

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

IN THE MATTER OF:)

J. C. B.)

) OAH No. 05-0846-CSS
) CSSD No. 001136895
)

**DECISION AND ORDER GRANTING MOTION
FOR SUMMARY ADJUDICATION**

I. Introduction

This case involves the Obligor J. C. B.'s appeal of an Order Establishing Paternity that the Child Support Services Division (CSSD) issued on October 27, 2005. The Custodian of record is C. L. B.; the child is L., DOB 00/00/05.

This is a paternity case that was initiated after Ms. B. applied for public assistance benefits in May 2005. On May 31, 2005, CSSD issued a Notice of Paternity and Financial Responsibility.¹ Mr. B. responded and requested genetic testing.² The Office of Children's Services (OCS) had already conducted genetic tests that indicate Mr. B.'s probability of paternity is 99.99%, so CSSD obtained and used those results.³ On October 27, 2005, CSSD issued an Order Establishing Paternity that, among other things, charged Mr. B. \$45 for process server fees.⁴ Mr. B. filed an appeal on November 7, 2005. The appeal states that Mr. B. was told he would not have to pay for genetic testing.⁵

CSSD filed a Motion for Summary Adjudication on November 14, 2005. The motion states that CSSD only charged Mr. B. the \$45 for service of process, not the \$195 cost of paternity testing.

The formal hearing was held on December 1, 2005. Mr. B. appeared by telephone; Ms. B. did not participate. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on December 1, 2005.

¹ Exh. 1.

² Exh. 2.

³ Exh. 3.

⁴ Exh. 4.

⁵ Exh. 5.

II. Discussion

CSSD asserts the agency did not charge Mr. B. with the cost of paternity testing because it was the OCS, not CSSD, who had the genetic tests conducted. Rather, CSSD asserts it is merely charging Mr. B. with the \$45 cost of serving him with the Order Establishing Paternity on June 22, 2005. Apparently the caseworker mistakenly stated the \$45 fee was for paternity testing, but the usual cost of paternity tests is \$195.

In response, Mr. B. asserted it is not his fault he was not at the address listed for him at the time the agency wanted to serve him with the paternity action, so he should not be charged a fee for service of process.

CSSD is entitled to charge Mr. B. \$45 for service of process of the paternity documents on him. CSSD generated the Notice of Paternity and Financial Responsibility on May 31, 2005.⁶ The address CSSD had for him at the time was at the Spring Creek Correctional Center in Seward.⁷ Upon learning he was not in custody, CSSD obtained another address for him and he was served there on June 22, 2005.⁸ CSSD charged Mr. B. a total of \$45 -- \$35 for the process service and \$10 for mileage, pursuant to Administrative Rule 11. CSSD reasonably used a process server in this situation and the fees for the service are reasonable.

I find based on the record as a whole that Mr. B. did not establish by a preponderance of the evidence that CSSD incorrectly charged him for service of process, as required by 15 AAC 05.030(h). Accordingly, I conclude CSSD's motion for summary adjudication should be granted.

THEREFORE IT IS ORDERED:

- CSSD's November 14, 2005, Motion for Summary Adjudication is granted and the Order Establishing Paternity is affirmed;
- Mr. B. is liable for paying \$45 for service of process on June 22, 2005.

DATED this 28th ay of February, 2006.

By: Signed
Kay L. Howard
Administrative Law Judge

⁶ Exh. 1 at pg. 1.

⁷ Exh. 6 at pg. 1.

⁸ *Id.*

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 within 30 days after the date of this decision.

DATED this 21st day of March, 2006.

By: Signed
Signature
Tom Boutin
Name
Deputy Commissioner
Title

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