

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

IN THE MATTER OF: )  
 )  
M. D. A. )  
 )  
\_\_\_\_\_ ) OAH No. 08-0219-CSS  
CSSD Case No. 001093095

**DECISION AND ORDER**

**I. Introduction**

This case concerns the obligation of M. D. A. for the support of his son, S. (DOB 00/00/91). The custodian of record is K. A.

The Child Support Services Division issued an administrative child support order in 2005 in the amount of \$540 per month. Mr. A. filed a request for modification of the order. The division denied the request and Mr. A. filed an appeal. The case was referred to the Office of Administrative Hearings and the assigned administrative law judge conducted a telephonic hearing on May 28, 2008. Mr. A. and Ms. A. appeared. David Peltier represented the division.

Based on the preponderance of the evidence in the record and the testimony at the hearing, modified child support will be set at \$102 per month.

**II. Facts**

From 2005 until July, 2007, M. A. worked full time as an automobile salesman, earning around \$40,000 per year or more. In July, 2007, he quit his job. On August 12, 2007, he was arrested and jailed on criminal charges. After about two weeks he was released on third party custody status.<sup>1</sup> Due to his third party custody status, Mr. A. will be unable to work until he is acquitted or, if convicted, any jail sentence is completed. Mr. A.'s only income at the present time is a federal pension; his total pension income in 2007 was \$4,849.48.<sup>2</sup> Mr. A.'s presumptive support obligation at his current income level is \$102 per month.<sup>3</sup>

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<sup>1</sup> Ex. 8, p. 3.

<sup>2</sup> Ex. 8, p. 2.

<sup>3</sup> Ex. 9.

## II. Discussion

The annual child support payment for one child in the absence of shared custody is 20% of the adjusted annual income.<sup>4</sup> When the child support obligation changes by an amount greater than 15% of the existing order, a material change of circumstances is presumed and the existing order may be modified.<sup>5</sup>

The division initially declined to modify Mr. A.'s support order because Mr. A. had not submitted current income information. At the hearing, Mr. A. explained his current circumstances, and established that he is not able to work while his criminal charges are pending. There is no dispute regarding his income since the date of his arrest, August 12, 2007, and Mr. A. did not establish that the presumptive support obligation is manifestly unjust.

## IV. Conclusion

Mr. A.'s presumptive support obligation has changed by more than 15% from the existing order. A material change of circumstances is presumed and the existing support order may be modified.

### CHILD SUPPORT ORDER

1. Mr. A.'s modified ongoing child support is set at the rate of \$102 per month effective September, 2007.

DATED: August 1, 2008

Signed  
\_\_\_\_\_  
Andrew M. Hemenway  
Administrative Law Judge

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<sup>4</sup> Civil Rule 90.3(a)(2)(A); 15 AAC 125.010, -.070(a).

<sup>5</sup> Civil Rule 90.3(h)(1).

## 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 26<sup>th</sup> day of August, 2008.

By: *Signed* \_\_\_\_\_  
Terry L. Thurbon for  
Andrew M. Hemenway  
Administrative Law Judge

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