

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

In the Matter of: )  
 )  
K N ) OAH No. 15-0664-CSS  
 ) CSSD No. 001197050  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

The obligor, K N, appealed an Administrative Child Support and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on July 1, 2014.<sup>1</sup> The obligee child is F, age 1.<sup>2</sup>

The hearing was held on July 14, 2015. K N represented himself and appeared in person. Andrew Rawls, Child Support Specialist, who represented CSSD, participated in-person. T T, the custodial parent, did not participate in the hearing.

Based on the evidence and after careful consideration, Mr. N's child support obligation remains at \$50 per month, the amount which was set back on July 1, 2014. CSSD's calculations of the child support arrearages are correct. Mr. N's requests to waive interest and to have the child support payments placed into a trust are denied.

**II. Facts**

*A. Procedural Background*

Mr. N and Ms. T have one child: F. Ms. T is the custodial parent. After paternity was established through genetic testing, CSSD established Mr. N's child support obligation for the one child in an Administrative Child Support and Medical Support Order that set his child support amount at \$50 per month effective August 1, 2014; it included child support arrearages in the total amount of \$350 for the period from January 1, 2014 through July 31, 2014.<sup>3</sup> Mr. N requested an administrative review on September 4, 2014.<sup>4</sup> That administrative review decision upheld the July 1, 2014 Administrative Child Support and Medical Support Order without change.<sup>5</sup>

Mr. N appealed and requested a formal hearing.

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<sup>1</sup> Exs. 4, 5.  
<sup>2</sup> Ex. 4.  
<sup>3</sup> Ex. 4.  
<sup>4</sup> Ex. 5.  
<sup>5</sup> Ex. 6.

*B. Material Facts*

Mr. N has been incarcerated continuously since May 2013.<sup>6</sup> He and Ms. T have one child, F, who was born on 00/00/14. Ms. T is the custodial parent. Mr. N was determined to be F's father through genetic testing.<sup>7</sup> CSSD determined that Mr. N was liable for child support in the amount of \$50 per month, based upon his being incarcerated and having no income.<sup>8</sup> CSSD entered its order to that effect on July 1, 2014.

**III. Discussion**

*A. Child Support Amount*

A parent is obligated both by statute and at common law to support his or her children.<sup>9</sup> 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." The person appealing CSSD's decision has the burden of proving that the decision is incorrect.<sup>10</sup>

Mr. N has no income. He is incarcerated, as he has been since before F's birth. Regardless, CSSD set Mr. N's monthly child support amount at \$50. This is the minimum support allowable under Alaska Civil Rule 90.3(c)(3). His child support obligation should remain at \$50 per month, as it was set by CSSD in its July 1, 2014 Administrative Child and Medical Support Order.

*B. Trust*

Mr. N wished to have his child support payments placed into a trust for his daughter's benefit. This is not appropriate for two reasons. First, this would frustrate the underlying purpose of child support, which is to financially assist the custodial parent with the various expenses associated with raising a child. Second, the custodial parent is receiving Temporary Assistance benefits.<sup>11</sup> As a result, the child support payments will not be going to the custodial parent, they will be going to partially reimburse the Temporary Assistance Program for the funds it is paying to the custodial parent.

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<sup>6</sup> Ex. 7

<sup>7</sup> Ex. 3.

<sup>8</sup> Ex. 4, p. 8.

<sup>9</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

<sup>10</sup> 15 AAC 05.030(h).

<sup>11</sup> Ex. 4, p. 9.

*C. Arrearages*

Mr. N had arrearages in the total amount of \$1,319.52 as of July 14, 2015.<sup>12</sup> Mr. N disagreed with this amount. As explained by CSSD at hearing, this amount consisted of past due child support in the amount of \$950.<sup>13</sup> There was also \$219.50 in costs associated with the genetic testing component (\$65 process server fees, and \$154.50 for laboratory fees),<sup>14</sup> and separate process server fees of \$118.77 for the child support amount component.<sup>15</sup> This comes to \$1,288.27 in charges. The remainder of the \$1,319.52 is accrued interest.<sup>16</sup>

*D. Interest Accrual*

Mr. N argued that interest on his past due child support should be waived, due to hardship – specifically the fact that he is incarcerated and not employed. Each child support payment owed “is a judgment that becomes vested when each payment becomes due and unpaid.”<sup>17</sup> Judgments are subject to interest.<sup>18</sup> The forgiveness/waiver of interest on past due child support payments is not a remedy that can be provided in this proceeding.

**IV. Conclusion**

Under the law, Mr. N’s ongoing child support obligation for F is \$50.00 per month. The child support amounts in this order were calculated using the minimum child support formula in Civil Rule 90.3(c). CSSD has properly calculated the arrearages, and Mr. N’s requests to waive interest and to have the child support payments placed into a trust are denied.

**Child Support Order**

The Division’s Administrative Child Support and Medical Support Order issued on July 1, 2014, is affirmed.

DATED this 28th day of July, 2015.

*Signed*

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Lawrence A. Pederson  
Administrative Law Judge

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<sup>12</sup> Ex. 8.

<sup>13</sup> January 2014 through July 2015 is 19 months. 19 months at \$50 per month is \$950.

<sup>14</sup> Ex. 3.

<sup>15</sup> Ex. 4, p. 13.

<sup>16</sup> See Ex. 8.

<sup>17</sup> AS 25.27.225.

<sup>18</sup> AS 09.30.070(a).

## 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 11th day of August, 2015.

By: Signed  
Signature  
Cheryl Mandala  
Name  
Administrative Law Judge  
Title

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