

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

IN THE MATTER OF)	
K A. C)	OAH No. 11-0263-CSS
)	CSSD No. 001124609
_____)	

DECISION AND ORDER

This case is Mr. K A. C’s appeal of the modification order adding his children A and K, to his existing child support order for his other child, B. Mr. C was represented by his attorney, Darryl J. Jones.

The modification order added arrears for A and K’s support going back to the month of July 2010. The Division modified Mr. C’s ongoing child support obligation by setting it at a higher monthly amount based on his 2010 estimated income.

Mr. C requested a formal hearing. This request was referred to the Alaska Office of Administrative Hearings. Administrative Law Judge Mark T. Handley was assigned to conduct the formal hearing. The hearing was continued because of pending court action on custody and child support issues was anticipated to address the issues on appeal and supersede the Division’s order. Several status conferences were held to monitor the progress of the court action. The children’s mother C J. S did not participate. Andrew Rawls and Erinn Brian, Child Support Services Specialists, represented the Division. The status conferences were audio-recorded. The record closed on October 1, 2012.

The period covered by the administrative modification order on appeal is now superseded by a court custody and child support order finding in Alaska Superior Court case number 3XX-11-XXXXCI. The court found that Mr. C had primary custody of the children since May 2010 to June 2011.¹ The court also issued an order that grants ongoing primary custody of all the children to Mr. C. ² On September 27, 2012, the Division filed a request to issue an order

¹ Custody Settlement Agreement dated February 24, 2012 at 1(b), Motion to Correct Clerical Error dated June 14, 2012 and Order Correcting Clerical Error dated July 6, 2012 in case number 3XX-11-XXXXCI.

² Custody Settlement Agreement dated February 24, 2012 at 1(f), and Finding of Facts and Conclusions of Law dated July 6, 2012 in case number 3XX-11-XXXXCI.

vacating the Division's modification order because the Division cannot collect child support from Mr. C for a period when Mr. C was the custodial parent.

Conclusion

Mr. C's administrative child support should not be modified because court action and court findings have already addressed the issues addressed by the modification order. The child support amounts in the existing order were calculated using the primary custody formula in Civil Rule 90.3(a).

Child Support Order

The Division's Modified Administrative Child Support and Medical Support Order issued on January 25, 2011 is vacated.

DATED this 4th day of October, 2012.

By: Signed
Mark T. Handley
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 23rd day of October, 2012

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

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