

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

IN THE MATTER OF:)	
)	OAH No. 09-0208-CSS
R. R. T.)	CSSD No. 001155476
_____)	

**ORDER GRANTING MOTION TO VACATE ORDER ESTABLISHING
PATERNITY AND TO DISMISS CUSTODIAN'S APPEAL**

I. Introduction

The Child Support Services Division (CSSD) has moved to dismiss the March 12, 2009, Order Establishing Paternity and to dismiss the March 20, 2009, appeal of that order filed by the Custodian, A. A. The Obligor is R. R. T. The Obligee child is A. N. T. (DOB 00/00/07).

A hearing on CSSD's motion was held May 6, 2009. Andrew Rawls, Child Support Specialist, represented CSSD. Neither Mr. T. nor Ms. A. participated in the hearing.¹ Following the hearing, the record was left open until May 18, 2009 to provide Ms. A. with an opportunity to show reasonable cause for her failure to participate.² The record closed on May 18, 2009 without further input from either party.

Because paternity was established with the Bureau of Vital Statistics and a birth certificate has been issued listing Mr. T. and Ms. A. as the parents, CSSD's paternity order is moot and should be vacated. Similarly, Ms. A. appealed the paternity order because there is no dispute regarding paternity. Granting CSSD's motion to vacate the paternity order renders her appeal moot and it should be dismissed.

II. Facts

On October 21, 2008, CSSD served a Notice of Paternity and Financial Responsibility on Mr. T.³ On February 17, 2009, Mr. T. and Ms. A. signed a two-party affidavit of paternity and

¹ Telephone calls were placed to the numbers of record for both parties but neither one answered. A message was left on Mr. T.'s answering machine. He called the OAH later in the day to inquire about the hearing and was transferred to Mr. Rawls. Since then, Mr. T. has not requested another hearing or contacted the OAH.

² "If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless the person within 10 days after the date scheduled for hearing, shows reasonable cause for failure to appear." 15 AAC 05.030(j).

³ Exhibit 1.

submitted it to the Bureau of Vital Statistics.⁴ CSSD, not knowing of the two-party affidavit and because Mr. T. did not respond to the Notice of Paternity and Financial Responsibility, issued an order establishing paternity dated March 12, 2009.⁵ Ms. A. appealed on the basis that an affidavit had been submitted to the Bureau of Vital Statistics and thus there was no need for CSSD to issue an order establishing paternity. CSSD verified with the Bureau of Vital Statistics that the parties had completed and submitted a two-party affidavit, so CSSD then moved to vacate its order establishing paternity because it is moot. CSSD also asked that Ms. A.'s appeal be dismissed for the same reason.

III. Discussion

CSSD issued its order establishing paternity based on the information available at the time that Mr. T. had failed to respond to the Notice of Paternity and Financial Responsibility. Subsequently, CSSD became aware that prior to issuing its order, A.'s paternity had been adequately established by the parties and a birth certificate had been issued naming Mr. T. as the father. Therefore, as pointed out in Ms. A.'s appeal, there was no need for CSSD to have issued its order establishing paternity. CSSD's motion is well founded and should be granted.

THEREFORE IT IS ORDERED:

- CSSD's Motion to Vacate Order Establishing Paternity and Motion to Dismiss Custodian's Appeal is GRANTED;
- CSSD's March 12, 2009, Order Establishing Paternity is vacated;
- Ms. A.'s March 20, 2009, appeal is dismissed.

DATED this 24th day of June, 2009.

By: Signed
Kay L. Howard
Administrative Law Judge

⁴ See Exhibit 4.

⁵ Exhibit 2.

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 13th day of July, 2009.

By: Signed
Signature
Christopher Kennedy
Name
Deputy Chief Administrative Law Judge
Title

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