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

In the Matter of:	)	
	)	OAH Nos. 10-0287/10-0303-CSS
G L. E	)	CSSD No. 001094862
	)	

DECISION AND ORDER

I. Introduction

On December 28, 2010, the Department of Revenue issued a decision concerning G E' child support obligation. Mr. E appealed that decision. On October 12, 2012, the Superior Court remanded this matter for additional proceedings. Pursuant to the court's order, a hearing was held on November 29 and December 4, 2012. Mr. E was represented by counsel. The custodial parent, J C, participated in the hearing, but was not represented. The Child Support Services Division (CSSD) appeared through its lay representative, Andrew Rawls.

On November 26, 2012, Ms. C moved for summary adjudication. Her motion was treated as raising the question of whether factual findings in a prior case precluded Mr. E from re-litigating those factual issues here. Essentially, she raised a collateral estoppel argument. For the reasons discussed below, Mr. E is not estopped from re-litigating his child support obligation. Accordingly, Mr. E' child support obligation is recalculated for the years 1998 through 2009 as shown below.

II. Facts

A. Background

The procedural history was outlined in the prior decision[1] and will not be repeated in its entirety here. For purposes of this decision, the most relevant procedural events are those leading up to a prior child support order issued on April 27, 2000.

Ms. C first applied for services for one child in January of 1999.[2] A Notice of Finding of Financial Responsibility (Administrative Child Support and Medical Order) was issued on

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1 *In re G.L.E.*, OAH Nos. 10-0287-CSS and 10-0303-CSS (Dept. of Revenue 2010) (2010 Order). This decision can be found at http://aws.state.ak.us/officeofadminhearings/Documents/CSS/CSS100287.pdf

2 Exhibit 1.

March 15, 1999.[3] Mr. E sought an administrative review.[4] CSSD issued an Administrative Review Decision on Notice and Finding of Financial Responsibility (Administrative Child Support Order) on December 10, 1999.[5] That decision set Mr. E' child support obligation at $508 per month beginning on May 1, 1998, and $513 per month beginning on January 1, 1999.[6] Mr. E requested a formal hearing to contest that decision.[7] A formal hearing took place on February 9, 2000, but Mr. E did not appear at the hearing. The Hearing Officer,[8] acting as the Commissioner of Revenue's delegee, issued a decision on April 27, 2000.[9] This decision was issued without taking Mr. E' testimony,[10] and it reduced Mr. E' child support obligation to $498 per month for 1998, and $482 per month for subsequent months.[11]

Turning to the present case, the 2010 Order held that the child support obligation set in the 2000 Order could not be set aside, but that it could be modified prospectively.[12] Mr. E' support obligation was modified effective February 1, 2009, but no changes were made to the obligation established in the 2000 Order for the time period beginning in May 1998 through January 31, 2009.[13]

On appeal to the Superior Court, Mr. E raised the issue of whether he had received proper notice of the February 9, 2000, hearing. The Superior Court found that Mr. E did not receive notice of the February 9, 2000 hearing and determined that the 2000 order was void.[14] The Superior Court then remanded this matter to hold the hearing that Mr. E had requested in 2000.[15]

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3 Exhibit 2.

4 Exhibit 3.

5 Exhibit 6.

6 Exhibit 6, page 2.

7 Exhibit 7.

8 Prior to the creation of the Office of Administrative Hearings, formal child support hearings were conducted by Hearing Officers appointed by the Commissioner of Revenue.

9 Exhibit 9. Hereafter referred to as the 2000 Order.

10 *See* 15 AAC 05.030(j).

11 Exhibit 9, page 4.

12 2010 Order, page 6. Because of this ruling, it was unnecessary to determine whether the doctrine of collateral estoppel would apply. 2010 Order, page 11.

13 2010 Order, page 12.

14 *E v. State, CSSD*, 3AN-11-0000CI (2012), page 11 – 12. The decision is found at http://aws.state.ak.us/officeofadminhearings/Documents/CSS/CSS100287%20Superior%20Court%20decision.pdf

15 *E v. State*, page 14.

B. Material Facts

The parties have two daughters, G, born on 00/00/98, and S, born on 00/00/00. Mr. E has an older son, J, from a prior relationship. J began living with Mr. E in September of 2005.

In June of 2008, Mr. E pleaded guilty to a violation of 18 U.S.C. § 228, failure to pay child support obligations.[16] He was convicted on February 23, 2009,[17] and ordered to pay restitution in the amount of $76,627.26.[18]

III. Discussion

A. Effect of Federal Conviction

As noted above, Mr. E was convicted of failing to pay child support. Ms. C argued that Mr. E is bound by the terms of his plea agreement, and that he may not now modify that agreement by attempting to modify his child support obligation. Mr. E argues that the Alaska Superior Court's order caused the federal court's order to become void or voidable, and that the Office of Administrative Hearings may not give collateral estoppel effect to the federal court's findings.[19] He further states "it is not any of this tribunal's business what the federal court did in the criminal case." The doctrine of collateral estoppel does apply in administrative proceedings,[20] and this tribunal is required to consider whether factual findings contained in a prior federal court final judgment may be re-litigated.[21] The record in this case does not disclose whether Mr. E has taken any steps to set-aside the federal judgment, but no argument has been made that the federal judgment is not still in effect.[22]

Mr. E was convicted under a federal statute that says anyone who

> (1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

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16 Exhibit 43.

17 Exhibit 43, page 8.

18 Exhibit 43, page 11

19 Mr. E also states that it would be a violation of the Superior Court's order to consider the collateral estoppel effect of the federal court's judgment. Nothing in the Superior Court's ruling requires ignoring legal precedent or the doctrine of collateral estoppel. Nor does that order preclude consideration of a summary adjudication motion.

20 *Harrod v. State*, 255 P.3d 991, 999 (Alaska 2011)

21 *Sopcak v. Northern Mountain Helicopter Services*, 924 P.2d 1006, 1008 (Alaska 1996) (Prior federal court decision may be used to estop contrary findings in state proceeding).

22 A prior judgment retains its preclusive effect while on appeal. *Rapoport v. Tesoro Alaska Petroleum, Co.*, 794 P.3d 949, 951 (Alaska 1990); *Holmberg v. State*, 796 P.2d 823, 829 (Alaska 1990).

(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).[23]

The statute also includes a provision for mandatory restitution.

> Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists as the time of sentencing.[24]

A guilty plea results in a conviction, and a person convicted of a crime is precluded from denying

> any element [of the crime] in a subsequent civil action against him that was necessarily established by the conviction, as long as the prior conviction was for a serious criminal offense and the defendant in fact had the opportunity for a full and fair hearing.[25]

Because it is a felony, a violation of 18 USC § 228 is a serious criminal offense. A more difficult issue is whether the amount of restitution ordered by a federal court is an element of the offense.

Appley v. West,[26] concerned a civil suit against an investment advisor who had previously pleaded guilty to two counts of mail fraud. The *Appley* court held in that case that it the trial court's grant of summary judgment as to the amount of damages based on the amount of the restitution order in a prior criminal case was improper.

> Because the amount of restitution was not a material fact of the indictment on which the guilty plea was based, because the issue of the amount of Ms. Appley's injury was not litigated, because Ms. Appley failed in her burden of establishing that the amount of injury was established by the guilty plea, and finally, because, under the facts of this case, the application of preclusion would be unfair, we hold

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23 18 U.S.C. §228(a). Mr. E was convicted of violating subsection (a)(3). The punishment for that offense includes imprisonment for not more than two years. 18 U.S.C. §228(c)(2).

24 18 U.S.C. §228(d).

25 *Wilson v. MacDonald*, 168 P.3d 887, 889 (Alaska 2007) (collateral estoppel bars denial of facts established by no contest plea). *See also Hanes v. McComb*, 147 P.3d 700, 701 (Alaska 2006) (a civil litigant may not relitigate any element of a criminal charge of which he has been convicted.).

26 832 F.2d 1021 (7th Circ. 1987).

> that the district court erred in applying collateral estoppel to grant summary judgment in favor of Ms. Appley[.[27]]

In *Bennedick v. Mohr*,[28] an Illinois court also considered whether a judgment ordering restitution in a criminal case would collateral estop the defendant from denying damages in that amount in a subsequent civil case. This court agreed with the *Appley* court to the extent it held that application of collateral estoppel would work an injustice where there was little incentive to litigate the issue and where there was no actual litigation of the amount of restitution.[29] The *Bennedick* court went on to hold, however, that the amount of restitution "goes to the merits and forms a substantive part of the issue to be determined in a restitution hearing[.][30] To allow a different finding as to the amount of damages in the civil case would "result in inconsistent judgments."[31]

In *Lamberts v. Stokes*,[32] the court listed four elements that must be shown to establish collateral estoppel:

> (1) the issue precluded must be the same issue involved in the prior proceeding; (2) the issue must actually have been litigated in the prior proceeding; (3) determination of the issue must have been a critical and necessary part of the decision in the prior proceeding; and (4) the prior forum must have provided the party against whom estoppel is asserted a full and fair opportunity to litigate the issue.[33]

The court then noted that the prior court's restitution findings were "necessary to its judgment because the Mandatory Victims Restitution Act of 1996, 18 U.S.C. § 3663A(a)(1), required the Court to order Stokes to pay restitution to his victims."[34] Accordingly, the *Lamberts* court used the prior court's restitution award as the basis for its own damages award.

At least in cases where the amount of restitution in mandatory – as it was in Mr. E' criminal case – the amount of restitution is an element of the offense. However, unlike the situation in *Lamberts*, Mr. E did not have the opportunity to fully litigate the amount of

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27 Appley, 832 F.2d at 1026 – 1027.

28 600 N.E.2d 63 (Ill. App. 5th Dist. 1992).

29 *Bennedick*, 600 N.E.2d at 66.

30 *Bennedick*, 600 N.E.2d at 67.

31 *Id.*

32 640 F.Supp.2d 927 (W.D. Mich. 2009).

33 *Lambert*, 640 F.Supp.2d. at 930.

34 *Lambert*, 640 F.Supp.2d at 932. In cases where the judge has discretion as to the amount of restitution to order, the amount ordered may not be binding. *Morse v. Commissioner of Internal Revenue Service*, 419 F.3d 829, 834 (8th Cir. 2005).

restitution as part of his criminal case. In a federal prosecution for failure to pay child support, the defendant is not permitted to collaterally attack the underlying state child support order.[35] In federal court, Mr. E had no opportunity to argue that the amount of the child support award was incorrect, or even that the order itself should be voided for lack of notice. Because he did not have that opportunity, the doctrine of collateral estoppel does not apply here.

B. General Principles Applicable To Child Support Award

The 2010 Order remains in effect for the period beginning on February 1, 2009, unless it has been subsequently modified after it was issued. This order addresses the period beginning in May of 1998, after G was born,[36] through January 31, 2009.

In calculating the support obligation, it is necessary to first determine the amount of the obligation for the first year, 1998.[37] For each subsequent year, a determination is made as to whether there has been a material change of circumstances:

> For each year in which a material change of circumstances occurred, the agency will set the support obligation at the amount required under 15 AAC 125.070. For each year in which a material change of circumstances did not occur, the agency will set the support obligation at the amount set for the preceding year.[38]

With some exceptions not applicable here, the amount of child support is based on the obligor parent's total income.[39] The calculation of child support is based on the child support guidelines in Alaska Rule of Civil Procedure 90.3.[40]

C. Mr. E' Income

1. Tax Returns

The first step in calculating a child support award is determining the obligor's income. For most of the years in question, Mr. E relies on his tax returns to establish his income. Ms. C asserts that the tax returns are unreliable, in part because Mr. E did not file timely tax returns for many years, and only filed returns after his arrest for failing to pay child support. Ms. C believes

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35 *United States v. Bailey*, 115 F.3d 1222, 1232 (5th Cir. 1997). He might have been permitted to challenge the underlying state order based on a lack of personal jurisdiction. *See United States v. Bigford*, 365 F.3d 859, 866 (10th Cir. 2004). In this case, however, Mr. E had requested the hearing that resulted in the child support order and there is no dispute that CSSD had personal jurisdiction.

36 CSSD establishes a child support obligation as of the first month when public assistance is provided on behalf of the child. 15 AAC 125.105(a)(1). Ms. C received public assistance for G in May through September of 1998. Exhibit 6, page 2.

37 15 AAC 125.105(e).

38 *Id.*

39 15 AAC 125.030 – 15 AAC 125.070.

40 15 AAC 125.010.

that Mr. E was paid in cash, and failed to report all of his income on his tax returns. Mr. E does not dispute being paid in cash for at least some of his work, but does assert that all of his income was reported. He testified that he did not have all of his records earlier, but that after his arrest the federal government gathered bank records and other documents to use against him in the criminal proceeding. Mr. E was able to use those records to recreate his income and expenses during those years, and used that information to belatedly file his tax returns.

Mrs. E testified that she was the person who actually prepared the tax returns for Mr. E. She testified that they were accurate to the best of her ability based on the records available to her. Her testimony on this issue was credible. She likely did prepare those returns as accurately as possible based on the information she was able to obtain. However, it is also evident from Mrs. E' testimony that she had incomplete records to work with. For example, some cash payments may never have deposited in Mr. E' bank account, and thus would not have been accounted for when the tax returns were prepared.

That his tax returns were created in 2008, several years after the tax year in question, does raise some doubts about the accuracy of the returns. In addition, being paid in cash does provide the opportunity to underreport the business's total income. However, there is no evidence that Mr. E did not try to properly track and report all cash payments he received. Mr. E was not living a lavish lifestyle while claiming to have little to no income, and he testified that for at least some years he received financial assistance from his father. For other years, he was living with Ms. C, remodeling her home, and taking care of their children. The tax returns were accepted by CSSD as accurate reflections of Mr. E' earnings.[41] Mr. E' tax returns are seen as the "floor" for his income each year, but consideration is given to adding additional income where appropriate.

2. Annual Income Amounts

Mr. E' 1998 tax return shows $1,602 in earned income from employment after moving to New Jersey.[42] This is the amount of income shown on his W-2 statements.[43] However, it is unlikely that Mr. E would have been able to support himself on less than $2,000 per year. In 1997, Mr. E earned at least $3,350 from his work as an automobile mechanic.[44] It is likely that

41 Exhibit 50.
42 Exhibit 25, page 10.
43 Exhibit 25, page 14.
44 Exhibit 25, page 14.

Mr. E earned at least as much in 1998 before moving to New Jersey.[45] I find that his income for 1998 was $4,952.00.

Mr. E did not file a tax return for 1999.[46] He testified that he was in New Jersey with Ms. C and their daughter, and that Ms. C was supporting him financially. Mr. E also testified that he was incarcerated for a portion of that year. I find that Mr. E had no income in 1999.

For 2000, Mr. E earned $11,240 in wages and his total income was that amount.[47] In 2001, he earned $6,556.[48]

In 2002, Mr. E had $1,480 in wages and net business income of $187.[49] Mr. E was working as an independent construction contractor that year, with $10,176 in gross receipts and $9,989 in business related expenses.[50] In 2003, Mr. E reported no wages, and $935 in business income.[51] He received a form 1099 for that year showing receipt of $1,470 in non-employee compensation.[52] There is no Schedule C in the record showing business related expenses. In 2004, Mr. E did not have any wages. His net business income was $1,447.[53] This consisted of $17,797 in gross receipts and $16,350 in business related expenses.[54]

For the years 2002 through 2004, Mr. E' tax returns show him earning less income than could support even a very frugal lifestyle. While Mrs. E likely did the best she could in preparing those tax returns, it is also likely that she was hampered by having incomplete information. A better estimate of Mr. E' income during these years can be obtained from averaging his 2000 and 2001 income. The average of these two years is $8,898.

In 2005, Mr. E earned $12,204 in wages.[55] In 2006, he earned 37,930 in wages,[56] and $1,532 in net business income.[57]

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45 *See* 15 AAC 125.050(b)(2) (estimating income based on prior year's income).

46 Exhibit 26, page 1 (IRS Tax Transcript showing no record of return).

47 Exhibit 27, pages 16 and 19.

48 Exhibit 28, pages 16 and 19.

49 Exhibit 29, page 23.

50 Exhibit 29, page 26.

51 Exhibit 30, page 16.

52 Exhibit 30, page 18.

53 Exhibit 31, page 17.

54 Exhibit 31, page 20.

55 Exhibit 32, pages 9 and 15.

56 Exhibit 33, page 10.

57 Exhibit 33, page 12.

In 2007, Mr. E reported earning a Permanent Fund Dividend check of $1,694, and net business income of $6,815.[58] His total income was $8,509.

In 2008, Mr. E' only reported income was his Permanent Fund Dividend of $3,269.[59] He reported gross business receipts of $18,626, but business related expenses of $30,765.[60] While his business expenses may be used to offset any gross income from that business, the net loss may not be used to offset income from other sources such as his wages.[61] Accordingly, his income for the year was $3,269.

In 2009, Mr. E earned wages totaling $33,019.[62] He would also have received a Permanent Fund Dividend check of $1,305, for total gross income of $34,324.[63] Mr. E also operated his business at a loss for that year,[64] but as previously noted such a loss may not be used to offset income from other sources such as his wages.

D. Credit for Time Spent with Custodial Parent

Mr. E claims that during most of 1999, and half of 2000, he was living with Ms. C. If true, the child support order would be suspended for those months.[65] Ms. C, however, denies that Mr. E was living with her during that period.

Both Mr. E and Ms. C testified that in 1999 Mr. E had a home on No Name Street, and Ms. C had a duplex on No Name Avenue, both in Anchorage. It is undisputed that Ms. C moved to New Jersey where she ultimately purchased a home that needed remodeling.[66]

CSSD determined that Mr. E and Ms. C were residing together for eight months in 1999 during the months of January, February, May, June, July, August, November, and December.[67] CSSD determined they were residing together for five months in 2000 during the months of January, February, March, April, and September.[68]

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58 Exhibit 34, page 26.

59 Exhibit 35, page 10.

60 Exhibit 35, page 12.

61 15 AAC 125.030(c); *In re J.A.H.*, OAH No. 12-0021-CSS (Comm'r of Revenue 2012) , at 4 n.15.

62 Exhibit 48; 2010 Order, page 9.

63 Exhibit 50, page 2.

64 Exhibit 39, page 6.

65 15 AAC 125.870(a)(1).

66 It is unclear exactly when either parent moved to New Jersey. Their testimony was not always precise as to dates, which is not surprising given the amount of time that had passed by the time of this hearing.

67 Exhibit 42, page 1.

68 *Id.*

The party disputing CSSD's action has the burden of proving that the action was incorrect.[69] Ms. C testified that while Mr. E may have spent the night with her on occasion, they never lived together. Her aunt, S D, testified that Mr. E and Ms. C were not living with Ms. C's mother during the months that Mr. E testified that they were living at that address. Ms. D testified that Ms. C's mother would have told her they were living there if they had been.

This evidence is not sufficient to prove by a preponderance of the evidence that CSSD's determination was incorrect. The period in question was more than ten years in the past, and Ms. D may have simply forgotten that Ms. C and Mr. E were living with Ms. C's mother for a short period of time. Ms. C's own testimony was unreliable on this issue. On cross examination she would only grudgingly admit to spending any time with Mr. E, and when confronted with potential inconsistencies she would become defensive and state that she couldn't remember all the details because this was a long time ago. She denied that Mr. E had done any work on her New Jersey home, and then later stated that the work he did was done poorly. Throughout the hearing, Ms. C was unwilling to admit anything that might favor Mr. E' position, even when the documents in evidence suggested his position was correct.[70] Whether through intentional misstatement, or because she has tried hard to forget that period of time in her life, Ms. C's testimony, along with that of her aunt, is not reliable, and is insufficient to prove that CSSD's determination was incorrect.

Mr. E has contested one month for which CSSD did not give him credit.[71] He testified that he was still living with Ms. C in May of 2000 while he was helping to remodel the New Jersey home. Exhibit 36 contains building permit and building inspection documents, many of which contain Mr. E' signature. Ms. C had authorized Mr. E to obtain permits for this work. Mr. E contends that he would not have done this work for free unless he was living with Ms. C, raising their children together. Ms. C did not claim to have paid Mr. E for any work he performed while the home was remodeled.

The building permit and inspection documents were signed between March and June of 2000. Mr. E did sign a Certification of Compliance dated June 12, 2000, indicating the home

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69 15 AAC 05.030(h).

70 This should not be read as saying Mr. E' attitude towards Ms. C was better, but he does not have the burden of proof on this issue.

71 Exhibit 36, page 78.

had been constructed within the property boundaries.[72] The other documents signed by Mr. E were from March of 2000. His work on this property certainly supports his contention that he was living with Ms. C while the remodeling was occurring, but is insufficient to meet his burden of proving that CSSD's determination was incorrect as to the month of May.

E. Credit for Payment of Child Support Obligation for Prior Child

Mr. E is entitled to a deduction from his gross income for child support payments actually made for a child of a prior relationship when those payments are required by a court or administrative order.[73] He seeks credit for payments made to his former wife, Michelle E, or to the state, on November 14, 2007, and February 28, 2008. These payments were for past due child support amounts.[74] The deduction for payments to support a child from a prior relationship is allowed only for ongoing support payments, not for the payment of accrued arrears.[75]

F. Support Obligation[76]

CSSD calculated Mr. E' support obligation for 1998 to be the minimum obligation of $50 per month for one child.[77] As discussed above, Mr. E' income is estimated to have been $4,952 for that year. Based on that income, Mr. E' support obligation would be $76 per month.[78]

CSSD calculated Mr. E' support obligation for 1999 to be the minimum obligation amount of $50 per month.[79] This amount is consistent with Mr. E' lack of income for that year, and is upheld.

CSSD calculated Mr. E' support obligation for 2000 to be $161 per month for one child, and $217 per month for two children.[80] This calculation is based on Mr. E' income for that year. His additional income is a material change of circumstances justifying the upward modification of his support obligation, and CSSD's calculation is upheld.

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72 Exhibit 36, page 81.

73 Civil Rule 90.3(a)(1)(C).

74 November 29, 2012 Notice of Agreement and Disagreement with CSSD's Calculations.

75 *See In re W.W.H.*, OAH No. 10-0383-CSS (Comm'r of Revenue 2010), at 3 (deduction not allowed when payment was for arrears).

76 The fact that Mr. E' support obligation is being recalculated should not be interpreted as binding on the federal court in Mr. E' prior case. The federal court must decide for itself whether there is a legal and factual basis for setting aside or modifying its prior judgment.

77 Exhibit 50, page 13.

78 Attachment A.

79 Exhibit 50, page 12.

80 Exhibit 50, page 11.

CSSD calculated Mr. E' support obligation for 2001 to be $133 per month for two children.[81] This is based on his income for that year. His reduction in income is a material change in circumstances justifying a modification, and CSSD's calculation is upheld.

For 2002 through 2004, Mr. E' income is estimated at $8,898. This results in a child support obligation of $182 per month for two children for each of those years.[82] This is a material change from the obligation in 2001.

CSSD calculated Mr. E' support obligation for 2005 to be $240 per month for two children.[83] Mr. E calculated his support obligation to be $243 per month until September when his older son J moved into his home.[84] He calculated that his support beginning in September should be $195 per month for two children.[85] Mr. E' calculations are correct. Both changes were material and result in adjustment of the support obligation.

CSSD calculated Mr. E' support obligation for 2006 to be $587 per month for two children.[86] This material change is based on his wages and self-employment income for that year, and CSSD's determination is upheld.

CSSD's calculation of Mr. E' support obligation for 2007 is based on an incorrect self-employment amount. Mr. E had net business income of $6,815 and a permanent Fund Dividend check of $1,694. When these figures are used to calculate child support, Mr. E' obligation is $152 per month for two children.[87] The downward adjustment from $587 is material.

In 2008, Mr. E' business operated at a loss. His only income was a Permanent Fund Dividend check. His child support obligation for that year should be set at $50 per month for two children.[88] The change is material.

The 2010 order set Mr. E' child support obligation at $637 per month for two children beginning in February of 2009. That calculation was based on Mr. E' 2009 income, and his

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81 Exhibit 50, page 10.
82 Attachment B.
83 Exhibit 50, page 6.
84 Exhibit 101, page 2.
85 Exhibit 101, page 6.
86 Exhibit 50, page 5.
87 Attachment A.
88 Attachment B.

January support should be set for the same amount.[89] The upward adjustment from $50 is material.

IV. Conclusion

The Superior Court remanded this matter for a new hearing on Mr. E' appeal of an administrative child support award. New calculations were made for each year based on the best available evidence of Mr. E' income during those years. *This child support calculation was made pursuant to the guidelines in Civil Rule 90.3.*

V. Child Support Order

- Mr. E' child support obligation is set at $76 per month from May 1, 1998 through December 31, 1998;
- Mr. E' child support obligation is set at $50 per month for one child from January 1, 1999 through December 31, 1999;
- Mr. E' child support obligation is set at $161 per month for one child and $217 per month for two child from January 1, 2000 through December 31, 2000;
- Mr. E' child support obligation is set at $133 per month for two children from January 1, 2001 through December 31, 2001;
- Mr. E' child support obligation is set at $182 per month for two children from January 1, 2002 through December 31, 2004;
- Mr. E' child support obligation is set at $243 per month for two children from January 1, 2005 through August 31, 2005, and at $195 per month for two children through December 31, 2005;
- Mr. E' child support obligation is set at $587 per month for two children for January 1, 2006 through December 31, 2006;
- Mr. E' child support obligation is set at $152 per month for two children for January 1, 2007 through December 31, 2007;
- Mr. E' child support obligation is set at $50 per month for two children for January 1, 2008 through December 31, 2008;
- Mr. E' child support obligation is set at $637 per month for January 2009;
- Mr. E' support obligation is suspend for the months of January, February, May, June,

[89] *See* Exhibit 50, page 2.

July, August, November, and December of 1999, and suspended for the months of January February, March, April, and September of 2000.

Except as provided above, the terms of the Administrative Review Decision on Notice and Finding of Financial Responsibility (Administrative Child Support Order) dated December 10, 1999 are unaffected by this order.

DATED this 1st day of March, 2013.

Signed
Jeffrey A. Friedman
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 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 15th day of April, 2013.

By: *Signed*
Signature
Angela M. Rodell
Name
Deputy Commissioner
Title

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