support case, that amount being \$9,686.60, and that all tort claims are barred by the statute of limitations and for all other appropriate relief. Furthermore, Respondent prays that if this Commission fails to dismiss this complaint and awards further relief to Claimant that the \$9,686.60 be allowed as an offset and any remaining claim be paid from Fund Code MCE0100, Fund Center 100, Cost Center 401201, General Ledger Acct. #50800020000.

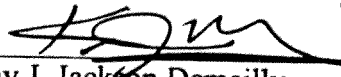
Respectfully Submitted,

Department of Finance and Administration
Office of Child Support Enforcement
Kay J. Demailly
Arkansas Bar Number 82056
General Counsel
Counsel for the Respondent

By: 
Kay J. Jackson Demailly
OCSE General Counsel, AR Bar # 82053

CERTIFICATE OF SERVICE

I, Kay J. Jackson Demailly, General Counsel for the Office of Child Support Enforcement, do hereby certify that I have mailed a copy of the foregoing Answer to Tom Thompson, Attorney at Law, P.O. Box 2595, Batesville, AR 72503 and Chaney Taylor Jr., Attorney at Law, P.O. Box 2721, Batesville, AR 72503, by regular first class mail with sufficient postage attached hereto this 16th day of January, 2008.



Kay J. Jackson Demailly

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ARKANSAS STATE
CLAIMS COMMISSION
JUL 09 2009
RECEIVED

Ricky D. Ivy, Jr.

CLAIMANT

VS

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
OFFICE OF CHILD SUPPORT ENFORCEMENT

RESPONDENT

AMENDED ANSWER

Comes now the Respondent, by and through counsel, and for its amended answer to the complaint states:

1. All allegations not specifically admitted herein are hereby specifically denied.
2. Respondent admits that a contract attorney for the Department of Human Services, the state agency charged with the child support function in 1991, filed a complaint upon which a default judgment was granted on August 6, 1991 against Claimant by the St. Francis County Chancery Court, docket number, DR-91-290, awarding child support in the amount of \$15 per week. Respondent further admits that, though the trial court found that it had jurisdiction, the Arkansas Court of Appeals held in its opinion, delivered June 27, 2007, that service was defective. Respondent denies all further allegations contained in paragraph 1 of the complaint.
3. Respondent admits that Claimant was found to be in civil contempt of court eight times for failure to follow the court's orders. Pleading further, Respondent states that it is without sufficient knowledge to form a belief as to the accuracy of the allegation that Claimant spent 390 days in jail since much of it was deferred on condition on making some specified amount of child support payment or once deferred due to Claimant's incarceration at that time on unrelated charges. Respondent admits that, as the Arkansas Court of Appeals found, he had been sentenced to spend 390 days in jail during the twelve years since the order of August 6, 1991. Respondent denies all other allegations contained in paragraph 2 of Claimant's complaint.
4. Respondent admits allegations contained in paragraph 3 of Claimant's complaint.
5. Respondent admits allegations contained in paragraph 4 of Claimant's complaint.
6. Respondent admits allegations contained in paragraph 5 of Claimant's complaint.

7. Respondent admits allegations contained in paragraph 6 of Claimant's complaint in that the Arkansas Court of Appeals found the order and judgment to be *void ab initio* based on defective service.
8. Respondent admits that Claimant is due, and has received, \$9,686.60 by check number 50027090 for \$3,579.00 and check number 1011466114 for \$6107.60 as reimbursement for monies paid by him and retained by the State of Arkansas as reimbursement for public assistance paid on behalf of the child in this case. Respondent denies that Claimant is entitled to any additional sums prayed for in paragraph 7 of Claimant's complaint.
9. Respondent denies that Claimant is entitled to any damages prayed for in paragraph 9 [sic] of Claimant's complaint.
10. Respondent denies that Claimant is entitled to any damages or reimbursement prayed for in paragraph 10 [sic] of Claimant's complaint.
11. Respondent denies that Claimant is entitled to any damages prayed for in paragraph 11 [sic] of Claimant's complaint.
12. Respondent denies that Claimant is entitled to any relief prayed for in his prayer for relief in his complaint, but in the event that this Commission grants further relief, that it offsets the \$9,686.60 paid by check number 50027090 and check number 1011466114 against that amount.
13. Affirmatively pleading Respondent states, Arkansas Code Annotated § 19-10-204 (b) grants jurisdiction to this Commission for the repayment of child support, only when the underlying support order is set aside as void *ab initio* by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.
14. Affirmatively pleading Respondent states, of the total of \$10,674.50 collected by the state, \$9,686.60 was retained by the state as reimbursement for public assistance and that amount has been refunded to the Claimant by check number 50027090 and check number 1011466114.
15. Affirmatively pleading Respondent states that all tort claims in this case are barred by the three-year statute of limitations. Pleading that the last time Claimant was ordered incarcerated by the court for civil contempt in the underlying child support case was on December 10, 2002 and the action before this Commission was not filed until more than five years later on December 27, 2007.
16. Affirmatively pleading Respondent states that Claimant is barred from receipt of any damages by the principal of comparative fault.


17. Affirmatively pleading Respondent states, this Commission lacks subject matter jurisdiction over this action since the amount retained by the state as reimbursement for public assistance has been refunded to the Claimant by check number 50027090 and check number 1011466114.
18. Affirmatively pleading Respondent states that the \$2,700 entry listed on the clerk's payment history report for February 3, 1995 and the \$675 entry listed on October 11, 1995 were not payments made by the Claimant but were entries made by the St. Francis County Clerk in order to reflect orders of the court. Pleading further the columns headed M/P and Comments on the payment history report provided by the Claimant indicate that on February 3, 1995 the \$2700 entry reflects M/P as JU for judicial and the comments state, "NO ARRS. OWED". Respondent further pleads that the October 11, 1995 entry was also marked as JU and was made to zero out that amount in order to enter the amount of the new judgment granted of \$765. Respondent pleads that neither of the cited amounts were paid by the Claimant and are not properly included in the amount requested by Claimant as paid by him.
19. Affirmatively pleading Respondent states that, except as previously noted, Claimant's claim is barred by principals of estoppel and laches.
20. Affirmatively pleading Respondent states that to require the refund of money not paid by Claimant would result in unjust enrichment.

Wherefore, Respondent prays that this Commission dismiss this complaint for lack of subject matter jurisdiction in light of the refund by Respondent of the full amount of the child support paid that was retained by the state as reimbursement for public assistance paid on behalf of the child in the underlying child support case, that amount being \$9,686.60, and that all tort claims are barred by the statute of limitations and for all other appropriate relief. Furthermore, Respondent prays that if this Commission fails to dismiss this complaint and awards further relief to Claimant that the \$9,686.60 be allowed as an offset and any remaining claim be paid from Fund Code MCE0100, Fund Center 100, Cost Center 401201, General Ledger Acct. #50800020000.

Respectfully Submitted,

Department of Finance and Administration
Office of Child Support Enforcement
Kay J. Demailly


Arkansas Bar Number 82056
General Counsel
Counsel for the Respondent

By: 

Kay J. Jackson Demailly
OCSE General Counsel, AR Bar # 82053

CERTIFICATE OF SERVICE

I, Kay J. Jackson Demailly, General Counsel for the Office of Child Support Enforcement, do hereby certify that I have served and mailed a copy of the foregoing Answer to Tom Thompson, Attorney at Law, P.O. Box 2595, Batesville, AR 72503, by facsimile transmission and regular first class mail with sufficient postage attached hereto this 8th day of July, 2009.



Kay J. Jackson Demailly

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR..

CLAIMANT

VS.

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND
ADMINISTRATION, OFFICE OF
CHILD SUPPORT ENFORCEMENT

RESPONDENT

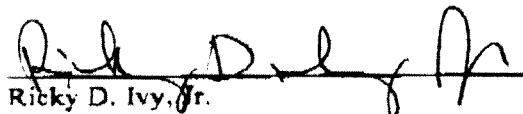
AFFIDAVIT OF RICKY D. IVY, JR.

I, Ricky D. Ivy, Jr., state on oath:

1. My name is Ricky D. Ivy, Jr.. I asked for a copy of my file from the Office of Child Support Enforcement before I hired Mr. Tom Thompson to pursue my case in October, 2005. They gave me a copy and I gave it to Mr. Thompson I didn't know what many of the documents were in that file, but in it was a summons and return showing that my brother had been served with the Complaint that started all of this.

2. That summons and return are not in the Court file.

Further, the affiant sayeth not.


Ricky D. Ivy, Jr.

JOHN W. JONES
WASHINGTON COUNTY
NOTARY PUBLIC - ARKANSAS
My Commission Expires November 06, 2017
Commission No. 12592588

RECEIVED
NOV 20 2008
Arkansas State Claims
Commission

Ricky D. Ivy Jr

Verification

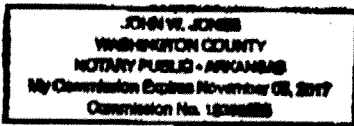
State of Arkansas)

County of *Washington*

Sworn and subscribed before me, *Ricky D. Ivy Jr* by the above named
Affiant on this *24* day of *Nov*, 2008, in *Washington*, Arkansas.

Notary Public *[Signature]*

My Commission Expires
(Seal)



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR.

CLAIMANT

VS

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
OFFICE OF CHILD SUPPORT ENFORCEMENT

RESPONDENT

MOTION TO DISMISS

Comes now the Respondent, State of Arkansas, Department of Finance and Administration, Office of Child Support Enforcement (OCSE) by and through counsel, and for its Motion To Dismiss states:

1. This Commission lacks subject matter jurisdiction over this action for any amount other than \$9,686.00, a sum that has been re-paid to Claimant by check number 50027090 for \$3,579.00 and check number 1011466114 for \$6,107.60.
2. All tort claims are barred by the three-year statute of limitations.

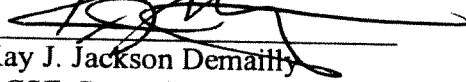
Therefore, Respondent pleads that for the reasons stated above and in the accompanying brief, this Commission grant its Motion To Dismiss.

Respectfully Submitted,
Department of Finance and Administration
Office of Child Support Enforcement
Kay J. Demailly
Arkansas Bar Number 82056
General Counsel
Counsel for the Respondent

RECEIVED


JUL 25 2008

Arkansas State
Claims Commission

By: 
Kay J. Jackson Demailly
OCSE General Counsel, AR Bar # 82053

CERTIFICATE OF SERVICE

I, Kay J. Jackson Demailly, General Counsel for the Office of Child Support Enforcement, do hereby certify that I have mailed a copy of the foregoing Motion For Summary Judgment to Chaney Taylor Jr., Attorney at Law, P.O. Box 2721, Batesville, AR 72503 and Tom Thompson, Attorney at Law, P.O. Box 2595, Batesville, AR 72503 by regular first class mail with sufficient postage attached hereto and by facsimile transmission this 25h day of July, 2008.



Kay J. Jackson Demailly

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR.

CLAIMANT

VS

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND ADMINISTRATION,
OFFICE OF CHILD SUPPORT ENFORCEMENT

RESPONDENT

RESPONDENT'S BRIEF IN SUPPORT OF ITS MOTION TO DISMISS

Comes now the Respondent, State of Arkansas, Department of Finance and Administration, Office of Child Support Enforcement (OCSE) by and through counsel, and for its Brief in Support of Its Motion To Dismiss states:

This Commission lacks subject matter jurisdiction over this action for any amount other than \$9,686.60, a sum that has been re-paid to Claimant by check number 50027090 for \$3,579.00 and check number 1011466114 for \$6,107.60.

Arkansas Code Annotated § 19-10-204 (b) grants jurisdiction to this Commission for the repayment of child support only to the extent that the underlying support order is set-aside as void *ab initio* by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child.

The August 6, 1991 order granting default judgment against Claimant by the St. Francis County Chancery Court, docket number, DR-91-290 was held to be void *ab initio*, for defective service by the Arkansas Court of Appeals in its opinion delivered June 27, 2007. This is precisely the type of situation contemplated by ACA § 19-10-204(b). When OCSE's management was made aware of the Court of Appeals opinion a request to determine if Mr. Ivy was entitled to claim a refund was made to Gwen Terrell. Gwen Terrell, Collections Manager for the Arkansas Office of Child Support Enforcement (OCSE), audited the payment history of Mr. Ivy for the full time his case was open with OCSE. She not only reviewed the records of OCSE but also took as true and accurate the records of the St. Francis County Circuit Clerk's office to determine the amount paid in by Mr. Ivy. In accordance with the jurisdiction restriction placed on the claims that may be heard before this Commission regarding the requirement that money subject to refund be retained by the state as reimbursement for public assistance that was paid on behalf of the child in the underlying child support case, Ms. Terrell then reviewed OCSE's records to determine how much, if any, of the funds paid in by Mr. Ivy were retained by the state. She determined that of the sums paid in by Mr. Ivy, \$9,686.60 was retained by the state. She then caused checks totaling that amount to be issued to Mr. Ivy. Mr. Ivy has received and cashed those checks. The affidavit of Gwen Terrell with copies of the cancelled checks is attached to this brief. His claim for money paid in but retained by the State of Arkansas as reimbursement for public assistance to the child is moot. Any money paid in to the case but not retained as reimbursement for public

assistance is not subject to the jurisdiction of this Commission under the provision of ACA § 19-10-204 (b).


Likewise, child support orders include medical insurance or health care payments for the benefit of a child as defined by ACA § 9-14-201(2) and are required under Arkansas Supreme Court Administrative Order Number 10, Section III (g) but are not collected and therefore not retained by Respondent. Insurance payments are sent by the employer to the Plan Administrator of the Insurance plan and are never in the possession or control of the Office of Child Support Enforcement.

All tort claims are barred by the three-year statute of limitations.

The Claimant also seeks payment for time he was incarcerated in the county jail. Though it is unclear how much time was actually served, the Arkansas Court of Appeals found that he had been sentenced to serve up to 390 days in jail for civil contempt of court by the St. Francis County Chancery, and later Circuit, Court. These sentences occurred during a nearly twelve-year period. It is difficult to determine how much time was actually served since much of the sentence was deferred on condition of making some specified amount of child support payment or as in one instance, deferred due to Claimant's incarceration at that time on unrelated charges. What is important to note is that these were sentences imposed by the court for civil contempt. When a court has instructed an individual to do something that the person feels improper or feels that the court lacks the authority to impose, the prudent man appeals the action. He does not ignore the court and continue to exhibit his contempt of that court without accepting the possibility of consequence of his actions. At all times Mr. Ivy controlled the keys to the jail cell since he had the power to either purge himself of the contempt or to take appropriate action for review of the Court's exercise of authority over him. Instead he simply failed to act. The last time the Court incarcerated Mr. Ivy was on December 10, 2002, well past the three-year limit for tort claims based on the filing of his complaint with this Commission on December 26, 2007.

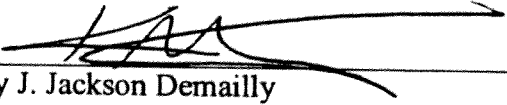
For the reasons and citation to law provided above, Respondent prays that this Commission grant its Motion to Dismiss.

Respectfully Submitted,
Department of Finance and Administration
Office of Child Support Enforcement
Kay J. Demailly
Arkansas Bar Number 82056
General Counsel
Counsel for the Respondent

By: 
Kay J. Jackson Demailly
OCSE General Counsel, AR Bar # 82053

CERTIFICATE OF SERVICE

I, Kay J. Jackson Demailly, General Counsel for the Office of Child Support Enforcement, do hereby certify that I have mailed a copy of the foregoing Motion For Summary Judgment to Chaney Taylor Jr., Attorney at Law, P.O. Box 2721, Batesville, AR 72503 and Tom Thompson, Attorney at Law, P.O. Box 2595, Batesville, AR 72503 by regular first class mail with sufficient postage attached hereto and by facsimile transmission this 25h day of July, 2008.



Kay J. Jackson Demailly

AFFIDAVIT

STATE OF ARKANSAS)
)
COUNTY OF PULASKI)

Before the undersigned, duly qualified and acting in and for said county and state, appeared to me well known to be the Affiant herein, who stated the following under oath:

I, Gwen Terrell, state upon oath as follows:

I am manager of the Collections Section of the Arkansas Office of Child Support Enforcement and supervise, among other duties, the correction of payment records and the verification of refund amounts. On January 16, 2008 I audited the payment history of Ricky D. Ivy, Jr. and determined that Nine thousand, six hundred and eighty-six dollars and sixty cents (\$9,686.60) had been retained by the State of Arkansas from child support payments received in his case since the case was opened in 1991. This amount was retained by the state as repayment for public assistance paid by the state to the custodial parent on behalf of the child in the underlying child support case. When I was informed that Mr. Ivy's case had been found to be void *ab initio* by the Arkansas Court of Appeals I proceeded to calculate the amount that Mr. Ivy had paid on the case that had been retained by the state so a refund of that amount might be made to Mr. Ivy. In order to accomplish this I examined the official payment records maintained by the Office of Child Support Enforcement (OCSE). I then cross-referenced these records with the Clerk's record from St. Francis County provided by the Claimant in the case before this Commission. Additionally, I noted that an entry for \$2,700 that was listed on the clerk's payment history report for February 3, 1995 and an entry for \$675 listed on October 11, 1995 were not payments made by Mr. Ivy but were entries made by the St. Francis County Clerk to reflect orders by the court. These adjustments were made to reflect new judgment amounts that replaced previous arrears amounts because the new judgment included the old balances owed. The columns headed M/P and Comments on the payment history report provided by the Claimant indicate that on February 3, 1995 the \$2700 entry reflects M/P as JU for judicial and the comments state, "NO ARRS. OWED". An additional entry on October 11, 1995 was also marked as JU and was made to zero out that amount in order to enter the amount of the new judgment granted of \$765. These payments appeared to be adjustments due to judicial orders rather than actual payments made by Mr. Ivy. To make sure that this was correct and allow me to complete my calculations of the amount of money Mr. Ivy had actually paid in on this case, I verified that these were just paper adjustments made in order to reflect new judgment amounts. This was verified with Ann Burns, Deputy Clerk of St. Francis County by telephone during my review. This information was then used to reach my final determination of the amount paid in the case.

After I determined the amount of money Mr. Ivy had paid into this case, I examined OCSE System records to determine the amount, if any, retained by the state. I found that \$9,686.60 had been retained by the State of Arkansas as reimbursement for public assistance paid on behalf of the child in the underlying child support case and transmitted to the Arkansas Department of Human Services as reimbursement. I then caused checks

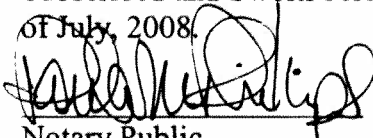
26

numbered 50027090 in the amount of 3,579.00 and 1011466114 in the amount of \$6107.60 to be issued to Mr. Ivy. The amount of \$9,686.60 represents the full amount paid by Mr. Ivy that was retained by the State of Arkansas. Both checks have been cashed by him and true copies, bearing my initials, GT, are attached to this affidavit.

The above statement is true and correct to the best of my knowledge and belief.


Gwen Terrell

Subscribed and Sworn before me, a notary public, in and for Pulaski County, this 25th day of July, 2008.


Notary Public



1/29/2012
My Commission Expires

MEMO: T70845 ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION-REVENUE DIVISION 50027090
 OFFICE OF CHILD SUPPORT ENFORCEMENT
 P.O. BOX 8133
 LITTLE ROCK, AR 72203-8133
 DATE: Jan. 16, 2008
 E. MO: _____
 CASE NO. 178120560
 YOUR NO. _____
 PAY TO THE ORDER OF Ricky B. Alby, Jr \$ 3,579.00
Three Thousand, Five Hundred & seventy nine and 00/100 DOLLARS
 Bank of America
 CHILD SUPPORT ENFORCEMENT
 VOID 90 DAYS AFTER ISSUE
Leida K. Staley
 ⑆50027090⑆ ⑆082000073⑆ 004160287552⑆ ⑆00000357900⑆

11111 50049
 FEB - 7 08
 ⑆0100500400 01 02-07-08 02 >882908061< 1ST SOUTHERN
 PAY TO THE ORDER OF FIRST SOUTHERN BANK
 06200001
 FOR DEPOSIT ONLY
 TOM THOMPSON - DELTA ACCT
 18000008
 Leida K. Staley

Check Info	
Account:	4160287552
Amount:	3,579.00
Check #:	50027090
Posted Date:	02/07/2008

DL

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR..

CLAIMANT

VS.

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND
ADMINISTRATION, OFFICE OF
CHILD SUPPORT ENFORCEMENT

RESPONDENT

RESPONSE TO MOTION TO DISMISS

COMES now the Claimant, Ricky D. Ivy, Jr., and for his Response to the Motion to Dismiss, states and alleges as follows:

1. The Commission does possess subject matter jurisdiction over the tort claim filed by the Claimant.
2. The tort claims are not barred by the three-year statute of limitations.

WHEREFORE, Claimant prays that the Motion to Dismiss be denied.

Respectfully Submitted,

Ricky D. Ivy, Jr., Claimant

By: 

Tom Thompson, ABA #77133
Casey Castleberry, ABA #2003109
MURPHY, THOMPSON, ARNOLD,
SKINNER & CASTLEBERRY
Post Office Box 2595
Batesville, Arkansas 72503
(870) 793-3821 - telephone
(870) 793-3815 - facsimile
aftomt2001@yahoo.com
caseycastleberry2003@yahoo.com

RECEIVED

AUG 12 2008


Arkansas State
Claims Commission

CERTIFICATE OF SERVICE

I, the undersigned, state upon oath that I have caused a true and correct copy of the above and foregoing Response to Motion to Dismiss to be placed in the U.S. Mail, postage paid to:

Kay J. Jackson Demaily
Office of Child Support Enforcement
Post Office Box 8133
Little Rock, Arkansas 72203

on this 17 day of August, 2008.



Tom Thompson, Attorney

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICKY D. IVY, JR..

CLAIMANT
RECEIVED

VS.

08-0508-CC

STATE OF ARKANSAS,
DEPARTMENT OF FINANCE AND
ADMINISTRATION, OFFICE OF
CHILD SUPPORT ENFORCEMENT

AUG 12 2008
Arkansas State
Claims Commission

RESPONDENT

**CLAIMANT'S BRIEF IN SUPPORT
OF ITS RESPONSE TO MOTION TO DISMISS**

The Respondent is correct in its assertion that there exists specific statutory authority to require repayment of child support when an Order is void, *ab initio*. That point is conceded. That does not address the issue of the damages arising from wrongful imprisonment and for the imposition of a Court Order that has adversely affected this Claimant since the Order was erroneously entered. The statute does not bar Claimant's right to seek redress for those injuries.

The limitation period for the tort claims began to accrue upon the entry of the Order by the Arkansas Court of Appeals which was filed of record, June 27, 2007. (See attached Decision)

Prior to that time, there was a facially valid Court Order issued by the Circuit Court of St. Francis County declaring Claimant to be the putative father of the child. Until such time as that Court Order was declared a nullity, the Claimant had no rights to pursue. He could not have filed a claim for deprivation of rights without first attacking the validity of the original paternity Order. If he had, it would have been summarily dismissed as his incarcerations were pursuant to a facially valid order of the Court.

It was only until the Order was declared, void *ab initio*, that his rights sprang into being and the limitation period, began to accrue. He therefore has three years from the date that the Court of Appeals entered its decision, within which to bring these claims.

For the reasons provided herein, Claimant prays that this Committee deny Respondent's Motion to Dismiss.

Respectfully Submitted,

Ricky D. Ivy, Jr., Claimant

By: 

Tom Thompson, ABA #77133

Casey Castleberry, ABA #2003109

MURPHY, THOMPSON, ARNOLD,

SKINNER & CASTLEBERRY

Post Office Box 2595

Batesville, Arkansas 72503

(870) 793-3821 - telephone

(870) 793-3815 - facsimile

aftomt2001@yahoo.com

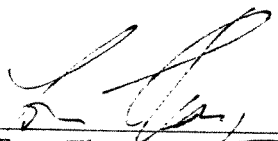
caseycastleberry2003@yahoo.com

CERTIFICATE OF SERVICE

I, the undersigned, state upon oath that I have caused a true and correct copy of the above and foregoing Response to Motion to Dismiss to be placed in the U.S. Mail, postage paid to:

Kay J. Jackson Demailly
Office of Child Support Enforcement
Post Office Box 8133
Little Rock, Arkansas 72203

on this ____ day of August, 2008.


Tom Thompson, Attorney

DIVISION I
ARKANSAS COURT OF APPEALS

RICKY D. IVY, JR. <p style="text-align: center;">APPELLANT</p> v. OFFICE OF CHILD SUPPORT ENFORCEMENT <p style="text-align: center;">APPELLEE</p>	No.	CA06-1165 Opinion Delivered <p style="text-align: right;">JUNE 27, 2007</p> APPEAL FROM THE ST. FRANCIS COUNTY CIRCUIT COURT [DR-91-290] HONORABLE BAIRD KINNEY, JUDGE REVERSED AND REMANDED
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

KAREN R. BAKER, Judge

Appellant, Ricky D. Ivy, Jr., appeals from the denial of a motion to set aside a default judgment entered against him in St. Francis County Circuit Court. On appeal, appellant argues that “the trial court erred in denying his motion to set aside the default judgment because service of process was completely failed.” Since “no notice was obtained, in derogation of due process, the default judgment obtained against him was void *ab initio*, and all proceedings founded upon that judgment are likewise void.” Appellant also argues that “even if service of process was merely insufficient, and not completely failed, he never waived his objection to jurisdiction because he never filed any responsive pleading under Ark. R. Civ. P. 7.” We agree with appellant that the judgment was void *ab initio*, and we reverse and remand with instructions to enter an order setting aside the default order and judgment.

Angela Flenoy filed a complaint on August 6, 1991, alleging that appellant was the biological father of her minor child and requesting that the court enter an order setting child support. After no responsive pleading was filed, the trial court entered a default order and judgment against

appellant. The default order and judgment specifically stated that the court had jurisdiction over appellant and that he was ordered to pay child support in the amount of \$15 per week.

Over the next twelve years, Angela Flenoy filed numerous motions for citation against appellant for failure to pay child support. As a result, appellant was held in contempt approximately eight times for non-payment of child support and ordered to spend a total of 390 days in jail. Appellant first retained counsel in 2002, and on December 2, 2002, filed a motion for paternity testing pursuant to Ark. Code Ann. § 9-10-115(e)(1)(A) (Repl. 2002). This was the first document filed by appellant. Appellee, Office of Child Support Enforcement (OCSE), filed a response to the petition for paternity testing. The court granted appellant's petition for paternity testing and ordered a paternity test. The test conclusively established that appellant was *not* the biological father of Angela Flenoy's child.

On December 2, 2005, appellant filed a motion to set aside default order and judgment, based on the fact that the proof of service revealed that the complaint and summons were served upon Derrick Ivy, appellant's brother, and contained a note that appellant was living in Springfield, Missouri. A hearing was held on January 17, 2006, and his motion was denied. From that ruling, comes this appeal.

In *Raymond v. Raymond*, 343 Ark. 480, 484–85, 36 S.W.3d 733, 735 (2001), our supreme court stated:

Arkansas law is long settled that service of valid process is necessary to give a court jurisdiction over a defendant. *Tucker v. Johnson*, 275 Ark. 61, 628 S.W.2d 281 (1982) (citing *Halliman v. Stiles*, 250 Ark. 249, 464 S.W.2d 573 (1971), and *Southern Kansas Stage Lines Co. v. Holt*, 192 Ark. 165, 90 S.W.2d 473 (1936)). Moreover, a summons is necessary to satisfy due process requirements. *Thompson v. Potlatch Corp.*, 326 Ark. 244, 930 S.W.2d 355 (1996). It is also mandatory under Arkansas law that *service of process must be made within 120 days* after the filing of the complaint unless there is a motion to extend, and if service is not obtained within the 120 day period and no such motion is made, dismissal is required upon motion or upon the court's own initiative. *See* Ark. R. Civ. P. 4(i); *Lyons v.*

Forrest City Machine Works, Inc., 301 Ark. 559, 785 S.W.2d 220 (1990) (under Rule 4(i), the trial court's dismissal of the case for failure to make service of summons was mandatory); *see also Southeast Foods, Inc. v. Keener*, 335 Ark. 209, 979 S.W.2d 885 (1998); *Dougherty v. Sullivan*, 318 Ark. 608, 887 S.W.2d 305 (1994); *Lawson v. Edmondson*, 302 Ark. 46, 786 S.W.2d 823 (1990).

Our case law is equally well-settled that statutory service requirements, being in derogation of common-law rights, must be strictly construed and compliance with them must be exact. *Carruth v. Design Interiors, Inc.*, 324 Ark. 373, 921 S.W.2d 944 (1996) (citing *Wilburn v. Keenan Cos.*, 298 Ark. 461, 768 S.W.2d 531 (1989), and *Edmonson v. Farris*, 263 Ark. 505, 565 S.W.2d 617 (1978)). In *Carruth*, this court held that the same reasoning applies to service requirements imposed by court rules, and that proceedings conducted where the attempted service was invalid renders judgments arising therefrom void *ab initio*. The *Carruth* court, quoting from *Tucker v. Johnson, supra*, further held that actual knowledge of a proceeding does not validate defective process. *Carruth*, 324 Ark. at 375, 921 S.W.2d 944. Stated in different terms, the general rule is that a judgment entered without jurisdiction of the person or the subject matter or in excess of the court's power is void. *Neal v. Wilson*, 321 Ark. 70, 900 S.W.2d 177 (1995).

Here, service on appellant was unquestionably defective. Angela Flenoy indisputably failed to serve appellant with a copy of the complaint or summons. There was no service on appellant within the 120-day time frame required by Ark. R. Civ. P. 4(i), which states that "if service of summons is not made upon a defendant within 120 days after the filing of the complaint, the action *shall* be dismissed as to that defendant without prejudice upon motion or upon the court's initiative." (Emphasis added.) Angela Flenoy also failed to file a motion to extend the time or obtain a waiver and entry of appearance whereby appellant waived service of summons or process. Under such circumstances, the circuit court had jurisdiction over this matter only to the extent needed to dismiss the case as required by Ark. R. Civ. P. 4(i) and nothing more. *See Boyd v. Sharp County Circuit Court*, 368 Ark. 566, ___ S.W.3d ___ (Jan. 25, 2007). In going beyond that point, the circuit court clearly exceeded its jurisdiction and its failure to enter an order dismissing the case constituted a plain, manifest, clear, and gross abuse of discretion. *Id.* Any judgment entered without jurisdiction of the person or the subject matter or in excess of the court's power is void *ab initio*. *Raymond*,

supra (citing *Carruth, supra*).

OCSE concedes that service was invalid, but argues that appellant waived jurisdiction under Ark. R. Civ. P. 12(h) both by making an appearance and by filing a responsive pleading (the petition for paternity testing). OCSE cites three cases in support of the argument that appellant waived jurisdiction: *Burrell v. Ark. Dep't of Human Servs.*, 41 Ark. App. 140, 850 S.W.2d 8 (1993) (father's failure to raise claim of defective service before the middle of the second hearing amounted to a waiver and precluded him from thereafter taking advantage of the defect); *Blankenship v. Office of Child Support Enforcement*, 58 Ark. App. 260, 952 S.W.2d 173 (1997) (putative father's failure to assert defense of lack of personal jurisdiction until halfway through the second trial amounted to a waiver of defense); and *Hamm v. Office of Child Support Enforcement*, 336 Ark. 391, 985 S.W.2d 742 (1999) (father's failure to timely file a motion raising the insufficiency-of-service-of-process defense or failure to raise the defense in the answer that he filed, amounted to a waiver of the defense under the terms of Rule 12) . However, each of these cases is distinguishable because in these cases the defendants' appearance and participation occurred before the entry of the judgment; therefore, the defense of lack of personal jurisdiction was waived prior to the entry of the judgment, and the trial court could rely on that waiver in entering judgment against the defendant. In contrast, the trial court here did not have personal jurisdiction over appellant, and appellant had not waived the issue at the time the judgment was entered.

Although the appellant was required to participate in subsequent enforcement proceedings on the judgment, his participation could hardly be construed as voluntary, nor could it cure the void judgment. Likewise, the fact that appellant filed a petition for paternity testing did not validate the void judgment. *See Raymond*, 343 Ark. 480, 488, 36 S.W.3d 733, 737–38 (finding that where it was undisputed that the former wife was never served with process or received a copy of the complaint

for divorce, thus rendering the divorce decree void *ab initio*, a reconciliation agreement signed by the former wife prior to the entry of the decree did nothing to validate defective service). For the foregoing reasons, we reverse and remand with instructions to enter an order setting aside the default order and judgment.

BIRD and VAUGHT, JJ., agree.

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ _____ ? _____

Claim No. 08-0508-CC

Ricky D. Ivy, Jr.	Claimant	Attorneys Tom Thompson, Attorney	Claimant
vs.			
DFA/Office of Child Support Enforcement	Respondent	Kay Demaily, General Counsel	Respondent
State of Arkansas			
Date Filed	December 26, 2007	Refund of expenses, mental anguish	Type of Claim

FINDING OF FACTS

The Claims Commission hereby unanimously grants Respondent's "Motion to Dismiss" for reasons the contained therein. **Therefore, this claim is hereby unanimously denied and dismissed.**

IT IS SO ORDERED.

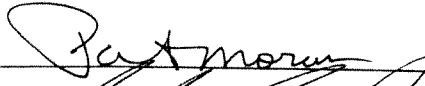
(See Back of Opinion Form)

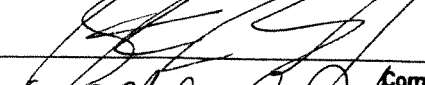
CONCLUSION

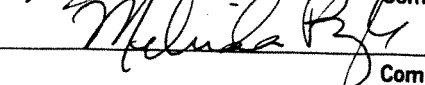
Upon consideration of all the facts, as stated above, the Claims Commission hereby **unanimously denies and dismisses this claim for the reasons contained therein.**

Date of Hearing August 14, 2008

Date of Disposition August 14, 2008


Chairman


Commissioner


Commissioner

49

*Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 2

Claim No. 08-0508-CC

Ricky D. Ivy, Jr. Claimant
vs.

Attorneys
Tom Thompson, Attorney Claimant

AR Office of Child Support Enforcement
State of Arkansas Respondent

Kay Demailly, General Counsel
Respondent

Date Filed April 10, 2009

Type of Claim Property damage

FINDING OF FACTS

This claim was filed for a refund of expenses and mental anguish in an unspecified Amount against Arkansas Office of Child Support Enforcement.

Present at a hearing August 14, 2009 was the Claimant, represented by Tom Thompson, Attorney, and the Respondent, represented by Kay Demailly, Legal Counsel.

The Claims Commission majority denies and dismisses this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent. **Therefore, this claim is hereby unanimously denied and dismissed.**

* Commissioner Lancaster dissents the majority opinion.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, **the Claims Commission hereby denied and dismissed this claim for Claimant's failure to prove by a preponderance of the evidence any liability on the part of the Respondent.**

August 14, 2009

Date of Hearing _____

August 14, 2009

Date of Disposition _____

[Signature]
Chairman

* Commissioner Lancaster dissents the majority opinion. [Signature]
Commissioner

[Signature]
Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

50

MURPHY, THOMPSON, ARNOLD, SKINNER & CASTLEBERRY

W.D. MURPHY, JR.
(1912-1987)
TOM THOMPSON
BLAIR ARNOLD
J.T. SKINNER
CASEY CASTLEBERRY

ATTORNEYS AT LAW
P.O. BOX 2595
BATESVILLE, ARKANSAS 72503-2595
TELEPHONE: (870) 793-3821

REGIONS BANK BUILDING
1141 E. MAIN, SUITE 300
FAX: (870) 793-3815

September 15, 2009

Sent via facsimile: (501)682-2823
and Regular U.S. Mail

State Claims Commission
101 East Capitol Avenue, #410
Little Rock, AR 72201

Re: Ricky D. Ivy, Jr. V. DFA/Office of Child Support Enforcement
Claim No. 08-0508-CC

Dear Sir/Madam:

We wish to appeal the findings of fact and conclusions of law issued on August 14, 2009 to the Arkansas General Assembly. Please consider this letter as our notice and request for appeal.

Very truly yours,



Tom Thompson

TT/cac

cc: Kay Demaily
Chaney Taylor
Ricky D. Ivy, Jr.

ARKANSAS STATE
CLAIMS COMMISSION

SEP 22 2009

RECEIVED