

At a term of the Family Court of the State of New York, held in and for the County of Broome at Binghamton, New York on May 7, 2009

**HON. SPERO PINES
FAMILY COURT JUDGE**

In the Matter of

Anderson County Tennessee,
(Apparent Assignee),

o/b/o Mary A Phillips-Jarnigan
(Apparent Assignor)

Petitioner,

v.

Anthony Laine,

Respondent.

DECISION & ORDER

Docket No. : F-1664-09/09B
Family File #: 29852

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR CONFINEMENT TO JAIL FOR A PERIOD OF UP TO SIX MONTHS FOR CONTEMPT OF COURT.

NOTICE: PURSUANT TO §1113 OF THE FAMILY COURT ACT, AN APPEAL MUST BE TAKEN WITHIN THIRTY DAYS OF RECEIPT OF A FINAL ORDER BY THE APPELLANT IN COURT, THIRTY FIVE DAYS FROM THE MAILING OF THE ORDER TO THE APPELLANT BY THE CLERK OF THE COURT, OR THIRTY DAYS AFTER SERVICE BY A PARTY OR LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

The State of Tennessee, by and through its apparently designated IV-D agent for the 7th Judicial District of that state, filed written objections with this court on April 22, 2009, challenging the order issued by Support Magistrate Eileen M. Kane which was entered on April 9, 2009. Said order provided that "the Registered Order is vacated."¹ Respondent Anthony Laine filed no response to the objections and, under the circumstances, none is

¹The court presumes that the Support Magistrate intended to vacate the Registration, and not the certified order of another state which was included with the petition for registration

circumstances, none is required.

Specifically, the objector states that the registration was vacated without any notice to them or any opportunity to be heard. It does appear, from the file and the order in question, that Mr. Laine's ex parte letter to the court was treated as a "Petition to Vacate the Registration." However, if the court chose to treat the filing as such, then it should have been copied to both parties.

Further, it appears that a hearing must be conducted. Family Court Act §580-606 (UIFSA) states that a nonregistering party may contest the validity of the order by requesting a hearing within twenty days of the notice of registration. Although Mr. Laine did not specifically request a hearing, it appears clear that both the statute and considerations of due process would require a hearing on the matter. It appears that his request to vacate the registration was granted without notice to the registering party or an opportunity for the registering party to be heard. Further, Family Court Act §580-607 states that when a party contests the validity of an order to be registered, the burden of proof is on the party who contests the order. Proof requires evidence and testimony, as discussed in Family Court Act §580-606.


For the foregoing reasons, it is hereby

ORDERED, that the written objections are granted in part; it is further

ORDERED, that the matter shall be remanded to the Support Magistrate for a hearing on the issue, on notice to all parties.

Dated: May 12th 2009

ENTER



Hon. Spero Pines
Family Court Judge

THE ORIGINAL OF THIS ORDER WAS ENTERED IN THE OFFICE OF THE BROOME COUNTY FAMILY COURT CLERK ON May 13, 2009

THE DISTRIBUTION OF THIS ORDER IS AS FOLLOWS*:

Upon:

Anderson County Tennessee,	<input checked="" type="checkbox"/> by mail	<input type="checkbox"/> in court	<input type="checkbox"/> personal service	<input type="checkbox"/> courier box
Anthony Laine,	<input checked="" type="checkbox"/> by mail	<input type="checkbox"/> in court	<input type="checkbox"/> personal service	<input type="checkbox"/> courier box
Carol A. Guthrie, Esq.,	<input checked="" type="checkbox"/> by mail	<input type="checkbox"/> in court	<input type="checkbox"/> personal service	<input type="checkbox"/> courier box
SM Eileen M. Kane	<input type="checkbox"/> by mail	<input type="checkbox"/> in court	<input type="checkbox"/> personal service	<input checked="" type="checkbox"/> courier box
SCU	<input type="checkbox"/> by mail	<input type="checkbox"/> in court	<input type="checkbox"/> personal service	<input checked="" type="checkbox"/> courier box

By: KI
Broome County Family Court Clerk's Office

*Service date and entry date are the same unless otherwise indicated.