

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

IN THE MATTER OF:	)	
	)	OAH No. 12-0012-CSS
G J. K	)	CSSD No. 001104421
_____	)	

**ORDER AFFIRMING ADMINISTRATIVE ORDER**

This matter was scheduled for a formal hearing at the request of the obligor, G J. K. Mr. K disputes the Administrative Review Decision issued by Child Support Services Division (CSSD) on December 13, 2011 because this decision was based upon the custodian, N R, having primary custody of the obligee child, D. Mr. K contends this is incorrect because they share custody.

The hearing was held on February 1, 2012 at 9:00 a.m. Mr. K was called at the noticed time at the phone number he provided on his request for appeal. He did not answer and a voice mail was left informing him of the proceeding and his right under 3 AAC 05.030(j) to request a supplemental hearing.<sup>1</sup> As the hearing progressed, it became apparent that the best way to proceed would be to schedule a supplemental hearing in two weeks. This would provide time for the parties to be served with the division's Pre-Hearing Brief and accompanying exhibits.<sup>2</sup> Also, the additional two weeks would provide the parties with time to gather evidence tending to establish where D resided when.

An order setting supplemental hearing and requesting discovery was issued February 1, 2012. This order and the original notice of hearing were mailed to Mr. K's most recent address provided to CSSD.<sup>3</sup>

The supplemental hearing was held February 15, 2012. Again Mr. K's phone went unanswered and a voice mail message was left. Ms. R was unavailable for medical reasons.

Mr. K, as the person challenging the order, has the burden of proving that his child

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<sup>1</sup> Mr. K was informed that the record would remain open for ten days or an order would issue without taking evidence from him, unless Mr. K showed reasonable cause for his failure to appear. He was further informed that the record would remain open for ten days to provide him with an opportunity to show cause and request a supplemental hearing. Additionally, the Office of Administrative Hearings' telephone number was provided.

<sup>2</sup> Child Support Specialist Andrew Rawls represented that he had emailed a copy of this document and attachments to Mr. K. Unless provided by statute, order, or agreement of the parties, service by email is not valid.

<sup>3</sup> 15 AAC 05.010(c) provides that a document sent by certified mail, such as the original notice of hearing, is effective service if the "mailing is addressed to the latest address provided to the department."

support obligation for D should be different from what was ordered.<sup>4</sup> He failed to do so. The only evidence submitted was Mr. K's unsworn request for a formal hearing.<sup>5</sup> In his request, Mr. K wrote that he had documents that could prove he had custody of D 50% of the time, yet no evidence has been forthcoming.

When the record is reviewed, Mr. K has not met his burden of proving that it is more likely than not that the December 13, 2011 Administrative Review is incorrect. Therefore, the December 13, 2011 Administrative Review is AFFIRMED.<sup>6</sup>

DATED the 15<sup>th</sup> day of February, 2012.

By: Signed  
Rebecca L. Pauli  
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 5<sup>th</sup> day of March, 2012.

By: Signed  
Signature  
Rebecca L. Pauli  
Name  
Administrative Law Judge  
Title

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

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<sup>4</sup> 15 AAC 05.030(h).

<sup>5</sup> Exh. 5.

<sup>6</sup> 2 AAC 64.320; 15 AAC 05.030(j).