

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

IN THE MATTER OF	)	
M W-T	)	OAH No. 11-0318-CSS
	)	CSSD No. 001174924
_____	)	

**DECISION AND ORDER**

**I. Introduction**

This case is Ms. M W-T’s appeal of the Division’s order establishing her monthly child support obligation for the child, A. On August 30, 2011, a formal hearing was held to consider Ms. W-T’s appeal.<sup>1</sup> Ms. W-T was A’s adoptive mother, and biological grandmother. Ms W-T participated in the hearing. D W, who is Ms. W-T’s daughter, tried to participate but the phone connection could not be maintained. A L, A’s biological father and the third party custodian of record, did not participate.<sup>2</sup> Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed on September 9, 2011.

The administrative law judge concludes that Ms. W-T’s child support order should be vacated because her tribal adoption of A was rescinded. No child support should be collected from Ms. W-T for A.

**II. Facts**

Ms. W-T asked for a formal hearing to appeal the Division’s Amended Administrative Child and Medical Support Order issued on July 27, 2011. This order set Ms. W-T’s child support obligation at \$62 per month, with arrears going back to March of 2011.<sup>3</sup>

At the hearing Ms. W-T was concerned that she would have difficulty paying the child support that the Division was seeking, because she had recently lost her job. Ms. W-T explained that A was in his biological mother’s custody only until he was six months old. Ms. W-T took custody of A because her daughter, A’s biological mother, A W, was having difficulty caring for

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<sup>1</sup> The hearing was held under Alaska Statute 25.27.170.

<sup>2</sup> Mr. L did not appear or provide a phone number to call for the hearing as instructed by the notice sent to his address of record. There was no answer at his phone number of record when he was called at the time scheduled for the hearing.

<sup>3</sup> Exhibits 3 & 4.

him. Ms. W-T adopted A through a tribal adoption and a new birth certificate was issued.<sup>4</sup>

Ms. W-T had A living with her in no name city until January of 2011, when she had to take other relatives into her home. A then decided to try living with his biological parents. Ms. W-T still checks frequently on A's wellbeing, but Ms. W-T and A's biological parents have had Ms. W-T's tribal adoption of A rescinded so that his biological parents have become his legal parents again.<sup>5</sup>

After the hearing, a post hearing order was issued giving Ms. W-T an opportunity to provide copies of the tribal adoption paperwork. Ms. W-T timely provided this paperwork to the Division.

After the hearing as requested in the post hearing order, the Division filed a submission to record. The Division enclosed a letter from N. T., President of the No Name Tribal Council, to the Alaska Bureau of Vital Statistics. This letter provided notice that on May 23, 2011 the tribal council had rescinded Ms. W-T's adoption of A.<sup>6</sup>

The Division also indicated that it had contacted the Alaska Bureau of Vital Statistics and were informed that the Bureau did not consider Ms. W-T to be A's legal parent after May 23, 2011.

In its submission to record, the Division asked that its child support order be vacated.

### **III. Discussion**

There was no dispute that the Division's order should be vacated. When a new birth certificate is issued based on a tribal adoption action before a final administrative order has been issued in a child support establishment, the Division closes the child support case.<sup>7</sup>

### **IV. CHILD SUPPORT ORDER**

1. The Division's Amended Administrative Child and Medical Support Order issued on July 27, 2011 is vacated.

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<sup>4</sup> Recording of Hearing- Testimony of Ms. W-T.

<sup>5</sup> Recording of Hearing- Testimony of Ms. W-T.

<sup>6</sup> Exhibit 5.

<sup>7</sup> Alaska Regulation 15 AAC 125.845(e).

2. Ms. W-T is not liable for child support for child support for A.

DATED this 12<sup>th</sup> day of September, 2011.

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 29<sup>th</sup> day of September, 2011

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

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