

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

In the Matter of	)	
	)	
N. J.	)	OAH No. 08-0275-CSS
_____	)	CSSD No. 001137186

**ORDER GRANTING MOTION FOR SUMMARY ADJUDICATION**

N. J. is the father and Obligor of record for K. M. (DOB 0/00/04).<sup>1</sup> Child support services were initiated when the Custodian and mother of K., S. M., began receiving public assistance. Mr. J. challenges the Amended Administrative Child Support and Medical Support Order issued May 6, 2008;<sup>2</sup> this order directs Mr. J. to pay child support in the amount of \$50 per month effective June 1, 2008 and arrears in the amount of \$1,850 from May 1, 2005 to May 31, 2008.<sup>3</sup> Mr. J.’ principal argument on appeal is that he is disabled and social security disability payments are his only source of income.

On June 6, 2008, CSSD filed a Motion for Summary Adjudication<sup>4</sup> noting that Mr. J. had met his burden of proof and that child support has been set at the minimum amount allowed by law. Therefore, CSSD contends that there are no material issues of fact in dispute necessitating a hearing and summary adjudication should be granted.

The formal hearing on CSSD’s motion commenced on June 25, 2008 before Administrative Law Judge (ALJ) James T. Stanley. Ms. M. appeared in person. Mr. J. was assisted by L. W. who appeared and testified by telephone.<sup>5</sup> A.J. Rawls, Child Support Specialist, appeared for CSSD.

The record in this matter establishes that there are no genuine issues of material fact in dispute. At the time of the hearing, Mr. J. was disabled and receiving Supplemental Security Income (SSI).<sup>6</sup> The commentary to Civil Rule 90.3 at Part III.A provides that means-based

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<sup>1</sup> Exhibit 3.

<sup>2</sup> Exhibit 10.

<sup>3</sup> Exhibit 4.

<sup>4</sup> 2 AAC 64.250(a) provides that summary adjudication may be granted on one or more issues in an administrative hearing if a genuine dispute does not exist between the parties on an issue of material fact.

<sup>5</sup> Ms. W.is Mr. J.’ primary caregiver and payee of his social security benefits.

<sup>6</sup> The SSI program makes payments to people with low (or no) income who are age 65 or older, blind, or have a disability. See Title XVI of the Social Security Act.

sources of income such as SSI should not be considered as income. Therefore, for purposes of child support calculations, Mr. J. has no income; however, the absence of income does not mean that Mr. J. lacks an obligation to support his child. A parent is obligated both by statute and at common law to support his or her children.<sup>7</sup> Parents are not relieved of this obligation simply because they have no income. Speaking through Ms. W., Mr. J. does not contest paternity or his obligation to support K. Civil Rule 90.3(b)(3) provides that the minimum child support amount that may be ordered by law is \$50 per month, the amount of child support ordered in the May 6, 2008, Amended Administrative Child Support and Medical Support Order.<sup>8</sup>

IT IS ORDERED that CSSD's motion for summary adjudication is GRANTED and the Amended Administrative Child Support and Medical Support Order issued May 6, 2008 is AFFIRMED.

DATED this 28th day of July 2008.

By:         Signed          
James T. Stanley  
Administrative Law Judge

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<sup>7</sup> *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) and AS 25.20.030.

<sup>8</sup> This amount may be reduced when the custody arrangement warrants reduction. Civil Rule 90.3(c)(3) referencing Civil Rule 90.3(a)(3) and paragraph (b). Mr. J. has not presented evidence that the custody arrangement warrants further reduction of his child support obligation.

**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 August 2008.

By: Signed \_\_\_\_\_  
Christopher Kennedy  
Administrative Law Judge

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