

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

IN THE MATTER OF:)	
)	OAH No. 09-0072-CSS
J. T. A.)	CSSD No. 001028019
_____)	

DECISION AND ORDER

I. Introduction

This case involves an appeal by obligor J. T. A. of a Vacate Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on January 16, 2009. The children in this case are Y., DOB 00/00/85, and Z., DOB 00/00/87.

The formal hearing was held on March 2, 2009. Mr. A. appeared by telephone; the custodian of record, J. L. C., did not participate.¹ Andrew Rawls and Erinn Brian, Child Support Specialists, represented CSSD. The hearing was recorded and the record closed on March 16, 2009.

Kay L. Howard, Administrative Law Judge, conducted the proceeding. Based on the record, and after careful consideration, Mr. A. prevails in his appeal. CSSD's January 16, 2009, Vacate Administrative Child Support and Medical Support Order should be adjusted as set forth below.

II. Facts

On April 1, 2008, Mr. A. filed a Motion to Vacate a Default Order with CSSD.² On January 16, 2009, CSSD granted the motion and issued a revised Administrative Child Support and Medical Support Order. The revised order adjusted Mr. A.'s arrears for the time periods from 1991 through 2005.³ Mr. A. filed an appeal on February 3, 2009, asserting he did not receive the income CSSD attributed to him for the years 1994 and 1995.⁴

¹ This case involves arrears owed to the State of Alaska for public assistance reimbursement, so Ms. C. had no financial interest in the matter. She received and signed for her notice of the hearing but did not contact the Office of Administrative Hearings to participate.

² Exh. 4.

³ Exh. 10.

⁴ Exh. 10.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁵ Civil Rule 90.3(a)(1) provides that an Obligor's child support amount is to be calculated based on his or her "total income from all sources."

CSSD's regulations allow the agency to vacate an administrative child support order "if the support order was based on a default income figure . . . that . . . is not an accurate reflection of the obligor's income for purposes of calculating the obligor's child support obligation."⁶ When an obligor parent requests CSSD to conduct a default review, he or she must provide the financial information necessary to determine the parent's actual income and child support obligation for each year at issue.⁷

The person who filed the appeal, in this case, Mr. A., has the burden of proving by a preponderance of the evidence that the agency's revised Administrative Child Support and Medical Support Order is incorrect.

Mr. A. requested a default review and complied with the requirement to provide financial information sufficient to calculate his support obligation for each year from 1991 through 2005.⁸ CSSD issued a vacate order and a revised child support order for each of the years, and Mr. A. appealed, but he did not contest the calculation for each year. Rather, he disputed only the 1994 calculation of \$774 per month and the 1995 calculation of \$620 per month.⁹ Before the hearing, CSSD reviewed its calculations and determined they were inaccurate for those two years. CSSD reduced the 1994 figure to \$105 per month and the 1995 calculation to \$528 per month.¹⁰

At the hearing, Mr. A. accepted CSSD's change in the 1994 calculation but maintained his objection to the 1995 calculation. That year's calculation is the only contested issue left on appeal. Essentially, Mr. A. testified that his income in 1995 was much lower than CSSD determined. He stated that he is a member of the Bristol Bay Native Corporation (BBNC) and he owns 100 shares of corporation stock. Mr. A. further stated that in 1995, he received 60¢ per

⁵ *Mathews v. Mathews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁶ 15 AAC 125.121(a).

⁷ 15 AAC 125.121(b).

⁸ Exhs. 5-9.

⁹ Exh. 11.

¹⁰ Exh. 13. CSSD also reduced the 1999 calculation from \$172 to \$170 per month, and increased the 2001 calculation from \$61 to \$64 per month, but those figures were not at issue for Mr. A. at the hearing; he disputed only the 1995 calculation.

share, per quarter, which equates to \$60 per quarter. On an annual basis, this payment totals \$240 per year (\$60 per quarter), not the \$24,350 figure CSSD used.¹¹

After the hearing, CSSD contacted the BBNC and received a copy of its 2001 Annual Report, which includes a 10-year financial summary.¹² In that summary, the 1995 data indicates shareholders received a total of \$4.97 per share for the year.¹³ Using that information, CSSD determined that in 1995, Mr. A. received a total of \$497 in Native dividends for his 100 shares of stock, and on that basis, calculated his child support obligation for the year at \$59 per month.¹⁴ There are no other contested issues in this appeal.

IV. Conclusion

Mr. A. met his burden of proving by a preponderance of the evidence that CSSD's revised Administrative Child Support and Medical Support Order was incorrect. CSSD's revised calculation of Mr. A.'s child support obligation is now correct and it should be adopted.

V. Child Support Order

- Mr. A. is liable for child support in the following monthly amounts:

1991 -- \$50 ¹⁵	1994 -- \$105	1997 -- \$116	2000 -- \$67	2003 -- \$50
1992 -- \$68	1995 -- \$59	1998 -- \$94	2001 -- \$64	2004 -- \$50
1993 -- \$139	1996 -- \$50	1999 -- \$170	2002 -- \$99	2005 -- \$50

- Mr. A. is liable for support through August 2005, or the final date for which support is due for Z., the youngest child in this case;
- All other provisions of CSSD's January 16, 2009, Vacate Order, and revised Administrative Child Support and Medical Support Order remain in effect.

DATED this 7th day of April, 2009.

By: Signed
Kay L. Howard
Administrative Law Judge

¹¹ See Exh. 12 at pg. 9.

¹² Exh. 14.

¹³ Exh. 14 at pg. 2.

¹⁴ Exh. 15.

¹⁵ Mr. A.'s child support obligation began on January 1, 1991. Exh. 1 at pg. 1, second paragraph from bottom.

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 24th day of April, 2009.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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