

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

IN THE MATTER OF: )

P. C. S. )

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) OAH No. 07-0657-CSS

) CSSD No. 001144198

**DECISION AND ORDER GRANTING  
MOTION FOR DISMISSAL**

**A. Introduction**

On October 31, 2007, P. C. S. filed an appeal of an Administrative Child Support and Medical Support Order that CSSD issued on March 19, 2007. In response, CSSD filed a Motion for Dismissal of the appeal. Oral argument was held on December 3, 2007. Mr. S. appeared by telephone; the Custodian, L. A. R., did not participate. David Peltier, Child Support Specialist, represented CSSD. The proceeding was recorded; the record closed on December 3, 2007.

Kay L. Howard, Administrative Law Judge, Office of Administrative Hearings (OAH), presided. Based on the record as a whole and after due deliberation, CSSD's Motion for Dismissal is granted and Mr. S.'s appeal is dismissed.

**B. Facts**

On March 19, 2007, CSSD issued an Administrative Child Support and Medical Support Order on behalf of the child E., DOB 00/00/06.<sup>1</sup> On May 31, 2007, a process server went to Mr. S.'s address. A woman there named C., who was described on the Return of Service as a "friend/roommate" of Mr. S., told the process server that Mr. S. was sleeping, so the process server gave the documents to C.<sup>2</sup> Neither party to the case requested an administrative review.<sup>3</sup> On October 31, 2007, Mr. S. filed an appeal and requested a formal hearing.<sup>4</sup> CSSD filed a Motion for Dismissal on November 8, 2007.

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<sup>1</sup> Exh. 1.

<sup>2</sup> Exh. 3 at pg. 2.

<sup>3</sup> CSSD's Pre-hearing brief.

<sup>4</sup> Exh. 4.

### C. Discussion

CSSD asserted in its motion that Mr. S.'s request for an appeal is 123 days too late to file an appeal of an Administrative Child Support and Medical Support Order. CSSD requested that Mr. S.'s appeal be dismissed as a result.

In response, Mr. S. claims he was not served with the original Administrative Child Support and Medical Support Order on May 31, 2007. He asserted he has never had a roommate named C., although she might have been the daughter of a friend whom he allowed to stay in a trailer in his driveway for a few weeks at that time.<sup>5</sup> Mr. S. also claims the income figures CSSD used and the time frames during which CSSD is charging him support are inaccurate.

When CSSD initiates a child support action, it must serve the alleged obligor notice of his or her obligation, in this case, an Administrative Child Support and Medical Support Order, by personal service or by registered, certified, or insured mail.<sup>6</sup> Service of the documents must be carried out pursuant to the specific requirements of Rule 4 of the Alaska Rules of Civil Procedure, as though a court summons were being served.<sup>7</sup> Rule 4 states that personal service is accomplished on an individual other than an infant or an incompetent person:

by delivering a copy of the summons and of the complaint to the individual personally, or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.<sup>[8]</sup>

Once service of the Administrative Child Support and Medical Support Order has been completed on the alleged obligor parent, either party to the child support action has 30 days to request an administrative review.<sup>9</sup> The person is not entitled to a formal hearing conducted by the OAH unless and until CSSD has issued an administrative review decision.<sup>10</sup>

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<sup>5</sup> S. hearing testimony. *See also* Exh. 4.

<sup>6</sup> AS 25.27.160(a).

<sup>7</sup> AS 25.27.265(a) requires that if CSSD has to serve an order on an individual, it may do so as set forth in Rule 5 of the Alaska Rules of Civil Procedure, which, in turn, requires that every order that must be served "shall be served ...in the manner provided for service of summons in Rule 4."

<sup>8</sup> Ak. R. Civ. Pro. 4(d)(1) (emphasis added).

<sup>9</sup> 15 AAC 05.030(b)(6).

<sup>10</sup> 15 AAC 05.030(i).

In this case, CSSD issued the Administrative Child Support and Medical Support Order on March 19, 2007. Apparently, CSSD was not able to complete service of the order on Mr. S. by certified mail, so the agency resorted to personal service. The Return of Service document indicates that the process server who went to Mr. S.'s address encountered an adult female named C. who indicated Mr. S. was sleeping at the time, so the process server gave the documents to C.<sup>11</sup> This was allowed under Civil Rule 4, so Mr. S. is correctly deemed served. He did not request an administrative review within 30 days of service of the order, as required by CSSD regulation 15 AAC 05.030(i), so the administrative order became final. Mr. S. did not request a hearing until October 31, 2007, a total of 123 days after the deadline to request an administrative review.

Accordingly, based on the record as a whole, Mr. S. is not entitled to a formal hearing. CSSD's motion should be granted, and his appeal should be dismissed.

**THEREFORE IT IS ORDERED:**

1. CSSD's motion for dismissal is GRANTED;
2. Mr. S.'s October 31, 2007, appeal is dismissed.

DATED this 13<sup>th</sup> day of December, 2007.

By: Signed  
Kay L. Howard  
Administrative Law Judge

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<sup>11</sup> Exh. 3 at pg. 2.

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

DATED this 31<sup>st</sup> day of December, 2007.

By: Signed  
Signature  
Christopher Kennedy  
Name  
Administrative Law Judge  
Title

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