

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

In the Matter of:)
)
P R. S) OAH No. 13-0730-CSS
) CSSD No. 001132339
_____)

DECISION AND ORDER

I. Introduction

The obligor, P R. S, appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD). The obligee child is T, and the custodial parent is F E.

Mr. S raises several issues on appeal:

1. He agrees that his support should be lowered to \$50 per month, but asks that the effective date be earlier since he has been incarcerated since 2010, and out of work for two years before that;
2. He is contesting paternity;
3. He disputes the amount of arrears that began to accrue as the result of a default order;
4. He requested an accounting showing how the arrears had been calculated; and
5. He seeks contact information for Ms. E so she can be served in the civil action contesting paternity.

A hearing was held on June 24, 2013. Ms. E and Mr. S both participated by telephone. CSSD was represented by Child Support Specialist Erinn Brian, who also participated by telephone. Based on the testimony and exhibits, CSSD's Modified Administrative Child Support and Medical Support Order is affirmed.

II. Facts

A. Background

An Administrative Child Support and Medical Support Order was issued by CSSD in November of 2004.¹ This order set Mr. S's child support obligation at \$305 per month for one child, T. CSSD mailed a Notice of Petition for Modification of Administrative Order to both

¹ Exhibit 1.

parties on March 13, 2013.² The modified child support order was issued on April 19, 2013, reducing Mr. S's support obligation for T to \$50 per month effective April 1, 2013.³

B. Material Facts

The relevant material facts are not in dispute. Mr. S is currently incarcerated. He has filed an action in Superior Court challenging paternity, but has not been able to serve a copy of his complaint on Ms. E. He requested contact information to help him effectuate service, but has not received that information. The Superior Court has issued an order that states, in part, "CSSD should address the issue of paternity in the administrative appeal."⁴

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁵ Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated based on his or her "total income from all sources." Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁶ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established and the order may be modified. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.⁷ Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.⁸

The modified order in this case did reduce Mr. S's support obligation to \$50 per month. Mr. S did not contest that amount. He did ask that it be made retroactive, but as noted above, modifications may not take effect until the month after the parties are informed that a modification has been requested. Accordingly, the modified support order correctly set the effective date as being April 1, 2013.⁹

² Exhibit 2, pages 2 & 4

³ Exhibit 4.

⁴ Court Order dated May 31, 2013.

⁵ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁶ AS 25.27.190(e).

⁷ 15 AAC 125.321(d).

⁸ 15 AAC 05.030(h).

⁹ In his appeal, Mr. S objected to having the effective date be May 1, 2013, but the order does have April 1 as the effective date.

The other issues raised by Mr. S are not ripe for resolution through an administrative appeal. CSSD initially deferred to the Superior Court to resolve the paternity issue. However, since the court stated that CSSD should address that issue, CSSD has now agreed to start paternity testing pursuant to AS 25.27.166.

Mr. S's concern with the arrears is based on the fact that the original order may have been a default order, and that he was not aware of how those arrears had been calculated. Prior to the hearing, CSSD submitted a supplemental exhibit, Exhibit 7, which shows each month's charge, monthly accrued interest, and the cumulative total of arrears. Mr. S was also sent the forms he needs to complete to have a prior default order reviewed.

Finally, Mr. S only sought contact information to start the process of paternity testing. CSSD has now agreed to start that process. However, if he still wishes to receive contact information, he can submit a written request to CSSD asking for that information.

This decision resolves the question of modifying the support obligation to \$50 per month with an effective date of April 1. If either party is unhappy with the result, after the completion of the proposal for action process, and a final adoption or non-adoption by the final decisionmaker, that party may appeal to the Superior Court. In addition, either party could appeal the determination in this decision not to address a particular issue. CSSD may make future decisions regarding paternity, arrears, and the original default order. Either party will have appeal rights after those decisions are made.

IV. Conclusion

Mr. S's support obligation for T was correctly set at \$50 per month for one child, effective April 1, 2013. This child support calculation was made pursuant to the guidelines in Civil Rule 90.3.

V. Child Support Order

The April 19, 2013, Amended Administrative Child Support and Medical Support order is upheld and all provisions remain in effect.

DATED this 25th day of June, 2013.

By: 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 29th day of July, 2013.

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

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