

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

|                  |   |                     |
|------------------|---|---------------------|
| IN THE MATTER OF | ) | OAH No. 07-0315-CSS |
| P. J. B.         | ) | CSSD No. 001056334  |
|                  | ) |                     |
| _____            | ) |                     |

**DECISION & ORDER ON SUMMARY ADJUDICATION**

On June 20, 2007, a hearing was held to consider a Motion for Summary Adjudication of this appeal filed by the Child Support Services Division (Division). P. J. B., the obligor in this case, did not respond to the motion and did not participate in the hearing.<sup>1</sup> K. F., the custodian, did not respond to the motion and did not participate in the hearing.<sup>2</sup> The Division was represented by David Peltier, Child Support Services Specialist.

The Division's Motion for Summary Adjudication in this appeal alleged that no material facts are in issue and that it is entitled to judgment as a matter of law. This case is Mr. B.'s appeal of the Division's order denying his request to modify his ongoing child support obligation to a lower monthly amount. Having reviewed the record in this case and after due deliberation, I conclude that the Division's order should be upheld. Mr. B.'s ongoing child support obligation for C. should remain as set in his existing order.

**II. Facts**

This case is a modification action.<sup>3</sup> Mr. B. requested a modification of his existing child support for his child, C..<sup>4</sup> Mr. B. requested that the Division decrease ongoing child support.<sup>5</sup>

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1 Mr. B. did not appear or provide a phone number as directed by the notice sent to him. At the time of the hearing, there was no answer at his phone number of record.

2 Ms. F. did not appear or provide a phone number as directed by the notice sent to her. At the time of the hearing, there was no answer at her first phone number of record and at her second phone number of record the person who answered stated that she could not take the call.

3 Alaska Civil Rule 90.3(h) governs modification actions.

4 Ex. 1.

5 Ex. 1.

The Division issued notice of the petition for modification on March 22, 2007.<sup>6</sup> Mr. B. did not provide the income information as ordered in the petition.<sup>7</sup> The Division issued a Notice of Denial of Modification Review on May 8, 2007.<sup>8</sup> This means that the Division determined that it would not take further action on the modification petition that was issued on March 22, 2007. Mr. B.'s ongoing child support obligation therefore remained at the amount set in his existing order. Mr. B. requested a formal hearing.<sup>9</sup> In his request for a formal hearing, Mr. B. again asked that his child support be decreased.<sup>10</sup> In his request for a formal hearing, Mr. B. admits that he did not timely provide income information as required.<sup>11</sup> With his request for a formal hearing, Mr. B. provided documentation indicating that he had no earned income but did not provide any explanation for his lack of earnings.<sup>12</sup>

### **III. Discussion**

In a child support hearing, the person who filed the appeal, in this case, Mr. B., has the burden of proving by a preponderance of the evidence that the Division's order is incorrect.<sup>13</sup> The Division has the authority to decline to complete its review of a request for modification when, as in this case, the party requesting the review does not provide all of the required income information.<sup>14</sup> Since he admits that he did not timely provide the information the Division requested, Mr. B. admits to facts which show that the Division's order was correct.<sup>15</sup>

Before Mr. B. can receive a reduction in his ongoing child support, he will have to request a new modification. During this new modification action, he will have to provide all his income information to the Division. Mr. B. will also have to timely respond to any inquiries that the Division might make about his income, his earning capacity, and any unusual circumstances.

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6 Ex. 2.

7 Ex. 3.

8 Ex. 3.

9 Ex. 4.

10 Ex. 4.

11 Ex. 4.

12 Ex. 4.

13 Alaska Regulation 15 AAC 05.030(h).

14 Alaska Regulation 15 AAC 125.316(e).

15 Recording of Hearing & Alaska Regulation 15 AAC 125.316(e).



**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 Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 9<sup>th</sup> day of July, 2007.

By: Signed  
Terry L. Thurbon for  
Mark T. Handley  
Administrative Law Judge

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