



Denise Brown

Attorney at Law

502-587-0331 telephone • 502-587-0333 fax

327 Guthrie St • Louisville, KY 40202

www.4realdirection.com

@attydenisebrown

Civil Contempt Improper: You cannot be compelled to do the Impossible!

In [Ivy v. Cabinet for Health and Family Services, et. al, 2009-CA-001279-ME \(Ky. App. 2010\)](#), The Kentucky Court of Appeals reversed a trial court finding of contempt for failure to pay child support. In the instant case, Mom was a recipient of SSI disability benefits and had been awarded joint custody of her minor child. Because of Mom's mental disabilities, the minor child resided with Dad and was ordered to pay \$106.00 per month for child support.

Mom became delinquent in her support obligations and Dad filed a motion requesting that Mom be held in contempt. During the hearing, evidence indicated that Mom's sole income source was \$637.00 in SSI disability benefits. Mom's finances were handled by a representative payee and after payment of rent and the payee fee, Mom's remaining funds were no more that \$50.00 each month.

Based on the Mom's apparent inability to pay the ordered child support from her disability funds or from any potential employment, the Court opined that holding Mom in civil contempt was an abuse of the trial court's discretion. In effect, the order of civil contempt was to compel the doing of an impossible act. Mom's failure to pay was not willful.

In summary, a finding of civil contempt for failure to pay child support must be related to the amount Mom is found able to pay and her failure to pay must be willful. Relying on prevailing case law, the Kentucky Appellate Court acknowledged that a trial court has nearly unlimited discretion in exercising its contempt powers. Absent an abuse of this broad discretion, the reviewing court will not reverse a finding of contempt unless the decision is found to be arbitrary, unreasonable, unfair and unsupported by sound legal principles. Based on the evidence presented, the Court found that the standard had been met and reversed the order of civil contempt.

Denise Brown's Legal Direction: Providing Balanced Family Law Counsel to individuals and families in Louisville, Shelbyville and surrounding counties.

Louisville Office
327 Guthrie Street
Louisville, KY 40202
502-587-0331

Shelbyville office
300 Washington St, #201
Shelbyville, KY
502-633-7298