In the Supreme Court of the State of California

ANGIE CHRISTENSEN,

Plaintiff and Respondent,

v.

WILL LIGHTBOURNE, DIRECTOR, CALIFORNIA DEPARTMENT OF SOCIAL SERVICES; CALIFORNIA DEPARTMENT OF SOCIAL SERVICES,

Defendants and Appellants.

Case No. S245395

First Appellate District, Case No. A144254
San Francisco County Superior Court, Case No. CPF-12-512070
Honorable Ernest H. Goldsmith, Judge

ANSWER TO PETITION FOR REVIEW

XAVIER BECERRA
Attorney General of California
JULIE WENG-GUTIERREZ
Senior Assistant Attorney General
SUSAN M. CARSON
Supervising Deputy Attorney General
*JENNIFER A. BUNSHOFT
Deputy Attorney General
State Bar No. 197306
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5085
Jennifer.Bunshoft@doj.ca.gov
Attorneys for Defendants-Appellants Will Lightbourne and California Department of Social Services

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INTRODUCTION

As the Court of Appeal recognized, this matter "presents a narrow question about what counts as family income when determining a family's eligibility for cash aid under the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program." (Opn. 1.) After comprehensively reviewing the relevant CalWORKs statutory and regulatory scheme, and applying well-established precedent regarding agency deference, the Court of Appeal correctly determined that no statute or regulation required the categorical exemption of child support garnished from plaintiff Angie Christensen's husband's income in determining eligibility for CalWORKs aid. It recognized that when CalWORKs replaced the prior Aid to Families with Dependent Children (AFDC) program, it established a "simplified" method of grant calculation that is more generous overall than the prior method, and which creates a "greater incentive for welfare recipients to earn additional income and thus to assist families in becoming more self-sufficient more quickly." (Opn. 3-4, 24.) Thus, in determining eligibility, CalWORKs exempts the first $225 of monthly earned income, and 50 percent of all remaining earned income, whereas the AFDC program exempted only the first $30 of earned income, and just one-third of any remaining earned income. In exchange for this more generous, simplified formula, CalWORKs eliminated some of the specific exemptions that had previously existed under AFDC, including the exemption for amounts garnished for child support.

The Court of Appeal therefore concluded that the longstanding policy of defendants the Department of Social Services and Director Lightbourne (collectively, the Department), of treating such amounts as income, subject to the earned income disregard, in determining an applicant family's eligibility for CalWORKs cash aid "is based on a reasonable interpretation of the statutes and regulations." (Opn. 2, 26.)

In seeking this Court's further review, the petition for review ascribes conflict where none exists and misrepresents the Court of Appeal's holding. Plaintiff argues that the decision conflicts with a general principle of "income availability" articulated in prior decisions, but those earlier cases, addressing different issues and different aid programs, simply are not relevant here. Plaintiff further argues that this Court should "settle the important question of available financial resources" in the CalWORKs program. There is, however, nothing for this Court to settle. The Court applied well-established precedent regarding deference to the agency's reasonable interpretation of available income, and plaintiff's contrary interpretation, containing no limiting principle, is unworkable.

In addition, plaintiff argues that the decision raises an important unsettled question of law regarding the scope of Welfare and Institutions Code section 11005.5, which plaintiff claims prohibits "double counting" of income. But that question is not properly presented here, as the Court of Appeal found it unnecessary to resolve how broadly section 11005.5's prohibition applies. Instead, it assumed plaintiff's legal premise for the sake of argument and concluded that even under plaintiff's broad interpretation of section 11005.5's scope, there still would be no violation of section 11005.5 based on the facts presented in the case.

The Court of Appeal's decision is narrow and reflects a thoughtful application of settled case law regarding agency deference to the Department's reasonable and longstanding interpretation of the CalWORKs statute and its own regulations. There is no reason for further review.

STATEMENT OF THE CASE

As part of a comprehensive reform of the State's welfare program, the Legislature enacted the CalWORKs program in 1997, to replace the AFDC program. (CT 67-95; *Sneed v. Saenz* (2004) 120 Cal.App.4th 1220, 1239.)

CalWORKs provides cash grants to families with minor children that meet certain requirements, including limited income and resources, and are deprived of the support of one or both parents due to factors such as absence, disability or unemployment. (*Sneed v. Saenz*, *supra*, 120 Cal.App.4th at p. 1231; Welf. & Inst. Code, § 11250, subds. (a)-(c).) The Legislature created a new simplified grant calculation methodology designed to encourage CalWORKs recipients to increase their work efforts, and thereby increase the amount of income available to their families. (Welf. & Inst. Code, § 11451.5; CT 315; *Sneed v. Saenz*, *supra*, 120 Cal.App.4th at p. 1240.) Specifically, CalWORKs allows a family to exempt from its gross income up to the first $225 of its disability-based income and earned income, plus 50 percent of any remaining earned income. (Welf. & Inst. Code, § 11451.5, subd. (a); Opn. 3.) This is a more generous earned-income exemption than under AFDC, which allowed families to exempt only the first $30 and one-third of any remaining earned income. (Opn. 3-4; CT 326-328.)

The Department is charged with supervisory authority over the administration of CalWORKs, and with adopting regulations to implement it. (Opn. 4; Welf. & Inst. Code, §§ 10554, 10600, 11209.) Shortly after passage of the CalWORKs statute, the Department informed the counties that CalWORKs eliminated certain existing income disregards, including the prior income disregard for child support payments by a non-custodial parent to a child outside the household, and replaced them with the new earned-income disregard, and also repealed the AFDC regulation that had set forth a child-support exemption. (Opn. 5-7; CT 320-324, 330; Appellants' Request for Judicial Notice on Appeal, Exh. A, p. 10.)

Plaintiff applied for CalWORKs benefits on October 15, 2010. Her family consisted of herself, her husband, her three children from a prior marriage, and three children she and her husband had together.

(Administrative Record (AR) 7.) Because the latter three children were each born at a time when the family had been receiving aid for at least 10 months prior to each birth, the household's income threshold for CalWORKs benefits—known as the "Maximum Aid Payment" threshold—did not increase despite the additional children in the family, pursuant to then-applicable law. (AR 3; former Welf. & Inst. Code, § 11450.04.) The family did not include plaintiff's husband's other children who did not live with them. Child support was garnished from plaintiff's husband's wages and his unemployment insurance benefits to support these three children from prior relationships. (AR 3.) According to plaintiff, the garnished child support was: (1) for one of her husband's children who was currently receiving CalWORKs aid with the child's mother; (2) for back child support for another of his children who was an adult at the time of plaintiff's CalWORKs application, which should have been paid when the child's mother was receiving CalWORKs aid; and (3) for his third child who was not receiving CalWORKs aid. (AR 3, 40:14-41:7.)

San Mateo County denied plaintiff's application for CalWORKs benefits, because the net income of her household exceeded the Maximum Aid Payment threshold. (AR 3-5.) Plaintiff contested the decision, contending that the amounts garnished from her husband's income for child support should not count towards the household income. (AR 22-25.) The administrative law judge (ALJ) issued a proposed decision, finding that the garnished child support payments were not "available" to meet the needs of her family, and should not have been counted as income. (AR 7-9.) The Department's Director reversed the ALJ's decision. (AR 3-5.) He determined that because "no regulation exempts child support payments paid by or garnished from [a household] member's earned or unearned income," the garnished child support payments were "correctly included as

nonexempt available income in determining his household's eligibility for CalWORK's benefits." (AR 4-5.)

Plaintiff filed a combined petition for writ of mandate under Code of Civil Procedure sections 1094.5 and 1085 and a complaint for declaratory relief in the Superior Court of California for the County of San Francisco. (CT 5-30.) She alleged that the Department was violating applicable statutes and regulations by failing to deduct garnished child-support payments in determining her household's eligibility for aid. (CT 6-14.)

The trial court, over the Department's objection, held that the Department's position was contrary to its own definition of income in its regulations, and that its "interpretation of the governing scheme" was contrary to Welfare and Institutions Code section 11005.5. (CT 618:8-23.) It issued a writ of administrative mandate and declared that the Department's "policy to count court-ordered child support payments as available income of the CalWORKs applicants and recipients who pay the support is invalid as it violates [the Department's] own regulation and California law." (CT 619:2-11.) The Department appealed. (CT 628-630.)

The Court of Appeal unanimously reversed the trial court. It addressed the "narrow question" of what counts as family income when determining a family's eligibility for cash aid under CalWORKs. (Opn. 1.) The court reviewed the administrative record, relevant legislative history, the All County Letter in which the Department set forth its policy of counting garnished child support as income of the non-custodial parent's household, the rulemaking file for CalWORKs regulations, and the applicable regulations. Based on this review, it concluded that "since the Legislature first adopted CalWORKs 20 years ago, the Department has consistently maintained that court-ordered child support counts as income to the payer's family in determining the family's CalWORKs eligibility and aid amount." (Opn. 26.) As the Court of Appeal recognized in determining

that the Department's longstanding policy was reasonable, the CalWORKs statute eliminated the income disregards under AFDC and replaced them with new exemptions, most notably, the generous earned and disability-based income disregard in Welfare and Institutions code section 11451.5. (Opn. 24.) It agreed with the Department that "[t]he grant calculation would not be more simplified if new exemptions were adopted yet all the prior deductions remained in effect." (*Ibid.*)

The Court of Appeal addressed plaintiff's argument that the Department's policy of counting income garnished for child support violates its own regulation, Manual of Policies and Procedures (MPP) section 44-101(a).[1] That regulation provides: "To be considered in determining the cash aid payment, income must be reasonably anticipated to be available to needy members of the family in meeting their needs during the . . . Payment Period." (MPP § 44-101(a).) The Court was "skeptical of [plaintiff's] interpretation of the phrase 'available to needy members of the family in meeting their needs,' however because it would apply equally to *any* deduction or withholding from paychecks." (Opn. 16.)

The Court also determined that the Department's policy did not violate Welfare and Institutions Code section 11005.5, which prohibits considering aid granted to a recipient or recipient group and the income or resources of the aid recipient or recipient group in determining eligibility for or the amount of aid of any other recipient or recipient group. (Opn. 19-23.) It recognized that the Department's interpretation of the CalWORKs

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[1] The Department's Manual of Policies and Procedures (MPP) contains its officially-adopted regulations. The relevant MPP sections in this matter are contained in the Clerk's Transcript on Appeal (CT 97-133, 505-558), and also are available on the Department's website. (http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CalWORKs-CalFresh-Regulations.)

statutes and its own regulations is entitled to deference, as it is "neither erroneous nor unauthorized in this case." (Opn. 26.)

The Court of Appeal reversed the judgment, directing the trial court to vacate its writ of mandate and order for declaratory relief on remand, and to enter a new judgment denying the petition for writ of administrative mandate and complaint for declaratory relief. (Opn. 26.)

WHY REVIEW SHOULD BE DENIED

Plaintiff contends that this Court should grant review for two reasons. Both lack merit. First, she contends that the Court of Appeal's decision conflicts with the principle of "income availability" articulated in prior decisions and that the Court should "settle the important question of available financial resources" in the CalWORKs program. This argument is based on a mischaracterization of the Court's decision, which creates no conflict with precedent. The Court's straightforward application of case law affording deference to an agency's interpretations of the laws it implements to the Department's interpretation of its own CalWORKs regulations does not raise an important issue requiring this Court's review.

Second, she argues that the Court of Appeal should "settle the important question" of the meaning of section 11005.5. This argument, too, is based on a misreading of the Court's decision. It did not resolve the interpretation of section 11005.5. Instead, the Court declined to reach this issue because it determined that, even assuming that plaintiff's interpretation of section 11005.5 were correct, on the facts of this case, no violation occurred. Further review is unwarranted.

I. THE COURT OF APPEAL'S DECISION IS CONSISTENT WITH THIS COURT'S PRECEDENT

Applying this Court's precedent, the Court of Appeal correctly determined that the Department's interpretation of its own CalWORKs

regulations limiting countable income to that which is "reasonably anticipated to be available" was reasonable and worthy of deference. (Opn. 16-19.) It reached this conclusion after applying the factors set forth in this Court's prior decisions on agency deference, which required that it "not overturn the Department's policy of counting child support as income to the payer's assistance unit, unless it is clearly erroneous or unauthorized under the applicable statutes and regulations." (Opn. 11-14 [discussing *Larkin v. W.C.A.B.* (2015) 62 Cal.4th 152, 158; *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7, 12-13; *Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1012; and *Sharon S. v. Superior Court* (2003) 31 Cal.4th 417, 436].) It found that the Department "offered a reasonable interpretation of its own regulation," and that plaintiff's contrary interpretation was unreasonable because it "would result in *all* mandatory garnishments from income being exempted from income in determining CalWORKs eligibility." (Opn. 19.)

Plaintiff's arguments that the Court of Appeal's decision conflicts with the principle of availability articulated in prior cases, and raises important, unsettled questions of law regarding available financial resources in the CalWORKs program lack merit.

A. The Court of Appeal's Decision Does Not Conflict with any General "Principle of Availability" Articulated in Prior Cases

Plaintiff's assertion that the Court of Appeal's decision conflicts with this Court's precedent regarding a general "principle of availability" for aid programs is incorrect. As a preliminary matter, eligibility for one aid program generally does not entitle someone to eligibility in another aid program, because income "exclusions and exemptions vary widely between programs." (MPP § 44-111.1; CT 519.) Thus, plaintiff's argument about the treatment of income in other welfare programs has no bearing on

whether child support payments should be considered income in the CalWORKs program.

But even assuming there is some such general principle, the argument fails. In support of her argument, plaintiff first cites a few cases issued by this Court in the 1970s and a few court of appeal cases, which involve the AFDC program, General Assistance, and other non-CalWORKS programs. (Pet. 16-19.) None of the reasoning in the cited cases regarding the availability of income or resources conflicts with the Court of Appeal's decision here. For example, in *Mooney v. Pickett* (1971) 4 Cal.3d 669, this Court held that General Assistance should not be denied to "employable" single men solely on the ground that they are theoretically "employable," even if they are not employed and there was no indication that a job awaits them. (*Id.* at pp. 679-680.) Likewise, in *Cooper v. Swoap* (1974) 121 Cal.3d 856, this Court held that a regulation that treated "noncash economic benefits," such as shared housing, as income to reduce AFDC grants, and assigned a fictional value to such benefits, was invalid. (*Id.* at pp. 867-870, 873.) *Waits v. Swoap* (1974) 11 Cal.3d 887, similarly confirmed that non-cash economic benefits, namely shared housing provided by "nonneedy" relatives, should not be deemed income of the AFDC recipient and deducted from the recipient's grant. (*Id.* at pp. 891-894.) In *Galster v. Woods* (1985) 173 Cal.App.3d 529, with respect to the individual plaintiffs in the case, the court deemed improper the policy of construing an AFDC program regulation to presume that real property was an "available" resource, even where the evidence showed that the unliquidated resource was not actually able to be converted to a liquidated resource to be used by the family. (*Id.* at pp. 537-538, 544.) Finally, *McCormick v. County of Alameda* (2011) 193 Cal.App.4th 201, invalidated a regulation to the extent it denied General Assistance to a child whose family did not receive any

cash assistance from CalWORKs, but rather only received food stamps and Medi-Cal benefits. (*Id.* at pp. 217-218.)[2]

None of the above cases stands for a general principle regarding available income that is applicable here. They addressed issues of theoretical "employability," non-cash economic benefits, unliquidated property that was unable to be sold, and denying General Assistance aid based on other aid that was not actually received. Here, in contrast, plaintiff's husband was receiving a steady paycheck through his employment and unemployment insurance benefits. (Opn. 7, 8 fn. 13; AR 3.) Neither his paycheck nor his unemployment insurance payments are theoretical or fictional sources of income. As the Court of Appeal determined, such income was reasonably anticipated to be received during the CalWORKs budgeting period, and therefore properly counted as plaintiff's household's available income, subject to the earned income disregard, in determining CalWORKs eligibility. (Opn. 14-19 [explaining that "available" in this context means "reasonably anticipated income" in the upcoming semi-annual reporting period]; Opn. 18 ["MPP section 44-102.1 specifies that all 'reasonable anticipated income' is, by definition, 'available to meet the needs of the' family."]) Accordingly, there is no conflict between those decisions and the Court of Appeal's decision here.

B. The Petition Does Not Raise Any Important, Unsettled Questions of Law Regarding Available Financial Resources in CalWORKs

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[2] Plaintiff also cites *Rogers v. Dietrich* (1976) 58 Cal.App.3d 90, which concluded that SSI/SSP aid received by a family member should not be considered in determining eligibility for General Assistance for the household. (*Id.* at pp. 96-99, 105-106.) *Rogers* has no bearing on this case, where the denial of CalWORKs to plaintiff's household was not based on the inclusion of any government aid as income of the household.

As stated above, the Department's regulation, MPP section 44-101(a), provides: "To be considered in determining the cash aid payment, income must be reasonably anticipated to be available to needy members of the family in meeting their needs during the . . . Payment Period." (MPP § 44-101(a).) The Court of Appeal was "skeptical of [plaintiff's] interpretation" of this regulation to exclude income garnished for child support obligations, which "would apply equally to *any* deduction or withholding from paychecks." (Opn. 16.) It agreed with the Department that, by plaintiff's reasoning, "any applicant for aid who has money deducted from his [or her] paycheck regarding any type of debt, such as a garnishment of wages by the IRS for delinquent past taxes owed or for debts owed to a creditor, could argue under the same reasoning that such funds are not 'available' to meet their household[']s needs and should not be counted as 'income' in determining CalWORKs aid." (*Ibid.*) It recognized that plaintiff's position is problematic because it "contains no limiting principle." (Opn. 17.) It found that "if garnished child support is not income under MPP section 44-101(a) because such amounts are not 'available to needy members of the family in meeting their needs,' then any amounts garnished from income would likewise not count as income," which would create a "potentially limitless exception which finds no support in the statutory structure or purpose of CalWORKs." (*Ibid.*)

As the Court of Appeal recognized, the United States Supreme Court rejected a similar argument that mandatory payroll deductions should be excluded from income when determining eligibility for welfare programs, due, in part, to the lack of a limiting principle between mandatory tax withholdings and other sums mandatorily withheld for obligations such as union dues, medical insurance, or retirement programs, which "no more pass through the wage earners hands than do mandatory tax withholdings." (*Heckler v. Turner* (1985) 470 U.S. 184, 202.) The Supreme Court

explained that "actual availability" served a different purpose—not to allow an applicant to argue that his or her income should be deemed to be lower, but instead "to prevent the States from conjuring fictional sources of income and resources by imputing financial support from persons who have no obligations to furnish it or by overvaluing assets in a manner that attributes nonexistent resources to recipients." (*Id.* at p. 200.)

Plaintiff asserts that child support is "unique" and "different" from other debts. (Pet. 19-20.) She notes that a family that is granted CalWORKs must assign its rights to child support to the county, and the noncustodial parent has the responsibility to pay the child support to the county. (Pet. 20.) But funds garnished for non-child support debts may be no more "available" to the family than funds garnished for child support, regardless of to whom they are paid. She also argues that child support must be paid before other debts owed to creditors. (Pet. 21.) But the order of payment of debts is a distinction without meaningful significance here.

Thus, the Court of Appeal properly rejected plaintiff's argument that garnished child support should be disregarded because "she cannot meaningfully distinguish child support obligations from any other debt that may lead to garnishment of income." (Opn. 18.) The Court of Appeal's decision is soundly reasoned, and does not warrant further review.

II. THE PETITION DOES NOT RAISE ANY IMPORTANT, UNSETTLED QUESTIONS OF LAW REGARDING THE INTERPRETATION OF WELFARE AND INSTITUTIONS CODE SECTION 11005.5

A. The Court of Appeal Found It Unnecessary to Resolve the Interpretation of Section 11005.5, Thus that Issue Is Not Properly Presented in this Case

Plaintiff's assertion that this case raises an important question of law concerning the proper interpretation of section 11005.5 is incorrect. (Pet. 23.) As a threshold matter, this issue was not decided by the Court of

Appeal and is not properly presented in this case. The Court of Appeal determined that it did not need to resolve this issue because, even assuming plaintiff's interpretation of section 11005.5 is correct, the Department's decision still would not violate section 11005.5, and plaintiff still would not be eligible for benefits. (Opn. 21, fn 25.)

Section 11005.5 provides that

> [a]id granted under this part or Part A of Title XVI of the Social Security Act to a recipient or recipient group and the income or resources of such recipient or recipient group shall not be considered in determining eligibility for or the amount of aid of any other recipient or recipient group.

(Welf. & Inst. Code, § 11005.5.) Plaintiff referred to this as a prohibition on "double counting" income, and the Court of Appeal used plaintiff's characterization in its decision as shorthand. (Opn. 22-23.) In briefing before the Court of Appeal, the parties disputed whether this prohibition on "double counting" applies to applicants for CalWORKs, or only to recipients of CalWORKs benefits, and whether it applies to two separate households, or only to those within the same household. However, the Court of Appeal correctly determined that it did not need to decide these issues because, even assuming plaintiff's interpretation is correct, plaintiff has failed to show that the Department engaged in any "double counting" of income. (Opn. 20-22 & fn. 25.) The issues concerning the proper interpretation of section 11005.5 are not properly presented in this case.

B. The Court of Appeal's Ruling on Asserted "Double Counting" Is Limited to the Facts of This Case and Presents No Basis for Further Review

Alternatively, plaintiff attacks the Court of Appeal decision by challenging its finding that under the facts presented in this case regarding her family, there is no evidence of "double counting." Relatedly, plaintiff contends that the Court of Appeal should have ruled on the hypothetical

possibility that "double counting" of income may have occurred in some other context. Neither presents a basis for review.

The Court of Appeal, for the sake of argument, accepted plaintiff's premise that counting income that was subject to child support garnishment from plaintiff's household's income in determining CalWORKs eligibility would violate section 11005.5 if the child support was also counted as the income of the custodial parent for purposes of CalWORKs eligibility. It then examined the law and facts to determine if such "double counting" occurred in this case. Specifically, the Court examined the relevant statutes, regulations, and the Declaration of the Program Policy Manager of the CalWORKs Eligibility Bureau, which all confirmed that because child support paid on behalf of a child receiving CalWORKs with the custodial parent is required to be assigned to the county and state, it is not received by the custodial parent's family and is *not* considered income to the recipient family. (Opn. 21; Welf. & Inst. Code, §§ 11457, subd. (b), 11487, 11487.1; Decl. of Shawn Dorris, ¶ 22.) Therefore, it correctly rejected plaintiff's assertion to the contrary, and found that "child support is not received by families receiving CalWORKs cash aid and is not counted as income to them." (Opn. 21-22.)[3]

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[3] Plaintiff disputes this determination, arguing that "double counting" of income occurs in all cases where the child on whose behalf child support is garnished from the income of a CalWORKs applicant or recipient is on CalWORKs. (Pet. 28-31.) Her incorrect argument is based on *County of Yolo v. Francis* (1986) 179 Cal.App.3d 647, a case she failed to cite in prior briefing. That court observed that section 11005.5 would prohibit "attaching, garnishing or executing upon" the noncustodial parent's AFDC grant to pay child support that reimburses another child's AFDC. (*Id.* at p. 656.) Counting garnished child support paid on behalf of a child outside the home as part of the family's gross income in determining aid eligibility or amount is far different from "attaching, garnishing or executing upon" a

(continued...)

The Court of Appeal noted the two current exceptions to this general rule: (1) child support arrears that accumulate during a period when a family is not receiving CalWORKs aid are paid directly to the family and treated as income; and (2) "safety net" cases, where only the child is being supported with cash aid, and the child support payments currently are paid directly to the family and treated as unearned income to the family. (Opn. 22; Welf. & Inst. Code, §§ 11454, 11477, subd. (c).) It found there was no evidence that the amounts garnished from plaintiff's husband's income were for pre-aid arrears or that the child receiving aid was a safety-net child. (Opn. 22.) Thus, the Court of Appeal concluded that "it cannot be said that [plaintiff's husband's] garnished child support payments were considered income to the assistance unit of the child receiving aid, and [plaintiff's] 'double counting' argument fails." (Opn. 22.) Plaintiff's challenge to the Court of Appeal's *factual* determination that no "double counting" of income occurred here is not a proper basis for this Court's review.

Likewise, plaintiff's contention that the Court of Appeal wrongly refused to decide whether "double counting" of income occurs in pre-aid arrears and safety-net cases also does not articulate a proper basis for this Court's review. (Pet. 28.) In support of her argument, and in violation of Rules of Court, rule 8.504(e), plaintiff attaches a recent chart listing the number of safety-net cases and the total number of CalWORKs cases in the state, which was not submitted to the courts below. Based on the chart, she makes the wholly unsupported assertion that "California allows child support that is collected from one CalWORKs family to be treated as income to a large number of CalWORKs families, including "safety-net"

(...continued)
noncustodial parent's *CalWORKs grant* to pay child support to a child in a custodial parent's CalWORKs household.

households. (Pet. 27 [citing Exh. B to the Petition].) Yet the number of safety-net families in the State is not evidence that any of those families are, in fact, receiving child support payments from a noncustodial parent, and, if so, that the household of a noncustodial parent who is paying child support to a safety-net child is on or applying for CalWORKs. The Court of Appeal's refusal to speculate about whether double counting may have occurred in any safety-net and pre-aid arrears cases in the State was proper. (Opn. 22; see, e.g., *Pacific Legal Foundation v. California Coastal Commission* (1982) 33 Cal.3d 158, 170-171 [declining to issue "an opinion advising what the law would be upon a hypothetical set of facts," in a mandamus and declaratory relief challenge to Coastal Commission's guidelines]; *Younger v. Superior Court* (1978) 21 Cal.3d 102, 119; see also *Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1573, 1582-1583 [similar].) There is no reason for this Court to reach a hypothetical that the Court of Appeal correctly declined to address.

CONCLUSION

The petition for review should be denied.

Dated: December 11, 2017 Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JULIE WENG-GUTIERREZ
Senior Assistant Attorney General
SUSAN M. CARSON
Supervising Deputy Attorney General

Jennifer Bunshoft

JENNIFER A. BUNSHOFT
Deputy Attorney General
Attorneys for Defendants-Appellants Will Lightbourne and California Department of Social Services

CERTIFICATE OF COMPLIANCE

I certify that the attached Answer to Petition for Review uses a 13 point Times New Roman font and contains 4,708 words.

Dated: December 11, 2017

XAVIER BECERRA
Attorney General of California

JENNIFER A. BUNSHOFT
Deputy Attorney General
Attorneys for Defendants-Appellants Will Lightbourne and California Department of Social Services

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **ANGIE CHRISTENSEN v. WILL LIGHTBOURNE, DIRECTOR, CALIFORNIA DEPARTMENT OF SOCIAL SERVICES; CALIFORNIA DEPARTMENT OF SOCIAL SERVICES**

Supreme Court Case No.: S245395

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On December 11, 2017, I electronically served the attached: **ANSWER TO PETITION FOR REVIEW** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on December 11, 2017, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Stephanie E. Haffner, SBN 194192 Richard A. Rothschild, SBN 67356 **Western Center on Law & Poverty** 3701 Wilshire Boulevard, Suite 208 Los Angeles, CA 90010	Hope G. Nakamura, SBN 126901 **Legal Aid Society of San Mateo County** 330 Twin Dolphin Drive, Suite 123 Redwood City, CA 94065
Clerk of the Court Superior Court for the County of San Francisco 400 McAllister Street San Francisco, CA 94102	Clerk of the Court Court of Appeal of the State of California First Appellate District, Division Two 350 McAllister Street San Francisco, CA 94102-7421

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 11, 2017, at San Francisco, California.

M Dubonnet
Declarant


Signature

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STATE OF CALIFORNIA
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Case Name: **CHRISTENSEN v. LIGHTBOURNE**
Case Number: **S245395**
Lower Court Case Number: **A144254**

1. At the time of service I was at least 18 years of age and not a party to this legal action.

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Jennifer Bunshoft California Dept of Justice, Office of the Attorney General 197306	Jennifer.Bunshoft@doj.ca.gov	e-Service	12-14-2017 5:52:44 PM
Richard Rothschild Western Center on Law and Poverty 67356	rrothschild@wclp.org	e-Service	12-14-2017 5:52:44 PM
Stephanie Haffner Western Center on Law and Poverty 194192	shaffner@wclp.org	e-Service	12-14-2017 5:52:44 PM
Stephanie Haffner Western Center on Law & Poverty 00194192	shaffner@wcip.org	e-Service	12-14-2017 5:52:44 PM
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

12-14-2017
Date

/s/Jennifer Bunshoft

Signature

Bunshoft, Jennifer (197306)

Last Name, First Name (PNum)

California Dept of Justice, Office of the Attorney General

Law Firm