

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

IN THE MATTER OF)	OAH No. 10-0118-CSS
V. A.)	CSSD No. 001062820
)	
_____)	

DECISION AND ORDER

I. Introduction

On April 1, 2010, May 6, 2010 and June 21, 2010, a formal hearing was held to consider the child support obligation of V. A. (Obligor) for the support of his child, R. (Obligee).¹ The custodial parent, B. O., participated. Mr. A. also participated. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed on June 21, 2010.

This case is Mr. A.'s appeal of the Division's order establishing his child support obligation for his child, R. Having reviewed the record in this case and after due deliberation, I concluded that the amounts set in the Division's Amended Administrative Child and Medical Support Order should be adjusted in accordance with the calculations made during the June 21, 2010 portion of the hearing at exhibit B. These new calculations give Mr. A. the appropriate deduction for his tax liability, his union dues and for supporting his older daughter in his home until her high school graduation. Mr. A.'s ongoing child support is set at \$1,599 per month. Mr. A.'s child support arrears from January 2009 through June 2010 are set at \$1,279 per month.

II. Facts

Ms. O. applied for the Division's services for her child, R., in January of 2009. Paternity is not now in dispute. Mr. A.'s paternity of R. was established after genetic testing in an administrative order that was not appealed.² The Division served Mr. A. with an Administrative

¹ The hearing was held under Alaska Statute 25.27.170.

² Exhibit 4 & Recording of Hearing.

Child and Medical Support Order on October 28, 2009.³ Mr. A. requested an administrative review.⁴

The Division issued an Amended Administrative Child and Medical Support Order on February 8, 2010. In this order, the Division set Mr. A.'s ongoing child support at \$1,750 per month. The order also set monthly arrears going back to January of 2009.⁵

Mr. A. requested a formal hearing.⁶ Prior to the hearing on April 1, 2010, Mr. A. filed additional income information. After the hearing on April 1, 2010, an order was issued requiring Mr. A. to file more information and to the Division to file new calculations. The order also scheduled a new hearing on May 6, 2010. Mr. A. provided the additional information as ordered, and the Division filed new calculations, but Mr. A. did not participate in the hearing on May 6, 2010.⁷

Later, Mr. A. requested another hearing. At the rescheduled hearing on June 21, 2010, The Division went over its latest calculations with Mr. A. Mr. A. explained that his union dues were collected every pay period, rather than every month, so the Division had used too low a figure for this deduction. The Division had also used Mr. A.'s 2009 W-2 tax withholding as an estimate of his tax liability rather than attempting to determine his tax liability from his tax return or use the Division's calculator.⁸

New calculations were made at the hearing. It was determined that it would be difficult to estimate Mr. A.'s tax liability from his tax return because he filed a joint return with his wife, who also earned income, and because Mr. A. took a lump sum retirement distribution. The new calculations used the Division's calculator to estimate Mr. A.'s tax liability. These new calculations also used the updated information on Mr. A.'s paystubs for the amount of his union dues deductions.⁹

There were two calculations because Mr. A. showed that he is entitled to a deduction for supporting an older child in his home until she graduates in June 2010. These calculations result in an ongoing child support of \$1,599 per month and arrears from January 2009 through June

³ Exhibit 5.

⁴ Exhibit 8.

⁵ Exhibit 9.

⁶ Exhibit 11.

⁷ Recording of May 6, 2010 Hearing.

⁸ Recording of June 21, 2010 Hearing.

⁹ Recording of June 21, 2010 Hearing.

2010 of \$1,279 per month.¹⁰ At the hearing, Mr. A. indicated that he believed these new calculations were correct, and Ms. O. did not object to these adjustments.¹¹

Based on the evidence in the record, I find that it is more likely than not that these new calculations are correct and that the income used in these calculations is correct.¹²

III. Discussion

Mr. A. argued that his child support order should be lower than the amount set by the Division. In a child support hearing, the person who filed the appeal, in this case Mr. A. has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.¹³ Mr. A. met his burden to show, and the Division agreed, that Mr. A.'s child support order should be adjusted in accordance with the new calculations made at the June 21, 2010 hearing.

IV. CHILD SUPPORT ORDER

1. Mr. A.'s ongoing child support for R. is at \$1,599 per month effective July 1, 2010.
2. Mr. A. is liable for child support arrears for R. in the monthly amount of \$1,279 for the months of January 2009 through June 2010.
3. The Division should give the parties the appropriate debit or credit for their out-of-pocket expenses for providing health insurance coverage for R.
4. All other provisions of the Amended Administrative Child and Medical Support Order issued on February 8, 2010 remain in effect.

DATED this 22th day of June, 2010.

By: Signed
Mark T. Handley
Administrative Law Judge

¹⁰ Exhibit B.

¹¹ Recording of June 21, 2010 Hearing.

¹² Recording of June 21, 2010 Hearing & Ex. B.

¹³ Alaska Regulation 15 AAC 05.030(h).

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 notice, 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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 26th day of July, 2010

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

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