

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

IN THE MATTER OF )  
 )  
 W. V. )  
 ) Case No. OAH-04-0313-CSS  
 )  
 )  
 \_\_\_\_\_ ) CSSD Case No. 001131077

**ORDER GRANTING SUMMARY ADJUDICATION**

**I. Introduction**

The obligor, W. V., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on November 12, 2004. The custodian of record is J. A., and the child is C. A. (DOB xx/xx/2000). The division has asked for summary adjudication. The administrative law judge grants the division's motion.

**II. Facts**

The child in this case was born in 2000, and he immediately began receiving public medical assistance. At some point, Mr. V. signed an affidavit acknowledging paternity. He did not withdraw the acknowledgment within sixty days of signing it.

The division issued an order on July 15, 2004, setting ongoing support at \$241 per month, with arrears of \$6007. On October 8, 2004 the division issued a Denial of Petition for Genetic Testing. After Mr. V. requested an administrative review of the support order, the division issued an Amended Administrative Child and Medical Support Order on November 12, 2004. In the amended order, the agency set Mr. V.'s ongoing support amount at \$50 per month, with arrears of \$2,686. The arrears are all based on a support obligation of \$50 per month, except for the last four months of 2000 for which support was set at \$84 per month.

**III. Discussion**

Mr. V. has requested an evidentiary hearing on the record. The division's motion for summary adjudication is a request for the administrative law judge to make a decision in the case without holding a hearing. Summary adjudication is appropriate when there are no material factual issues in the case that the administrative judge has the authority to decide.

Mr. V. has enumerated six issues on which his appeal is based. I will address these concerns in the numerical order in which Mr. V. has raised them.

*“1. J. lives with her parents when she’s not in jail on numerous felony charges.”*

*“2. She does not provide any financial support for C. herself her parents do.”*

Under Alaska law, all parents have a duty to provide support for their children.<sup>1</sup> This case concerns Mr. V.’s obligation to support his son. Any issues regarding Ms. A.’s duty to support the child, or whether she is the correct person to be receiving the support that Mr. V. pays, would have to be raised in a separate case. Because the administrative law judge does not have the authority to address these issues in this case, an evidentiary hearing would serve no end. On these two issues, the division’s motion for summary adjudication should be granted, and the amended order should be affirmed.

*“3. If I’m going [to] pay child support I want visitation rights.”*

The Child Support Services Division has limited duties and authority established by law.<sup>2</sup> The authority granted to the agency does not include the authority to regulate visitation and custody issues. As CSSD is not allowed to make decisions regarding visitation, there is nothing that the administrative law judge could review to determine whether the agency’s action was correct. Only a court can issue orders for visitation. The division’s motion for summary adjudication on this issue should be granted and the amended order should be affirmed.

*“4. I want a blood test done yes I signed the birth certificate but I had no idea that that meant I could not contest anything.”*

AS 25.20.050(1) reads,

The tribunal shall consider a completed and signed form for acknowledging paternity that meets the requirements of AS 18.50.165(a) as a legal finding of paternity for a child born out of wedlock. For an acknowledgement signed on or after July 1, 1997 the acknowledgment may only be withdrawn by the earlier of the following dates: (1) 60 days after the date that the person signed it, or (2) the date on which judicial or administrative procedures are initiated to establish child support in the form of periodic payments or health care coverage for, or to determine paternity of, the child who is the subject of the acknowledgment. After this time period has passed, the acknowledgment may only be contested in superior court on the basis of fraud, duress, or material mistake.

The division correctly determined that it may not legally consider a request for a blood test to disestablish paternity in this case. Because Mr. V. signed an acknowledgment of paternity after July 1, 1997 and did not withdraw it within 60 days, any proceedings to disestablish paternity

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<sup>1</sup> AS 25.20.030.

<sup>2</sup> AS 25.27.070.

must be brought in superior court. No issues of fact may be reviewed by the administrative law judge on this issue, and the division's motion for summary adjudication should be granted.

*"5. I would like to relinquish all my parental rights to J. Because for the most part I don't want anything to do with her or with this situation. I am being railroaded into this and I can do nothing about it because I am behind bars."*

The provisions for relinquishing parental rights exist only within adoption proceedings or proceedings to determine whether a child is legally a Child in Need of Aid under AS 47.10.<sup>3</sup> These matters must be heard in court; they are not matters with which the division is authorized to deal. Because the agency has no jurisdiction over this issue, there is no decision that could be reviewed by the administrative law judge. The division's motion for summary adjudication should be granted on this issue.

*"6. How can she get state assistance being a convicted felon. I want a formal hearing."*

The child support proceedings in this case began because C. received medical assistance. The division has no authority to determine whether the child is eligible for medical assistance from other state or federal agencies. Again, the division has no authority over this subject, and the division's motion for summary adjudication should be granted.

Mr. V. has not questioned whether the agency correctly determined his income and calculated his child support obligation. The division points out that, except for the last four months of 2000, it has set support at the lowest amount that it legally can.<sup>4</sup> Unless Mr. V. wants his support obligation raised, the agency may not change the support order. Regardless of what testimony or evidence might be presented at a hearing, there is nothing that the administrative law judge could legally direct the division to do differently.

#### **IV. Conclusion**

Mr. V. has not raised any issues of law or fact that are properly before the Child Support Services Divisions or the administrative law judge. All of the issues raised must either be addressed in Superior Court or raised by a custodian. The division's motion for summary adjudication should be granted, and no further proceedings should be scheduled in this case.

#### **V. Child Support Order**

IT IS HEREBY ORDERED that the Child Support Services Division's motion of December 29, 2004 for summary adjudication in this matter be GRANTED.

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<sup>3</sup> AS 25.23.180.

<sup>4</sup> Civil Rule 90.3(c)(1)(B).  
OAH No. 04-0313-CSS

IT IS FURTHER ORDERED that the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on November 12, 2004 be AFFIRMED, and that no further proceedings be scheduled in this matter.

DATED this 4<sup>th</sup> day of March, 2005.

By: Terry L. Thurbon for  
DALE WHITNEY  
Administrative Law Judge

### **Adoption**

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. I, Terry Thurbon, Chief Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the child support obligation of W. V. be adopted and entered in his file as the final administrative determination in this appeal.

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.

Reconsideration of this decision may be obtained by filing a written motion for reconsideration within 10 days after the date of this decision, pursuant to 15 AAC 05.035(a). The motion must state specific grounds for relief, and, if mailed, should be addressed to: Commissioner's Office Appeals (Reconsideration), Alaska Department of Revenue, P.O. Box 110400, Juneau, Alaska 99811-0400.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 within 30 days of the date of this decision.

DATED this 4<sup>th</sup> day of March, 2005

By: Signed  
Terry L. Thurbon  
Chief Administrative Law Judge

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