

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

IN THE MATTER OF )  
 )  
 S F ) OAH No. 08-0540-CSS  
 ) CSSD No. 001128938  
\_\_\_\_\_)

**DECISION & ORDER**

**I. Introduction**

The obligor, S F, appeals a Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on September 4, 2008. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the appeal on October 20, 2008. Mr. F appeared by telephone. The custodian of record, K E, did not appear.<sup>1</sup> Andrew Rawls represented CSSD. The child is B J (DOB 00/00/03). The petition for modification is denied; Mr. F's support obligation will remain at \$414 per month.

**II. Facts**

The previous order set Mr. F's support obligation at \$414 per month. CSSD calculated Mr. F's support obligation to be \$623 per month for one child based on income reported to the Department of Labor for Mr. F. In his appeal, Mr. F pointed out that CSSD had not provided a credit for contributions that Mr. F makes to a retirement plan. Mr. F also provided evidence establishing that he provides for an older child of a previous relationship who lives with him. CSSD recalculated Mr. F's support obligation using the same income information from the Department of Labor, but also including appropriate credits for support of Mr. F's older child and for his retirement contributions. This calculation indicates a monthly support obligation of \$465 per month, an amount that is less than fifteen percent above the existing support amount.

**III. Discussion**

Child support for sole custody situations is calculated under Civil Rule 90.3(a). For one child, support is calculated as twenty percent of the obligor's income from all sources, after adjustments are made for various expenses. Modification of a child support amount is appropriate if there has been a material change in the obligor's circumstances.<sup>2</sup> A material change in circumstances is presumed to have occurred if a support obligation calculated

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<sup>1</sup> Notice of the hearing was sent to Ms. Dolloff by certified mail, and the postal service returned a signed receipt showing that Ms. Dolloff had received the notice. Ms. Dolloff did not provide a telephone number to be contacted at for the hearing. The administrative law judge attempted unsuccessfully to contact Ms. Dolloff her by telephone. The printed name and signature on the certified mail return receipt and the voicemail greeting for her telephone indicate that the custodian is now known as Jasmine Dolloff.

according to current income information is more than fifteen percent more or less than the previous support amount.<sup>3</sup>

CSSD's first calculation erroneously failed to account for Mr. F's retirement contributions and support of his older child. When those deductions were included, the resulting child support obligation is less than fifteen percent greater than the amount of the existing order. CSSD is correct that, under these circumstances, the modified order should be vacated in favor of the existing order.

#### **IV. Conclusion**

Because there has been no material change of circumstances in this case, the modified order should be vacated in favor of the existing order, with support remaining at \$414 per month.

#### **V. Order**

IT IS HEREBY ORDERED that the Modified Administrative Child Support and Medical Support Order issued by the Child Support Services Division on September 4, 2008 be VACATED. The existing support order, which set Mr. F's support obligation at \$414 per month for one child, shall remain in effect.

DATED this 29<sup>th</sup> day of October, 2008.

By: *Signed* \_\_\_\_\_  
DALE WHITNEY  
Administrative Law Judge

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<sup>2</sup> Civil Rule 90.3(h)(1).

<sup>3</sup> *Id.*

## 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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 14<sup>th</sup> day of November, 2008.

By: Signed  
Signature  
Dale Whitney  
Name  
Administrative Law Judge  
Title

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