

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

In the Matter of

D. M. K.

)
)
) OAH No. 23-0575-CSS
)
_____)

DECISION AND ORDER UPON CONSENT OF THE PARTIES

On August 10, 2023 the Child Support Services Division (Division) issued a Modified Administrative Child Support Order increasing D. K.'s monthly support obligation for L. and M. K., the children he shares with custodial parent N. N., from \$753 per month to \$1,721 effective July 1, 2023. On September 11, 2023, Mr. K. appealed the decision, asserting that the Division had calculated his income incorrectly. Later, he accepted the figures the Division relied upon, but represented that the obligation as set would cause financial hardship.

A formal hearing was held on September 27, 2023, then reconvened on October 6, 2023. Both times Mr. K. and Ms. N. participated and represented themselves. The Division was represented by Child Support Specialist Shawn Pattison.

Under Civil Rule 90.3(c)(1) a child support variance may be granted for good cause if unusual circumstances exist, and there is clear and convincing evidence that enforcing the order would result in manifest injustice.¹ The parties both submitted into the record Hearing Expense worksheets detailing their respective monthly household budgets. Following the first hearing they agreed to speak informally, and when the hearing reconvened, they indicated that they were prepared to propose a consent agreement regarding Mr. K.'s arrears and his ongoing support obligation.

While both households have tight financial budgets, the parties agreed that the ordered support amount of \$1,721 exceeds Mr. K.'s ability to pay. After subtracting Mr. K.'s monthly expenses from his wages, he ends each month with a surplus of approximately \$1300. Mr. K. and Ms. N. concurred that his monthly support obligation, therefore, should be reduced to \$1300 per month for two children and \$963 per month for one child.² Although Mr. K. acknowledged that this would leave him with no

¹ 15 AAC 125.075(a)(2)(G); Civil Rule 90.3, Commentary VI.B.

² As L., the oldest child, will be turning 18 years old in April 2024 and graduating from high school the following month, she will no longer be included on this order pursuant to AS 25.24.170. M. will then be the only remaining minor listed on this support order.

funds at the end of each month, he committed to “doing what had to be done” to remain current with his support payments, including soliciting additional hours at work.

Regarding Mr. K.’s arrears, the parents testified all back due support owed on this matter should be dismissed. They concurred that it was in the best interest of the children for Mr. K. to apply his income towards their ongoing needs, as opposed to arrears and the associated interest payments. The back support in this matter accrued many months ago when Ms. N. briefly withdrew from services, then reapplied, resulting in Mr. K. owing payments for the months no order was in place. Once the agreed upon reduction of Mr. K.’s support obligation to \$1300 is applied, the parties were aware that his back support would total approximately \$1150.³

After considering the stressed financial circumstances of both households, the parties agreed that the ordered support amount exceeds Mr. K.’s ability to pay. Mr. K., Ms. N. and the Division concurred that his support obligation should be reduced to \$1300 per month for two children (\$963 for one child) based on a primary custody calculation beginning July 1, 2023. This reduction is appropriate, as Mr. K.’s financial situation represents the difficult circumstances for which a variance is appropriate. Additionally, pursuant to the mutually agreed upon request by both parties, any back child support owed in this matter is forgiven. The administrative law judge has reviewed the parties’ settlement and concurs that the child support obligation is correctly calculated under Civil Rule 90.3, with a variance applied under Civil Rule 90.3(c)(1). The parties’ settlement is adopted.

THEREFORE, IT IS ORDERED:

1. D. K. is liable for child support in the amount of \$1300 per month and ongoing for two children (\$963 per month for one child) under a primary custody calculation beginning July 1, 2023.
2. Arrearages in this matter are dismissed/zeroed out as agreed upon on the record by both parties.
3. All other terms of the Modified Administrative Child Support dated August 10, 2023 remain in full force and effect.

DATED: October 9, 2023.

By: SIGNED

Danika B. Swanson
Administrative Law Judge

³ The Division voiced no objection to dismissal of Mr. K.’s arrearages, as neither parent was receiving state public assistance during the time the back child support accrued.

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