

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

In the Matter of	)	
	)	
F. E.	)	OAH No. 25-0478-CSS
_____	)	

DECISION AND ORDER

I. Introduction

Custodial parent F. E. appeals a Modified Administrative Child Support Order issued by the Child Support Services (Division) in February 2025. The modified order decreased obligor K. J.'s monthly child support obligation for his sons U. and G. from \$1,021 to \$427 based on primary custody. Ms. E. objects and asserts that the reduction is inappropriate as Mr. J. is voluntarily underemployed.

A telephonic hearing was held over several dates. Ms. E. showed by a preponderance of the evidence that Mr. J. does not live in a distressed community, and has the education, training, and ability to be working full time and earn far more than minimum wage. Effective February 1, 2025, and onward his support obligation will be calculated based on imputed full-time employment at \$30 per hour, plus actual self-employment income of \$7,000 per year, resulting in a monthly support obligation of \$950 for one child and \$1,282 for two children, based on primary custody.

II. Facts

A. Material Facts¹

K. J. and F. E. are the biological parents of U. J., who is sixteen and G. J., who is twelve. The couple separated near the end of 2019. Ms. E. works currently full time as a teacher. She is also the custodial parent; she and the boys live in Anchorage with her partner in the home she owns. Mr. J. lives alone in the home he owns in in Town A.

Mr. J. has recently been working minimal hours as a pizza delivery driver. He is vague about his income, has not filed tax returns in over four years and has not had any significant income reported by the Alaska Department of Labor and Workforce

¹ Material facts are based on testimony presented at the hearing by Mr. J., Ms. E., as well as the submitted written record.

Development (DOL) since 2021.² He failed to provide a completed hearing expense worksheet or submit any income information to CSED except for one paycheck stub from his pizza delivery job. He does not have a bank account, thwarting any ability for the Division to garnish monies for child support.³

Mr. J. has a high school diploma. Prior to Covid he worked full time for over 20 years as a skilled laborer in the oil industry, holding every position except for tool pusher on the oil rigs.⁴ The salaries for the jobs for which he has experience range from \$28 per hour to \$50 per hour.⁵ He testified that he injured his Achilles tendon two years ago, making him unqualified for some of the higher end oil rig jobs that have more extensive physical requirements.⁶ However, he acknowledged having the physical and mental capacity to hold positions in the same industries, but with fewer or no such requirements.

For many summers he worked as a self-employed fishing and dip-netting guide, typically getting paid in cash. His business license for his guiding business lapsed in December 2024 for reasons unrelated to his Achilles injury. He let his coast guard license lapse after 2023, due to the low fishing catches, and testified that he likely would only continue as a dip-netting guide going forward and without running a formal business. He testified that he earned between \$7,000 and \$10,000 for the two weeks of dip-netting in 2024 but would not commit to an exact figure.⁷

During the pendency of this matter before OAH, Mr. J. submitted applications for several skilled laborer jobs paying between \$30 to \$40 per hour. He admitted he had not been doing any job searching prior to the hearing dates and could increase his pizza delivery hours but to date has elected not to do so.⁸

B. Procedural Facts

On September 28, 2021, the Division issued an Amended Administrative Support Order setting Mr. J.'s monthly support obligation for his two children, G. and U., at \$1,021

² Div. Ex. 12; *see also*, Testimony of K. J..

³ Testimony of Shawn Pattison; Div Ex. 13, the paycheck stub does not indicate his number of hours or hourly wage; *see also*, testimony of K. J..

⁴ Testimony of K. J..

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

per month, based on primary custody, effective October 1, 2021, and ongoing.⁹ It was based on his employer reported wages for one quarter of 2021, plus seasonal fishing income from Mr. J.'s self-employment as a fishing guide as determined by the Bureau of Labor and Statistics' mean hourly wage for Fishing Occupations, and augmented by the Permanent Fund Dividend (PFD).¹⁰ On December 31, 2024, Mr. J. requested a modification review of his calculation. He did not submit any of the requested documentation regarding his income, so the Division recalculated his support obligation based on the imputed income of minimum wage at full-time employment, augmented by the PFD.¹¹ This resulted in a reduction of his monthly support obligation to \$316 for one child and \$427 for two children based on primary custody, effective February 1, 2025, and ongoing.¹²

In March 2025, Ms. E. submitted an appeal of the Modified Administrative Support Order issued February 27, 2025, reducing the obligation. A telephonic formal hearing was held over several days between March 27, 2025, and June 4, 2025. Ms. E. and Mr. J. both participated and represented themselves. The Division was represented by Child Support Specialist Shawn Pattison. The record closed on June 6, 2025.

III. Discussion

A. Child support modification under Civil Rule 90.3(a)

In a child support matter, the person who files the appeal has the burden of proving that the Division's order is based on inaccurate information.¹³ Ms. E. filed this appeal, so she must prove by a preponderance of the evidence that the February 27, 2025, Modified Administrative Child Support Order is based on inaccurate information. She asserts that Mr. J. is underemployed and that he has the experience to earn more than full-time minimum wage.

A parent is obligated both by statute and at common law to support his or her children.¹⁴ Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated based on his or her total income from all sources minus mandatory deductions

⁹ Div. Ex. 1.

¹⁰ Div. Ex. 1, p. 4.

¹¹ Div. Ex. 3, pp. 4-5, (\$11.91 X 2080 hours annually).

¹² Div. Ex. 3.

¹³ 15 AAC 05.030(h).

¹⁴ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987); AS 25.20.030.

such as support for prior children, federal income taxes, and Social Security/Medicare withholdings.¹⁵ Child support orders may be modified upon a showing of “good cause and material change in circumstances.”¹⁶ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes a “material change in circumstances” has been established.

Mr. J.’s child support was previously set at \$1,021 per month, so a support calculation that changes his obligation by \$153 or more would be sufficient to modify his child support obligation.¹⁷ When the newly calculated amount is less than a 15% change, the Division still may grant the modification if three or more years have elapsed since the prior support order was issued.¹⁸ Both conditions are met in the present case.

B. Voluntary and unreasonable unemployment

Under Civil Rule 90.3, support obligations are to be set based on total income from all sources. However, when a parent is found to be voluntarily and unreasonably unemployed or underemployed, his or her child support obligation may be calculated by imputing the parent’s “potential income,” which is based on his or her “work history, qualifications or job opportunities.”¹⁹ Income is only imputed when it has been determined that the obligor has engaged in voluntary conduct “for the purpose of becoming or remaining unemployed [or underemployed].”²⁰ The Alaska Supreme Court has explained that “the relevant inquiry under Civil Rule 90.3 is ... whether a parent’s current situation and earnings reflects a voluntary and unreasonable decision to earn less than the parent is capable of earning.”²¹ Other factors to be considered are a parent’s education, training, occupation, health, and the extent to which the parent is participating in a reasonably diligent work search.²²

Mr. J. is in his mid-fifties with no known disabilities that would prevent him from holding compensated employment. He has over twenty years of experience in the oil industry working almost every job available on an oil rig. Despite his reported Achilles

¹⁵ Civil Rule 90.3(a); *see also Kowalski v. Kowalski*, 806 P.2d 1368, 1370 (Alaska 1991).

¹⁶ AS 25.27.190(e).

¹⁷ \$1,021 x 15% = \$153

¹⁸ 15 AAC 125.321(b)(2)(C).

¹⁹ Civil Rule 90.3(a)(4); 15 AAC 125.060.

²⁰ *Bendixen v. Bendixen*, 962 P.2d 170, 172 (Alaska 1998).

²¹ *Vokacek v. Vokacek*, 933 P.2d 544, 549 (Alaska 1997).

²² 15 AAC 125.060(a).

tendon injury, he admitted he is both capable of - and has recently applied for - labor jobs in the oil and construction industries which pay at least \$30 per hour. He also acknowledged that he would continue to earn money during the summer season as a dip-netting guide. He admitted that he has chosen not to seek employment in the oil or construction industries since Covid because he believed layoffs were inevitable and that any money he might save would go to child support when he was laid off. He agreed he could seek more hours at his pizza delivery job but has not, asserting that his child support obligation should only be based on what he makes, not on what he could make.²³

Mr. J. has not been engaged in a work search. He acknowledged that there are jobs available for which he is qualified in the labor field, and he has simply chosen not to apply. He made the conscious choice to lapse both his business and coast guard licenses, so this type of guide fishing income is no longer available to him. He admitted that aside from the two weeks of dip netting income and his minimal pizza delivery hours, he has chosen to remain unemployed and just “sell stuff” when he needs additional funds to pay his bills if he has no savings available.²⁴

D. Recalculated child support

The Division calculated Mr. J.’s 2021 child support obligation of \$1021 per month for two children, based primarily upon imputed wages as a fishing guide as determined by the Bureau of Labor and Statistics’ mean hourly wage for Fishing Occupations since he was actively self-employed in his fishing guide business. Guided fishing trips are no longer a primary source of income since Mr. J. is no longer actively pursuing guiding income except for the two weeks of dip-netting guiding.

The Division calculated Mr. J.’s 2025 child support obligation of \$316 per month for one child and \$427 per month for two children based upon imputed full-time minimum wage income since it had no direct income or experience information for him. In fact, Mr. J. has over twenty years of experience in the oil industry, having worked every job on an oil rig except for tool pusher. These jobs range from \$28 per hour to \$50 per hour. He testified about an injury he incurred two years ago that prevents him from obtaining jobs at the higher end of that pay scale due to physical requirements he is unable to fulfill. However,

²³ Testimony of K. J..

²⁴ *Id.*

he acknowledged that he is capable and qualified for other, less physical jobs that average around \$30 per hour full-time employment. Additionally, he fully intends to continue to act as a dip-netting guide during the two weeks of dip-netting season and historically has earned between \$7,000 and \$10,000 gross during those two weeks. Since he did not provide expense information for his dip-netting self-employment, the low end of his earnings testimony shall be used.

Therefore, effective February 1, 2025 and ongoing, it is appropriate to impute wages for Mr. J. based on a 40 hours per week job that pays \$30 per hour for 50 weeks.²⁵ Augmenting this figure by Mr. J.'s self-employment dip-netting income for two weeks of \$7,000²⁶ and the \$1,702 for the 2024 PFD, results in a total gross income of \$68,702. After monthly allowable deductions of \$975.26 for Federal income tax, FICA and un-employment insurance, his adjusted annual income totals \$56,998.88. From this amount for two children, 27% is marked as available for child support as per Civil Rule 90.3, which is \$15,389.70 annually or \$1,282 per month. For only one child 20% is marked as available for child support as per Civil Rule 90.3, which is \$11,399.78 annually or \$950 per month.

This recalculation of Mr. J.'s monthly support obligation is accurately calculated under Civil Rule 90.3. Until Mr. J. secures a higher paying position, he confirmed that he can take on additional hours delivering pizzas. Going forward, either party may request another modification review at any time.

IV. Conclusion

Based on the updated income calculation, the Modified Administrative Child Support Order issued by the Division on February 1, 2025, is adjusted upward, setting Mr. J.'s monthly child support obligation for U. and G. at \$1,282 per month for two children, effective February 1, 2025 and ongoing, based on a primary custody calculation.

V. Child Support Order

1. K. J. is liable for child support in the amount of per \$950 per month for one child; \$1,282 per month for two children, effective February 1, 2025 and onward, based

²⁵ Using 50 weeks out of the year, since Mr. J. uses 2 weeks for dip netting self-income, for this wage his gross annual income is calculated as follows: 40 hours x \$30.00 x 50 weeks = \$60,000.

²⁶ The \$7000 lower self-income figure accounts for his high end of \$10,000 gross plus reasonable expenses for two weeks of dip netting self-employment income.

on a primary custody calculation.

2. All other terms of the Modified Administrative Child Support Order dated February 27, 2025, remain in full force and effect.

Dated: June 11, 2025

SIGNED
Beth Goldstein
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 within 30 days after the date of this decision.

DATED this 8th day of July, 2025.

By: SIGNED

Signature

Beth Goldstein

Name

Administrative Law Judge

Title

[This document has been modified to conform to the technical standards for publication.
Names may have been changed to protect privacy.]