

# IN THE SUPREME COURT OF TEXAS

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No. 07-0919

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IN RE REZA ZANDI

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ON PETITION FOR WRIT OF HABEAS CORPUS

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## SUPPLEMENTAL OPINION ON REHEARING

In support of the motion for rehearing of the real party in interest, Kathleen Richardson, the Harris County Domestic Relations Office has submitted a brief as amicus curiae, requesting clarification of the Court’s opinion. Amicus acknowledges that when a person appears at a status hearing set by the court in a contempt or commitment order as a condition of suspension of his sentence for failure to pay child support, without notice of any assertion that suspension will be revoked, the court cannot revoke suspension without notice and a second hearing. The amicus states:

If the respondent appears at the compliance (status) hearing and the movant alleges noncompliance and requests revocation, the trial court must conduct a subsequent or second hearing. The trial court cannot revoke the suspension of commitment or impose sentence without affording the respondent a subsequent hearing, thereby satisfying the due process “hearing” requirement. . . . The subsequent or second hearing is required even if the “conditional” contempt or commitment order provides that failure to comply will result in confinement “without any further notice to the respondent.”

This, of course, is what our opinion holds.

The amicus argues that respondent need not be given other notice of the status hearing besides the setting contained in the contempt or commitment order. Our opinion imposes no such requirement. We hold only that, as the amicus recognizes, respondent's suspension cannot be revoked at the status hearing without prior notice that revocation will be sought, affording the respondent an opportunity to prepare any defense to specific complaints. The amicus argues that relator Zandi "received notice of the compliance hearing at the contempt stage of the proceeding and neither case law nor statute require subsequent additional notice before proceeding with a compliance hearing." We agree. But Zandi did not receive written notice prior to the compliance hearing that Richardson intended to seek revocation, stating the reasons. It is for want of that notice that Zandi is entitled to discharge.

Richardson's motion for rehearing is denied.

Opinion delivered: December 19, 2008