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Empire Justice Center and Legal Services of Central New York overturn archaic OTDA rule

Victory for low-income New Yorkers seeking economic security

Automobile's equity value, as opposed to market value, will now be considered when determining public assistance eligibility

(For immediate release 6/29/2018)

On June 21, 2018, The Appellate Division, Third Department affirmed the Albany County Supreme Court's decision in *Stewart v. Roberts*, holding that an automobile's equity value, not its fair market value, is the appropriate standard to use when evaluating an automobile as a resource for public assistance eligibility.

Tricia Stewart applied for public assistance after losing her job of 10 years at a nursing home. Her application was denied because of the market value of her car. Although the law provides that certain cars below a certain value (currently \$12,000) are exempt from being counted as a resource, Ms. Stewart's car with a market value of \$12,113, was over the limit. The law also states that a resource cannot disqualify someone from receiving public assistance if it is not "available."

Although her car was not exempt because it was over the market value limit, Ms. Stewart owed \$13,301 on the car. She was underwater on her car loan and the equity value was negative. She argued it had no countable value as a resource and she should be eligible for public assistance. The Albany County Supreme Court agreed and the Appellate Division affirmed, stating the OTDA's interpretation to the contrary was "irrational and unreasonable."

Client Tricia Stewart comments, "When I lost my job it was the first time I'd been unemployed and I needed a little help to get back on my feet. It was really frustrating and scary to be denied assistance because of the market value of my car, especially since I was underwater on my car loan. I'm so happy that other people won't have to go through what I did."

Most states (38) recognize that a reliable car is necessary to enable people work, and allow welfare recipients to own one car regardless of value. New York State’s rule is archaic and does not recognize the importance of a car to achieving self-sufficiency.

Julie Morse, Attorney at Legal Services of Central New York states, “I am happy New Yorkers like my client Tricia Stewart can now access public assistance when they need it, while keeping their safe reliable transportation and working towards economic security.”

Susan Antos, Senior Attorney at Empire Justice Center said, “This decision will have a significant positive impact on those facing hard times, making it possible to keep the asset that is most likely to help them move forward – a reliable car. It also affirms the common sense notion that a car that is worth less than is owed on the loan is not an available asset. Rather, it is a tool that provides more potential employment options , particularly in areas with little or no public transportation as we have upstate”.

Ms. Stewart was represented by Susan Antos, Saima Akhtar and Ray Burke at the Empire Justice Center, and Julie Morse of Legal Services of Central New York.

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Legal Services of Central New York

For more than 50 years, Legal Services of Central New York has fought to help people overcome obstacles, achieve goals, and pursue justice. Our team of 45 attorneys offers expertise in confronting community-wide problems and representing individuals with low-income. In 2017 we helped more than 15,000 people in 5,600 cases. We serve a 13-county region of Central New York (Broome, Cayuga, Chenango, Cortland, Delaware, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Otsego, and Oswego), fighting for justice and opportunity for all. For free legal assistance apply online at www.lscny.org or call (877) 777-6152.

Our Vision

Justice, equality, and opportunity for all people throughout the 13-county region we serve.

Our Mission

We help people and communities in Central New York change law, policy, and systems to promote equity and create pathways out of poverty.

Empire Justice Center

Empire Justice Center is a statewide, multi-issue, multi-strategy, public interest law firm focused on changing the “systems” within which poor and low-income families live. Empire Justice protects and strengthens the legal rights of people in New York State who are poor, disabled or disenfranchised through: systems change advocacy, training and support to other advocates and organizations, and high quality direct civil legal representation. Empire Justice has four offices in Albany, Rochester, Yonkers, White Plains and Central Islip on Long Island. **For more information, please visit our website:** www.empirejustice.org