
GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

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April 15, 2014

David Perry Davis, Esq.
112 W. Franklin Ave.
Pennington, NJ 08534-9541

Re: Enforcement of Child Support - Hearing to Determine Ability to Comply
with Current Child Support Obligation

Dear Mr. Davis:

This is in response to your April 10, 2014 letter to Justice Barry T. Albin regarding Pasqua v. Council, 186 N.J. 127 (2006), and Directive #15-08. In that letter, you suggested "that there has been widespread non-compliance with the [Pasqua] mandate that no litigant be coercively incarcerated unless a finding is made, based on evidence in the record, that there is a current ability to pay any release amount established."

The Judiciary was aware of the need for clarification and at its April 8 administrative conference the Supreme Court approved a detailed set of procedures and revisions to the form order regarding ability to pay hearings. Those procedures and the revised form order were promulgated on April 14 in Directive #02-14, which expressly modifies Directive #15-08. Directive #02-14 sets forth the steps for the court to follow when conducting a child support enforcement hearing, including: (a) the court's determination of the obligor's indigence, and (b) its separate determination of the obligor's ability to comply with the previously ordered child support obligation, consistent with Pasqua.

The Family judges received training on this on April 7. Court staff will be trained on the Directive #02-14 procedures shortly to ensure compliance with Directives #02-14 and #15-08.

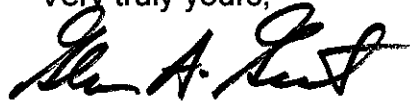
In your letter, you also noted that "any release amount must be established based on competent evidence of a current ability to pay that amount." Directive #15-08 includes a procedure for the Probation Division to negotiate a release amount with the obligor prior to the obligor appearing before the court. The court has discretion to modify

the release amount based on its findings as to an individual obligor's financial situation at the time of the enforcement hearing. Directive #02-14 did not change that aspect of Directive #15-08.

I read your comments in the April 14, 2014 *New Jersey Law Journal* article, "Court Takes Steps To Protect Rights of Poor Child-Support Delinquents," regarding new paragraph 4c of the revised enforcement of litigants rights order (CN 11213). If you have any specific suggestions in that regard, please let me know.

Thank you for raising these concerns in an administrative setting. I trust that Directive #02-14 and this letter demonstrate the Judiciary's responsiveness to those concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Glenn A. Grant", with a stylized flourish at the end.

Glenn A. Grant

Attachment: Directive #02-14

cc: Steven D. Bonville, Chief of Staff
Robert W. Smith, Director, Trial Court Services
Joanne M. Dietrich, Assistant Director, Family Practice
Elizabeth Domingo, Assistant Director, Probation Services
Gurpreet M. Singh, Special Assistant
Amelia Wachter-Smith, Chief, Family Practice
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