

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

IN THE MATTER OF)
)
S. K.) Case No. OAH-08-0558-CSS
) CSSD Case No.001152163
_____)

ORDER GRANTING SUMMARY ADJUDICATION¹

I. Introduction

The obligor, S. K., appeals an Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on September 9, 2008. CSSD moved for summary adjudication. Administrative Law Judge Dale Whitney of the Office of Administrative Hearings heard the motion on November 26, 2008. Mr. K. was represented by his sister, S. M., who appeared by telephone under power of attorney. Andrew Rawls represented CSSD. In this state foster care case, the custodian is the State of Alaska. The child is Q. K. (DOB 00/00/95). The administrative law judge issues a support order adopting revised calculations proposed by CSSD.

II. Facts

The relevant facts in this case are not in dispute. Mr. K. is incarcerated and has little or no income. Based on annual income of zero, CSSD has set Mr. K.' monthly support obligation at \$50 per month for one child.

In his appeal, Mr. K. also discussed a number of issues regarding custody. CSSD has taken no position on any issue other than the correct amount of child support.

III. Discussion

The amended order that Mr. K. has appealed does nothing more than set the amount of child support. The Child Support Services Division has authority over administrative orders for child support and paternity, but it has no authority over issues directly involving the child, such as custody.

CSSD does not disagree with Mr. K.' statements regarding his situation and current income potential. According to Civil Rule 90.3(c)(3), "the minimum child support amount that may be ordered is \$50 per month (\$600 per year)" with exceptions that do not apply to this case. Thus, CSSD does not have the authority to set Mr. K.' support obligation any lower than it already has.

¹ The original proposed order issued on December 4, 2008, contained a typographical error in the agency case number and omitted the Introduction heading. This order corrects those errors; no other changes have been made.

Because there are no facts in dispute, it is not necessary to conduct an evidentiary hearing in this case.² Because the support amount has been set as low as it can legally go, there is nothing further that can be done in this case. CSSD's Motion for Summary Adjudication should be granted, and the amended order should be affirmed.

At the hearing on the motion, Ms. M. stated on the record that Mr. K. is unsure whether he is the child's father. On Mr. K.' behalf, Ms. M. requested genetic testing to determine paternity. CSSD stated that it would immediately send Ms. M. the proper forms to initiate paternity testing.

IV. Conclusion

Summary adjudication is proper in this case. The amended order should be affirmed.

V. Order

IT IS HEREBY ORDERED that CSSD's Motion for Summary Adjudication be GRANTED. No further proceedings shall be scheduled in this matter at this time. The Amended Administrative Child Support and Medical Support Order issued by the Child Support Services Division on September 9, 2008, is AFFIRMED.

DATED this 31st day of December, 2008.

By: *Signed* _____
DALE WHITNEY
Administrative Law Judge

² *Church v. State*, 973 P.2d 1125, 1129 (Alaska 1999).
OAH No. 08-0558-CSS

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 31st day of December, 2008.

By: Signed
Signature
Dale A. Whitney
Name
Administrative Law Judge
Title

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