

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

IN THE MATTER OF)	OAH No. 07-0691-CSS
K. L. E.)	CSSD No. 001145620
)	
_____)	

ORDER GRANTING SUMMARY ADJUDICATION

On December 31, 2001, a hearing was held to consider a Motion for Summary Adjudication that the Child Support Services Division (Division) had filed in this appeal. K. L. E., the obligor in this case, participated in the hearing. Her three children covered by the child support order that is the subject of this appeal are X., Y., and Z. The custodian is the State of Alaska. Andrew Rawls, Child Support Services Specialist, represented the Division. The hearing was audio-recorded.

This case is Ms. E.'s appeal of the Division's order modifying her child support for the three children. Ms. E.'s existing order set her child support obligation at \$385 per month. This order was modified downward prospectively. Effective beginning the month of October 2007 ongoing child support was set at the minimum amount, \$50 per month, because Ms. E. is in jail.¹ In her request for a formal hearing, Ms. E. explained she cannot earn enough to pay all of her child support obligation in jail even if her ongoing child support is reduced to \$50 per month.²

The issue raised by Ms. E. does not preclude summary adjudication. When one party asks for summary adjudication, a party wishing to have a hearing needs to show that there is a need to have a hearing to prove issues of disputed fact.³ The Division correctly set Ms. E.'s support to the minimum amount of \$50 per month based on Ms. E.'s continued lack of income due to her incarceration.⁴ The law requires that child support be set at no less than \$50 per month.⁵

As discussed at the hearing, Ms. E. may be able to obtain some reduction in the amount the Division withholds from her pay by filing a request for default review of the arrears that were established in the existing April 2007 order, which was based on default income estimates. Mr.

¹ Alaska Civil Rule 90.3(c)(1)(B).

² Ex.8.

³ *Smith v. State, Dep't of Revenue*, 790 P.2d 1352, 1353 (Alaska 1990)

⁴ *Bendixen v. Bendixen*, 962 P.2d 170 (Alaska 1998) & *Douglas v. State, Department of Revenue* 880 P.2d 113 (Alaska 1994).

⁵ *Wright v. Gregorio*, 855 P.2d 772 (Alaska 1993) & Alaska Civil Rule 90.3(c)(1)(B).

Rawls volunteered to send her the appropriate paperwork to file this request. If this does not provide adequate relief, Ms. E. may wish to request a temporary reduction in collections by filing a hardship request through her Division caseworker. In the meantime, Ms. E. should notify her Division caseworker as soon as possible if her mailing address changes.

The Division's Motion for Summary Adjudication is GRANTED. This case will not be scheduled for formal hearing.

Child Support Order

The Division's Modified Administrative Child and Medical Support Order issued November 20, 2007, is affirmed.

DATED this 2nd day of January, 2008.

By: Signed
Mark T. Handley
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 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 1st day of February, 2008.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

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