

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

H [REDACTED] D [REDACTED] )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF ALASKA, )  
 DEPARTMENT OF HEALTH )  
 AND SOCIAL SERVICES )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

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Case No. 3AN-13-[REDACTED] CI

ORDER ON APPEAL

**INTRODUCTION**

The Department of Health and Social Services terminated H [REDACTED] D [REDACTED] from the food stamp program in April 2013. Ms. D [REDACTED] subsequently instituted this appeal. This Court has jurisdiction over this appeal under AS § 22.10.020(d) and Alaska Appellate Rule 602(a)(2).

*Background Facts*

Ms. D [REDACTED] has been receiving food stamps since 2008. The Food Stamp Program stems from the Farm Security and Rural Investment Act, and it provides that certain households receive food stamps that can be redeemed for food at a variety of stores. State agencies are tasked with determining household eligibility for food stamps based on national standards.<sup>1</sup> Alaska's eligibility requirements are found in 7 C.F.R.

<sup>1</sup> 7 U.S.C. §§ 2012, 2013, 2020.

Section 273.

In order to receive food stamps, eligibility is calculated on a per household basis, taking into account resources and income of any parents and children.<sup>2</sup> The maximum resources allowed of all members of the household must not exceed \$2,000.<sup>3</sup> Eligible households are subject to occasional review of resources and income to determine if they still qualify.

During April 2013, it is undisputed that Ms. D [REDACTED] was living with her three children: [REDACTED] 16, [REDACTED] 14, and [REDACTED] 5. She further disclosed that she held title to three different vehicles: a 2002 Ford truck, a 2008 VW Beetle, and a 2001 Ford truck. The 2002 truck is exempt under the statutory scheme and thus, will not be addressed here. The major points of contention are ownership of the VW and 2001 truck.

Ms. D [REDACTED] testified that her father purchased the 2001 truck for her nephew as a reward if he did well in school, but put title in her name in order to simplify the eventual transfer because her father now lives out of state. The nephew did not achieve as required so the truck was sold. She further testified that the VW was purchased for her daughter under the same arrangement. That is, Ms. D [REDACTED]'s father bought the vehicle and put title in her name for ease of transfer if her daughter did well in school. However, her daughter has been driving the VW since it was purchased. Because the titles to all three vehicles were in her name, Ms. D [REDACTED] was ruled no longer eligible for food stamps.<sup>4</sup> Following the administrative hearing and review process, the issue presented is whether Ms. D [REDACTED]'s household actually "owns" the

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<sup>2</sup> 7 C.F.R. § 273.

<sup>3</sup> *Id.*

<sup>4</sup> 7 C.F.R. § 273.8(b).

cars for purposes of the statutory scheme.

### *Parties' Positions*

Ms. D [REDACTED] argues that the DHSS decided her eligibility based purely on the fact that title to the vehicles is in her name. She asserts that the issue of ownership is a question of law on which this court should substitute its judgment. She further contends that though title creates a prima facie case of ownership, the presumption is overcome by clear and convincing evidence that her father actually owned the vehicles.

The State asserts that ownership is a factual question and as such, the decision must be given deference. Furthermore, the evidence shows that the cars actually belonged to Ms. D [REDACTED], or member of her household, not her father.

### **STANDARD OF REVIEW**

When reviewing agency decisions, the Alaska Supreme Court “recognize[s] four principal standards of review.”<sup>5</sup> First, for questions of fact, the court utilizes the “substantial evidence test.” “Substantial evidence is ‘such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’”<sup>6</sup> The court must simply determine if this evidence exists, not reevaluate its strength, but “merely note of its presence.”<sup>7</sup> This standard is used in order to leave intact the function of the administrative agency, who determines the weight of such evidence, relative to the reviewing capacity of superior court.<sup>8</sup>

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<sup>5</sup> *State, Dep’t of Health & Soc. Servs. v. North Star Hosp.*, 280 P.3d 575, 579 (Alaska 2012) (citing *Handley v. State, Dep’t of Revenue*, 838 P.2d 1231, 1233 (Alaska 1992); *Jager v. State*, 537 P.2d 1100, 1107 n. 23 (Alaska 1975)).

<sup>6</sup> *Handley*, 838 P.2d at 1233 (citing *Keiner v. City of Anchorage*, 378 P.2d 406, 411 (Alaska 1963)).

<sup>7</sup> *Id.* (citing *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 179 n.26 (Alaska 1986)).

<sup>8</sup> *Id.*

Second, “for questions of law involving agency expertise”, the court applies the “reasonable basis test.”<sup>9</sup> When these types of questions come before the court, “deference should be given to the administrative interpretation, since the expertise of the agency would be of material assistance to the court.”<sup>10</sup> This means heavy deference unless this court finds that the agency’s interpretation was “plainly erroneous and inconsistent with the regulation.”<sup>11</sup>

Third, when the Court is considering “questions of law where no expertise is involved,” it institutes the “substitution of judgment test.”<sup>12</sup> This is different from situations where agency expertise is helpful because “courts are at least as capable of deciding this kind of question.”<sup>13</sup>

Finally, when looking at administrative regulations, the Court applies the “reasonable and not arbitrary test.”<sup>14</sup> “[W]here an agency interprets its own regulation...a deferential standard of review properly recognizes that the agency is best able to discern its intent in promulgating the regulation at issue.”<sup>15</sup> This standard is not very demanding as the court is limited to deciding if there is merely a “reasonable basis”

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<sup>9</sup> *North Star Hosp.*, 280 P.3d at 579 (citing *Handley*, 838 P.2d at 1233; *Jager*, 537 P.2d at 1107 n. 23)).

<sup>10</sup> *Swindel v. Kelly*, 499 P.2d 291, 298 (Alaska 1972) (citing *Kelly v. Zamarello*, 486 P.2d 906, 911 (Alaska 1971)).

<sup>11</sup> *May v. State, Commercial Fisheries Entry Com’n*, 175 P.2d 1211, 1216 (2007) (citing *Simpson v. State, Commercial Fishers Entry Com’n*, 101 P.3d 605, 609 (Alaska 2004)).

<sup>12</sup> *North Star Hosp.*, 280 P.3d at 579 (Alaska 2012) (citing *Handley*, 838 P.2d at 1233; *Jager*, 537 P.2d at 1107 n. 23)).

<sup>13</sup> *Swindel*, 499 P.2d at 298 (citing *Kelly*, 486 P.2d at 911).

<sup>14</sup> *North Star Hosp.*, 280 P.3d at 579 (citing *Handley*, 838 P.2d at 1233; *Jager*, 537 P.2d at 1107 n. 23)).

<sup>15</sup> *Handley*, 838 P.2d at 1233 (citing *Rose v. Commercial Fisheries Entry Comm’n*, 647 P.2d 154, 161 (Alaska 1982)).

for the interpretation of such regulations.<sup>16</sup>

## DISCUSSION

### *(1) Is Ownership a Question of Law or Question of Fact?*

At the evidentiary hearing, it became clear that the standard of review this court implements will likely control the ultimate decision. Ms. D [REDACTED] argues that ownership is a question of law, and thus, this court should substitute its judgment for that of the agency. The State, on the other hand, argues that ownership is actually a question of fact and this court must determine if substantial evidence supports the agency's decision. In support of Ms. D [REDACTED]'s contention, she cites case law that shows title only serves as prima facie evidence of ownership.<sup>17</sup> The court must then view other evidence of the parties true intent to determine if such evidence overcomes the prima facie case.<sup>18</sup>

However, the Alaska Supreme Court has ruled that the intent of the parties is what truly matters.<sup>19</sup> In precedent cited for this decision, the U.S. District Court had ruled that the totality of the circumstances governed whether ownership passed for insurance purposes, whereas title merely creates a rebuttable presumption.<sup>20</sup> Of importance to the case at bar; that Court had ruled on a pending motion for summary judgment, concluding that parties may attempt to rebut the presumption created by the title-holder through a factual showing, and that such a showing would raise a genuine

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<sup>16</sup> *Rose*, 647 P.2d at 161.

<sup>17</sup> *Roberson v. Manning*, 268 P.3d 1090, 1093 (Alaska 2012).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* (citing *State Farm Mut. Auto Ins. Co. v. Clark*, 397 F.Supp. 745 (1975)).

<sup>20</sup> *State Farm*, 397 F.Supp. at 752.

issue of material fact.<sup>21</sup> This court finds the reasoning of the District Court persuasive, if not controlling. So, any attempt to rebut presumptions of ownership addresses factual questions, not legal ones. This makes sense in the case at bar because the indicia of ownership, such as the right to sell or otherwise transfer the property and the right to unrestricted possession and use of the property, are factual determinations. Thus, this court will apply the “substantial evidence test.”

*(2) Did Ms. D [REDACTED] Own Either Vehicle for the Purpose of Eligibility?*

When applying the “substantial evidence test,” this court does not attempt to re-weigh evidence but, assuming the agency has applied the correct legal standards, merely searches for the presence of reasonable evidence to support the agency’s conclusion. A.S. 44.64.060(e) states that a proposed decision from an administrative hearing may be “adopted” by the agency as its final decision. However, the agency has the right to “reject, modify, or amend an interpretation or application in the proposed decision ...by specifying the reasons for the rejection, modification, or amendment, and issue a final agency decision.”<sup>22</sup> Here, the agency ruled that the decision was “[r]ejected- the ALJ’s conclusion(s) are not supported by the evidence presented.” This sentence implies that the agency considered all evidence presented, but reached a conclusion different from the ALJ ruling. The agency thus determined that Ms. D [REDACTED] owned one, or both, of the cars for the purposes of food stamp eligibility.

The substantial evidence test only requires that this court decide if the agency relied upon reasonable evidence to make a conclusion. Here, the agency relied upon

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<sup>21</sup> *Id.* at 753.

<sup>22</sup> A.S. 44.64.060(e)(5).

everything the ALJ relied on to make its decision, including title and vehicle usage. The ALJ gave the most weight to the letter from Ms. D [REDACTED]'s father, whereas, it seems clear to this court that the agency gave it less weight. That weight is not one that this court can disturb according to the substantial evidence test. Accordingly, the agency's decision is upheld.

**CONCLUSION**

Determining ownership in this context is a question of fact. This court's review of questions of fact is limited to the substantial evidence test. Given the admissions that title was in Ms. D [REDACTED]'s name, that the vehicles were in her possession, or the possession of someone in her household, and that one of the vehicles was being used by a member of her household, substantial evidence is in the record that supports the agency's determination of ownership. Accordingly, the agency decision is UPHeld.

IT IS HEREBY ORDERED.

Dated at Anchorage, Alaska this 18th day of September, 2014

[REDACTED]  
\_\_\_\_\_  
Kevin M. Saxby  
Superior Court Judge

I certify that on 9/19/14 a copy of the above was mailed to each of the following at their addresses of record:

[REDACTED]

- Pharr  
- Wakley

\_\_\_\_\_  
Administrative Assistant