

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

IN THE MATTER OF)	
K C. Q JR.)	OAH No. 12-0289-CSS
)	CSSD No. 001157339
_____)	

DECISION AND ORDER

I. Introduction

This case is K C. Q's appeal of an order issued by the Alaska Child Support Service Division (Division). That order established Mr. Q's child support obligation for the child, E V. A hearing was held in Mr. Q's appeal on September 4, 2012. The custodial parent T T, the child's mother, did not participate in the hearing.¹ Mr. Q participated. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed at the end of the hearing.

Having reviewed the record in this case and after due deliberation the Administrative Law Judge concludes that Mr. Q's monthly child support for E V should be set at \$990 for November and December of 2008; \$1,377 per month for all of 2009; \$1,235 per month for all of 2010; \$1,051 per month for all of 2011; and \$976 per month for 2012 and ongoing. These calculations are based on the Division's latest calculations, based on updated income information.

II. Facts

The Free State of Bavaria, Germany filed a petition on Ms. T's behalf with the Division. This petition was dated November 28, 2008 and was filed with the Division under the Uniform Reciprocal Enforcement of Support Act (URESAs). Paternity was established by an Alaska court issued December 15, 2011, after genetic testing. The Division issued an Administrative Child and Medical Support Order on May 8, 2012. Mr. Q filed a request for an Administrative Review.²

The Division issued an Administrative Review Decision and Amended Administrative Child and Medical Support Order dated May 8, 2012. In this order, the Division set Mr. Q's

¹ A filing was made by the Free State of Bavaria on the custodial parent's behalf explaining that she would not be available for the hearing and providing financial information.

ongoing child support for E V at \$1,117 per month based on Mr. Q's estimated earnings. This order also set arrears going back to November of 2008, the month that the application of services was filed through the German URESA petition.³

Mr. Q filed a request for a formal hearing.⁴ At the hearing, Mr. Q explained that he was concerned that his child support had not been set using the correct income information. Based on the income information provided by Mr. Q, which included paystubs, the Division had made new calculations prior to the hearing. At the hearing the Division went over the information used in these calculations with Mr. Q.⁵

These calculations result in a monthly child support obligation of \$990 for November and December of 2008; \$1,377 per month for all of 2009; \$1,235 per month for all of 2010; \$1,051 per month for all of 2011; and \$976 per month for 2012 and ongoing. Based on the evidence in the record, I find that it is more likely than not that the Division's latest calculations are correct and that the income used in these calculations is correct.⁶

At the hearing, Mr. Q was concerned about how his child support obligation would impact his household finances. Mr. Q explained that he has his wife and a step child living with him and pays child support for two other children who are younger than E V.⁷

III. Discussion

In a child support hearing, the person who filed the appeal, in this case Mr. Q has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.⁸ At the hearing, Mr. Q and the Division went through the Division's latest calculations. Based on that discussion those calculations appear to be correct. These calculations are based on updated income information provided by Mr. Q. These calculations give Mr. Q a credit for the child support he pays for his biological child who is older than E V.

Mr. Q is not entitled to a reduction in his child support obligation for E V due to his child support obligation for his younger biological child born after E V or for having a step child in his

² Exhibits 1-4.

³ Exhibit 7.

⁴ Exhibit 8.

⁵ Exhibit 10 & Recording of Hearing.

⁶ Recording of Hearing & Exhibits 7-10.

⁷ Recording of Hearing.

⁸ Alaska Regulation 15 AAC 05.030(h).

home. Alaska Civil Rule 90.3(a)(1)(C) provides a deduction from income for only child support payments arising from prior relationships. A companion provision of the rule, Civil Rule 90.3(a)(1)(D), provides that a parent is entitled to a deduction from income for the cost of providing support for children from prior relationships living with the parent.⁹ This provision does not apply to step children.

Mr. Q's legal duty to pay the correct percentage of his income toward the ongoing support of E V, his oldest child, takes precedence over his other financial obligations. Under Alaska Civil Rule 90.3(a) &(c), Mr. Q's obligation to pay 20% of his adjusted gross income in child support less his deduction for his support for his oldest child, takes precedence even over his financial obligation to his youngest child and his step child.

IV. Conclusion

Mr. Q's 2011 monthly child support arrears and ongoing child support should be adjusted in accordance with the Division's latest calculations. The child support amounts in this order were calculated using the primary custody formula in Civil Rule 90.3(a).

V. Child Support Order

1. Mr. Q's ongoing child support for E V is at \$976 per month effective October 1, 2012.
2. Mr. Q is liable for child support arrears for E V in the monthly amount of \$990 for November and December of 2008; \$1,377 per month for all of 2009; \$1,235 per month for all of 2010; \$1,051 per month for all of 2011; and \$976 per month for January through September of 2012.
3. The Division should give the parties the appropriate debit or credit for their out-of-pocket expenses for providing health insurance coverage for E V.

All other provisions of the Administrative Review Decision and Amended Administrative Child and Medical Support Order dated May 8, 2012 remain in effect.

DATED this 27th day of September, 2012.

By: Signed
Mark T. Handley
Administrative Law Judge

⁹ Civil Rule 90.3(a)(1)(D).

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 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.]