

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

| | | |
|------------------|---|--------------------------|
| IN THE MATTER OF |) | |
| |) | |
| V. D. S. |) | Case No. OAH-09-0650-CSS |
| _____ |) | CSSD Case No. 001094359 |

ORDER GRANTING MOTION FOR SUMMARY ADJUDICATION

I. Introduction

The obligor, V. D. S., appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on October 8, 2009. Mr. S. appeared by telephone at a hearing held on December 28, 2009. Andrew Rawls represented CSSD. The child is M. S. The custodian, S. R., did not appear.

CSSD moved for summary adjudication. CSSD's motion is granted and the modified order is affirmed.

II. Facts

CSSD set Mr. S.'s support amount at \$245 per month for one child on October 27, 2004. At Mr. S.'s request, CSSD modified the support amount to \$50 for one child, effective April 1, 2009.

Mr. S. is incarcerated. He does not have a job or a place to live ready for when he is released.

III. Discussion

Child support is normally calculated as a percentage of the obligor's annual income, using a formula in Civil Rule 90.3. However, according to Civil Rule 90.3(c)(1), "the minimum child support amount that may be ordered is \$50 per month (\$600 per year)."¹

CSSD has asked that the modified order be affirmed and that no hearing be held. CSSD does not disagree with Mr. S., but it says it has lowered support to the lowest amount it can legally go and there is nothing more that could be done at a hearing.

CSSD is correct. Support cannot be set lower than \$50 per month. Even if everything Mr. S. has alleged is true (and nobody is denying anything he has said) support would still need to be set at \$50 per month. Because there is nothing that can be accomplished at a hearing, CSSD's motion is granted.

At the hearing, Mr. S. stated that he had read about a possibility of forgiveness in the law library and asked whether, considering the circumstances, he might be excused from paying

¹ There are exceptions to the minimum amount when the obligor has had custody for part of the year or when there is more than one child. These exceptions do not apply to this case.

support. CSSD correctly stated that the law requires a support obligation at this time. After he is released and obtains employment, Mr. S. may contact his caseworker to see if there are any options to help him repay his obligation.

IV. Conclusion

There are no material facts in dispute. CSSD has already set Mr. S.'s support obligation as low as the law allows. Because nothing can be accomplished at a hearing, CSSD's motion for summary adjudication should be granted and the modified order should be affirmed.

V. Order

IT IS HEREBY ORDERED that CSSD's Motion for Summary Adjudication be GRANTED and that no further proceedings be scheduled in this matter at this time.

IT IS FURTHER ORDERED that the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on October 8, 2009 be AFFIRMED.

DATED this 4th day of January, 2010.

By: Signed _____
DALE WHITNEY
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notices, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 25th day of January, 2010.

By: Signed _____
Signature
Dale Whitney _____
Name
Administrative Law Judge _____
Title

[This document has been modified to conform to technical standards for publication.]