

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

IN THE MATTER OF)

P. K.)

Case No. OAH-07-0683-CSS

CSSD Case No. 001146392

DECISION & ORDER

I. Introduction

The obligor, P. K., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on October 24, 2007. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on December 12, 2007. Ms. K. appeared by telephone. The custodian of record, A. V., did not appear.¹ Andrew Rawls represented CSSD by telephone. The child is E. K.-V. (DOB 00/00/92). The amended order is affirmed, but CSSD will suspend collection of support until such time as E. is in someone else's custody.

II. Facts

For most of the last three years, E. has been living in a grant-funded residential student facility in Anchorage that is affiliated with the Alaska State School for the Deaf and Hard-of-Hearing and the Anchorage School District.² In September of 2007 she lived alternately with Ms. K. and with Mr. V. for two-week periods that coincided with Ms. K.'s two-week-on/two-week-off job schedule on the North Slope. Before this time E. had sometimes stayed with Mr. V. on weekends while she was living at the residential facility. Ms. K. has provided for E.'s clothing and personal care needs while she has been living in the residential facility. As of December 1, 2007, E. has been living with Ms. K. while she is in town and with a relative while Ms. K. is on the Slope, but not with Mr. V. Ms. K. is working to get E. back into the residential facility. According to Ms. K., Mr. V. is out of the country and it is not known when he might be returning.

Ms. K. and Mr. V. have never been married. At some point in the mid-1990s they drafted a custody agreement that, to the best of Ms. K.'s memory, called for shared custody and no child support to be paid to either party. Ms. K. testified that this agreement was never filed anywhere and was never adopted by any judge or child support authority, and that no custody order has ever been issued for E.

¹ Mr. V. was sent notice of the hearing by certified mail, but he did not provide a number he could be called at for the hearing. The administrative law judge attempted to call Mr. V. at the phone number on file for him; there was no answer at this number.

² Exhibit 6, page 6.

CSSD initiated the administrative support order in this case after public assistance was granted on E.'s behalf starting in January, 2007. Ms. K. testified that she has contacted a public assistance fraud investigator and is cooperating with the investigation of the matter.

III. Discussion

There is no dispute in this matter regarding the amount of support, although Ms. K.'s income may have been lower at times than that attributed to her by CSSD because she took time off work to care for E. Ms. K. objects to the collection of ongoing support, because E. is either in her custody or possibly in the technical custody of the Student Living Center, but not in the custody of Mr. V. After Ms. K.'s testimony and cross-examination, CSSD agreed that all ongoing support in this case should be suspended until such time as it can be affirmatively shown that E. is in someone's custody other than Ms. K.'s. CSSD also took the position that no arrears are owed because E. has been in Ms. K.'s custody during all times the order has been in effect.

CSSD did request that the order be affirmed, with collection suspended, in case E. does end up in Mr. V.'s or a third party's custody in the future. Ms. K. did not object. There are no other issues in dispute.

IV. Conclusion

The administrative order should be affirmed, with no collection of arrears and ongoing support suspended for so long as E. is in Ms. K.'s custody. In the event there is a change in custody in the future, Ms. K. may wish to immediately request modification if the amount of monthly support is too high at that time.

V. Order

IT IS HEREBY ORDERED that the Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on October 24, 2007 be AFFIRMED. Because the child has been in Ms. K.'s custody for all times covered by the order, no arrears shall be collected. Ongoing support will be suspended until such time as the child is no longer in Ms. K.'s custody.

DATED this 13th day of December, 2007.

By: Signed
DALE WHITNEY
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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 2nd day of January, 2008.

By: Signed
Signature
Dale Whitney
Name
Administrative Law Judge
Title

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