

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

FLORIDA DEPARTMENT OF
REVENUE AND BOBBIE S.
WEAVER,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

Appellants,

CASE NO. 1D11-112

v.

GERALD T. FREDEKING,

Appellee.

_____ /

Opinion filed August 23, 2011.

An appeal from the Circuit Court for Bay County.
Elijah Smiley, Judge.

Pamela Jo Bondi, Attorney General, and Toni C. Bernstein, Senior Assistant
Attorney General, Tallahassee, for Appellants.

Gerald T. Fredeking, pro se, Appellee.

PER CURIAM.

In this appeal from a proceeding to enforce an administrative support order,
the Department of Revenue claims the circuit court erred in entering a superseding
order prospectively reducing appellee's child support obligation in the absence of

any pleadings requesting a superseding order on child support. We agree and reverse.

“It is well settled that an order adjudicating issues not presented by the pleadings, noticed to the parties, or litigated below denies fundamental due process.” Neumann v. Neumann, 857 So. 2d 372, 373 (Fla. 1st DCA 2003). The circuit court could not enter a superseding order prospectively reducing appellee’s child support obligation where such an issue was not presented by the pleadings, noticed for hearing, or litigated by the parties. See State, Dep’t of Revenue ex rel. Arnold v. Collins, 727 So. 2d 1099, 1100 (Fla. 2d DCA 1999); Moody v. Moody, 721 So. 2d 731, 734 (Fla. 1st DCA 1998); Hammond v. Hammond, 492 So. 2d 837, 838 (Fla. 5th DCA 1986); Lourcey v. Lourcey, 256 So. 2d 25, 26 (Fla. 1st DCA 1971).

Although the circuit court found it inequitable to enforce the administrative support order based on a new child support determination, appellee did not object to the enforcement of the order, and there is no authority for the circuit court to revisit child support calculations in an enforcement proceeding pursuant to section 409.2563(10)(b), Florida Statutes. Accordingly, we reverse the superseding order and remand the case for the entry of an order enforcing the administrative support order. This is without prejudice to appellee seeking administrative modification of the order pursuant to section 409.2563(12), Florida Statutes, or seeking a

superseding order by filing a civil action in circuit court to determine parental support obligations pursuant to section 409.2563(2)(d), Florida Statutes.

REVERSED and REMANDED.

THOMAS, WETHERELL, and SWANSON, JJ., CONCUR.