

**IN THE COURT OF APPEALS OF TENNESSEE,
AT NASHVILLE**

STATE OF TENNESSEE, EX REL.,)	C.A. NO. M1999-00138-COA-R3-CV
LOU ANN BATES,)	Perry County Juvenile Court No. CS 604
)	
Petitioner/Appellant,)	
)	HON. CLOVIS PARNELL, JUDGE
VS.)	
)	AFFIRMED AS MODIFIED AND

FILED

November 30, 1999

**Cecil Crowson, Jr.
Appellate Court Clerk**

DAVID D. QUALLS,)	REMANDED
)	
Respondent/Appellee.)	OPINION FILED:

Paul G. Summers, Attorney General and Reporter
Stuart Wilson-Patton, Assistant Attorney General
For Petitioner/Appellant,

Donald W. Schwendimann, Hohenwald, Tennessee, for Respondent/Appellee.

MEMORANDUM OPINION¹

Farmer, J.

The State of Tennessee, ex rel., Lou Ann Bates appeals from the judgment of the trial court in this paternity action awarding child support of \$75 per week and ordering the respondent, David D. Qualls, to pay the sum of \$740 as one-half of the total AFDC payments received by Ms. Bates since the filing of the petition.

A petition was filed to establish that Mr. Qualls was the father of a minor child, Cecil J. Bates, born November 2, 1994. In addition to seeking establishment of paternity, the petition sought an award of child support in accordance with the Child Support Guidelines. Mr. Qualls, through his

attorney, answered the petition wherein he admitted he was the natural father of the minor child and asked that the court award prospective child support only, change the surname of the child to Qualls and establish visitation.

Following a hearing in the court below, the trial court ordered Mr. Qualls to pay \$75 per week and the sum of \$740 as one-half of the total AFDC payments. The order states that “[r]espondent has two other children to support and that paying 21% to the child in the instant matter would be an extreme economic hardship to Respondent’s other children”

The state filed a motion to alter or amend the judgment on the basis that the trial court deviated from the child support guidelines without making a specific written finding as the Guidelines require. *See* Tenn. Comp. R. & Regs. tit. 10, ch. 1240-2-4-.02(7) (revised 1994). The motion further recited that, although the mother did not request reimbursement for any of her expenses for the support of the child, the State of Tennessee requested a judgment for the \$4,500 paid to support the child while Mr. Qualls failed to do so.² Mr. Qualls responded to the State’s brief, through his counsel, wherein he candidly and commendably stated that “[t]he Respondent/Appellee reluctantly concludes after an exhaustive search of precedent in this area that he cannot submit an intellectually-honest argument supported by authorities to counter the position set out by the [S]tate of Tennessee. Therefore, the Respondent/Appellee does not contest that child support should have been set at \$110.00 per week and that he should be required to pay the \$4,500.00 to reimburse the [S]tate of Tennessee for welfare payments made to his son”

Based upon the record before us and the concession of Mr. Qualls, the judgment of the trial court is modified to increase child support payments to \$110 per week³ and increasing the amount of reimbursement to the State of Tennessee to the sum of \$4,500. The costs of this appeal are taxed to Mr. Qualls and this cause is remanded to the trial court for any further necessary proceedings.

FARMER, J.

CRAWFORD, P.J., W.S.

HIGHERS, J.