

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

In the matter of:)	
)	OAH No. 06-0055-CSS
D. P. M.)	CSSD No. 001065197
_____)	

DECISION AND ORDER

I. Introduction

D. P. M. appealed a Notice of Denial of Modification Review that the Child Support Services Division (CSSD) issued in his case on December 30, 2005. The Obligee child is D. M. II, born 00/00/97. The custodian is C. B.

The Alaska Office of Administrative Hearings (OAH) attempted to give notice to both parents of a formal hearing to be held February 13, 2005, using Certified Mail. Ms. B.'s notice was returned as undeliverable from her address as recorded with CSSD. Mr. M. received his notice and appeared in person at the hearing. David Peltier, Child Support Specialist, appeared for CSSD.

II. Facts

Mr. M.'s child support obligation for D. II was established at \$50 per month in 1999.¹ The order was based on Ms. B. having primary custody.² Mr. M. does not presently have custody of D. II, although he is able to have visitation with the boy once a week.

Mr. M. has another child support case involving two daughters, the youngest of whom he believes to be about 17 now. This is not an ongoing obligation. He believes he owes about \$8000 in arrears in that case.

Mr. M. is a certified welder, but he works as a day laborer. He has been working about 5-10 hours per week at seven or eight dollars per hour. He also receives \$3325 per year in disability payments.³ The income he receives goes to his landlord and to buying cigarettes for his girlfriend. He says he could probably get full-time work at about eight dollars an hour, but

¹ Exh. 1.
² Exh. 1.
³ Exh. 7.

has not done so because he believes CSSD would take \$535 per month from that income.

Mr. Peltier performed calculations at the hearing showing that if Mr. M. worked full time at the pay rate he mentioned, child support for D. II would be about \$260 per month. Mr. Peltier also noted that CSSD would work with Mr. M. on a payment schedule, if he had more income.

III. Discussion

Mr. M. asked for a modification of the child support order on the basis of hardship and poverty. Alaska Civil Rule 90.3 governs child support obligations. It does not allow a support obligation of less than \$50 per month unless there is shared physical custody or unless there is extended visitation of over 27 consecutive days. Neither of those situations is present in this case. Part VI-C of the commentary confirms that the minimum of \$50 “must be applied even in low income situations.”

IV. Conclusion

The administrative law judge does not have legal authority to reduce Mr. M.’s child support obligation.

V. Order

- CSSD’s motion for summary adjudication is granted.
- D. P. M.’s appeal is denied.

DATED this 13th day of February, 2006.

By: Signed _____
Christopher Kennedy
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 within 30 days after the date of this decision.

DATED this 28th day of February, 2006.

By: Signed _____
Signature
Christopher Kennedy _____
Name
Administrative Law Judge _____
Title

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