

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

In the matter of:)	
)	OAH No. 07-0249-CSS
W. J. H.)	CSSD No. 001067210
_____)	

DECISION AND ORDER

I. Introduction

W. J. H. appealed a Modified Administrative Child and Medical Support Order that the Child Support Services Division (CSSD) issued in his case on April 3, 2007, setting a support obligation of \$50 per month beginning March 1, 2007. The obligee child is T. D., born 00/00/97. T. is in the physical custody of J. M. D.

The Alaska Office of Administrative Hearings (OAH) attempted to hold a formal hearing on May 24, 2007. Mr. H. was unavailable owing to circumstances beyond his control. Ms. D. participated by telephone. A.J. Rawls, Child Support Specialist, appeared for CSSD. The hearing was rescheduled for June 14, 2007. Mr. H. did participate on June 14 by telephone, but Ms. D. could not be reached at the numbers she provided. A.J. Rawls again appeared for CSSD.

CSSD has moved for summary adjudication on the basis that support is already at the minimum level. The motion is granted because there is no discretion to set support below the minimum.

II. Facts

Mr. H. previously paid support at the level of \$568 per month. On February 7, 2007, he requested modification because he is incarcerated and has no income. CSSD reduced his support to \$50 per month effective March 1, 2007.

Mr. H. expects to be incarcerated until 2012, and he will have either no income or income on the order of \$1 per day until his release.

T. is a child living in Alaska and Alaska has jurisdiction over the support due for T.

III. Discussion

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.” There is no basis to waive child support because the supporting parent has no present way to earn money.

Mr. H. will likely accrue an arrearage of more than \$3000, plus interest, while he is incarcerated. Upon his release, he may wish to make a written offer to CSSD proposing a payment plan and addressing the handling of interest.

IV. Conclusion

The law does not permit a reduction of Mr. H.’ child support obligation below \$50.

V. Order

- CSSD’s motion for summary adjudication is granted.
- W. J. H. is liable for child support in the amount of \$50 per month for T. D. effective March 1, 2007, and ongoing.

DATED this 14th day of June, 2007.

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 2nd day of July, 2007.

By: Signed
Signature
Christopher Kennedy
Name
Administrative Law Judge
Title

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