

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

IN THE MATTER OF)	
)	Case No. OAH-05-0484-CSS
S. M.)	CSSD Case No. 001053887
_____)	

ORDER GRANTING SUMMARY ADJUDICATION

I. Introduction

The obligor, S. M., appeals a Notice of Denial of Modification Review issued by the Child Support Services Division (CSSD) on May 23, 2005. The child is D. A. and the custodians of record are R. A. and the State of Alaska. CSSD has moved for summary adjudication. The administrative law judge grants the motion.

II. Facts

Mr. M. relinquished his parental rights to D. on January XX, 2004, on the condition that the child be adopted by specified adoptive parents and that he be allowed to visit the child after the adoption. Mr. M. is currently incarcerated at Wildwood Correctional Facility. Mr. M. requested modification of his child support obligation on March 16, 2005.

III. Discussion

CSSD denied Mr. M.'s modification request because he has no ongoing support obligation. At a status conference held on August 9, 2005, Mr. M. explained that he does not understand why CSSD is still collecting support if he has no ongoing obligation. Upon review of its files, CSSD stated that it is collecting over \$26,000 in arrears that accrued before Mr. M. relinquished parental rights. Mr. M. stated that he had been living with and caring for D. for most of the child's life before the state assumed custody, and that he did not agree that the amount of arrears should be so high.

CSSD explained that rather than a modification of his support obligation, Mr. M. should request an administrative review of his withholding order by sending a letter to his caseworker and procuring evidence, preferably affidavits, of people who had knowledge of the situation. Mr. M. stated that it is difficult for him to contact potential witnesses while he is incarcerated, and somewhat awkward to explain the situation to the adoptive parents. He stated that he would write to his caseworker to request the administrative review, and that he would provide all the information and names he had available so that the caseworker could fully investigate the matter.

At the status conference, Mr. M. agreed that modification of an ongoing support obligation is not what he wanted in this case, and he did not object to CSSD's Motion for Summary Adjudication.

IV. Conclusion

CSSD is correct that it cannot modify an ongoing support obligation in this case because there is no ongoing support obligation. CSSD's Motion for Summary Adjudication should be granted, and its decision of May 23, 2005 to deny Mr. M.'s modification request should be affirmed.

V. Order

IT IS HEREBY ORDERED that CSSD's Motion for Summary Adjudication be GRANTED, and that no further proceedings be scheduled in this matter.

IT IS FURTHER ORDERED that CSSD's decision of May 23, 2005 to deny Mr. M.'s modification request be AFFIRMED.

DATED this 11th day of August, 2005.

By: Signed
DALE WHITNEY
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. I, Dale Whitney, Chief Administrative Law Judge, on behalf of the Commissioner of Revenue, order that this decision and order relating to the child support obligation of S. M. 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 11th day of August, 2005

By: *Signed* _____
DALE WHITNEY
Administrative Law Judge

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