

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

IN THE MATTER OF)	OAH No. 10-0177-CSS
I. J. B.)	CSSD No. 001136260
)	
_____)	

DECISION AND ORDER

I. Introduction

On May 4, 2010, a formal hearing was held to consider the child support obligation of I. J. B. (Obligor) for the support of his children, L. and A. (Obligees).¹ Mr. B. participated in the hearing. L. and A.'s mother, E. J. H., the custodial parent, did not participate.² Andrew Rawls, Child Support Services Specialist, represented the Child Support Services Division (Division). The hearing was audio-recorded. The record closed at the end of the hearing.

This case is Mr. B.' appeal of the Division's order modifying his monthly child support obligation for his children, L. and A. Because Mr. B. is back in jail and will not be released for over a year, Mr. B.' child support arrears should remain at \$50 per month.

II. Facts

Mr. B.' ongoing monthly child support obligation was set at \$50 per month in 2008.³ The Division reviewed this child support order at Ms. H.'s request. This request was made during a short period when Mr. B.'s was not in jail.⁴

The Division issued a Notice of Petition for Modification on October 22, 2009.⁵ The Division issued a Modified Administrative Child and Medical Support Order on March 15, 2010.⁶ In this order, the Division set Mr. B.' modified ongoing child support at \$144 per month based on the income he earned during this short period.⁷ Mr. B. requested a formal hearing.⁸

¹ The hearing was held under Alaska Statute 25.27.170.

² Ms. H. indicated that she did not want to participate when she was contacted by phone prior to the hearing.

³ Ex. 1.

⁴ Recording of Hearing.

⁵ Ex. 3.

⁶ Ex. 4.

⁷ Ex. 4.

At the hearing, Mr. B. explained that he was out of jail for only four months, has been back in jail since January of 2010 and will not be released before May of 2011.⁹

III. Discussion

Alaska Civil Rule 90.3 allows a child support amount to be modified if the party requesting the change shows that a material change of circumstances has occurred.¹⁰ The rule states that a material change of circumstances "will be presumed" if the modified support amount would alter the outstanding support order by 15%.¹¹

In a child support hearing, the person who filed the appeal, in this case Mr. B., has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.¹²

Mr. B. showed that there has not been a material change in circumstances that would justify a modification since his child support was set at the minimum of \$50 per month. At the hearing, the Division agreed that the petition for modification should be denied.

IV. CHILD SUPPORT ORDER

The Division's Modified Child and Medical Support Order issued on March 15, 2010 is overturned. The Notice of Petition for Modification issued on October 22, 2009 is denied. Mr. B.'s ongoing child support will remain at the minimum of \$50 per month in accordance with his child support order dated August 27, 2008, which remains in effect.

DATED this 10th day of May, 2010.

By: Signed
Mark T. Handley
Administrative Law Judge

⁸ Ex. 5.

⁹ Recording of Hearing.

¹⁰ Alaska Civil Rule 90.3(h)(1).

¹¹ Alaska Civil Rule 90.3, Commentary X.

¹² 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 7th day of June, 2010

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

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