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5-26-2016

### Valdez v. Aguilar, 132 Nev. Adv. Op. 37 (May 26, 2016)

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*Nevada Law Journal*

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#### Recommended Citation

Koerperich, Kory, "Valdez v. Aguilar, 132 Nev. Adv. Op. 37 (May 26, 2016)" (2016). *Nevada Supreme Court Summaries*. 961.

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FAMILY LAW: CHILD SUPPORT OBLIGATIONS

**Summary**

The Court determined that NRS 425.360(4) does not exempt a noncustodial parent, who receives public assistance, from a court-ordered child support obligation to the custodial parent of their child. NRS 425.360(4) only exempts a parent from a debt for support owed to the Division of Welfare and Supportive Services.

**Background**

In December 2010, the district court ordered Patricia Soto Aguilar to pay \$531 per month in child support obligations to Josue Terrones Valdez, the custodial parent of their child. On August 12, 2013, Valdez moved to enforce the child support order claiming that Aguilar owed arrearages of over \$19,000. Aguilar, who received public assistance during a portion of the time she owed child support, claimed that her obligation was suspended pursuant to NRS 425.360(4). The family court master found that Aguilar's child support obligation was suspended while receiving public assistance for the benefit of her dependent children and the district court agreed.

**Discussion**

The Court held that a noncustodial parent receiving public assistance is not exempt from paying arrearages to a custodial parent under NRS 425.360(4). NRS 425.360(4) excuses payments of debts for child support owed by a parent to the Division of Welfare and Supportive Services ("the Division") if the parent receives public assistance for the benefit of any child. The Court determined that the plain language of NRS 425.360 only applies to debt for support owed to the Division, and not to a custodial parent such as Valdez. The Court also reasoned that the spirit of the statute comports with a determination that NRS 425.360 only applies to debt for support owed to the division. NRS 425.360 was enacted as part of a federal mandate with the goal of decreasing the burden on welfare departments by requiring parents to pay for the support of their child, and ensures that the Division will be reimbursed by a responsible parent for the support the Division made to the child.<sup>2</sup> Therefore, when there is no debt for support owed to the Division, such as in this case, NRS 425.360 is irrelevant.

**Conclusion**

NRS 425.360 does not apply in cases where there is no debt for support of a child owed to the Division. Here, Aguilar owed a debt to Valdez and not to the Division. As such, the court reversed the district court and held that NRS 425.360 does not apply and Aguilar's child support obligations were not suspended during the time she received public assistance.

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<sup>1</sup> By Kory Koerperich.

<sup>2</sup> See NEV. REV. STAT. § 425.340 (stating that the goal of NRS Chapter 425 is for "children [to] be promptly maintained insofar as possible from the resources of responsible parents.") and NEV. REV. STAT. § 425.340 (stating that the goal of NRS Chapter 425 is for "children [to] be promptly maintained insofar as possible from the resources of responsible parents.").