

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

IN THE MATTER OF:)	
)	OAH No. 07-0719-CSS
E B. V)	CSSD No. 001150464
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DECISION AND ORDER

I. Introduction

This case involves the Obligor E B. V's appeal of an Order Establishing Paternity that the Child Support Services Division (CSSD) issued in his case on November 26, 2007. The Obligee child is N, DOB 00/00/05.

The formal hearing was held on January 15, 2008. Mr. V did not appear;¹ the Custodian, T L. C, appeared in person. David Peltier, Child Support Specialist, represented CSSD. The hearing was recorded. The record closed on March 5, 2008.

Kay L. Howard, Administrative Law Judge, Alaska Office of Administrative Hearings, conducted the hearing. Based on the record as a whole and after due deliberation, CSSD's Order Establishing Paternity is affirmed.

II. Facts

A. History

On October 24, 2007, CSSD served a Notice of Paternity and Financial Responsibility on Mr. V.² He did not respond to the notice, so on November 26, 2007, CSSD issued a default Order Establishing Paternity.³ Mr. V filed an appeal and requested a formal hearing on December 20, 2007.⁴ Mr. V did not appear for the hearing, but CSSD filed a letter from Mr. V that requested paternity tests, which CSSD stated it would facilitate.⁵ Ms. C did not object. On January 15, 2008, the undersigned issued an Order for Paternity Testing and directed the parties to participate. On February 14, 2008, CSSD filed a copy of the test results that indicate Mr. V's

¹ Mr. V received and signed for his certified notice of hearing on December 24, 2007.
² Exh. 4.
³ Exh. 8.
⁴ Exh. 6.
⁵ Exh. 7.

probability of paternity of the obligee N is 99.99%.⁶ Mr. V did not request a supplemental hearing after the DNA tests were received.

B. Findings

Based on the evidence in the record and after due consideration:

1. Mr. V did not meet his burden of proving by a preponderance of the evidence that CSSD's Order Establishing Paternity was issued in error or was incorrect, as required by 15 AAC 05.030(h);
2. Notice of the date and time for the hearing was sent by certified mail to Mr. V at his last-known address, and he signed for it on December 24, 2007;
3. Mr. V did not appear for the hearing, nor did he provide a telephone number to be called for the hearing;
4. Even though he did not participate in the hearing, Mr. V subsequently appeared and provided a DNA sample collection for genetic testing;
5. Mr. V's probability of paternity of the obligee N, DOB 00/00/05, is 99.99%;

III. Discussion

Mr. V filed an appeal of CSSD's Order Establishing Paternity and he received the notice of the date and time set for the hearing. However, he failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.

At the hearing, CSSD stated Mr. V had requested DNA testing, which the agency was willing to facilitate. An order was issued for Mr. V, and Ms. C and N, to participate in genetic testing, which they did. The test results indicate Mr. V's probability of paternity of the obligee N is 99.99%; therefore his paternity of N has been established. In the absence of any testimony or evidence from Mr. V, and in light of the paternity test results, there is insufficient evidence in the record to establish CSSD's Order Establishing Paternity was issued in error.

IV. Conclusion

Mr. V did not meet his burden of proving CSSD's Order Establishing Paternity was issued in error. His probability of paternity of N is 99.99%, so CSSD's order establishing his paternity of the child should be affirmed.

⁶ Exh. 8 (CSSD marked the document as Exhibit 7, but that exhibit number had already been assigned to Mr. V's letter).

V. Order

- CSSD's November 26, 2007, Order Establishing Paternity is affirmed.

DATED this 24th day of March, 2008.

By: Signed
Kay L. Howard
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 11th day of April, 2008.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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