

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

IN THE MATTER OF:	)	
	)	OAH No. 09-0209-CSS
K. L. R.	)	CSSD No. 001148355
_____	)	

**DECISION AND ORDER**

**I. Introduction**

This case involves the custodian Z. L. N. appeal of an Order Establishing Paternity that the Child Support Services Division (CSSD) issued in Mr. R.’s child support case on March 6, 2009. The Obligee child is S., DOB 00/00/2007.

The hearing was held on April 29, 2009. Ms. N. did not appear; Mr. R. did not participate.<sup>1</sup> Erinn Brian and Andrew Rawls, Child Support Specialists, represented CSSD. The hearing was recorded. The record closed on May 11, 2009.

Kay L. Howard, Administrative Law Judge, conducted the hearing. Based on the record as a whole and after careful consideration, CSSD’s Order Establishing Paternity is affirmed.

**II. Facts**

The history of this case is as follows: on October 3, 2008, CSSD issued a Notice of Paternity and Financial Responsibility to Mr. R.<sup>2</sup> He submitted 2007 and 2008 child support guidelines affidavits.<sup>3</sup> Genetic test results reveal Mr. R.’s probability of paternity of S. is 99.99%.<sup>4</sup> On March 6, 2009, CSSD issued an Order Establishing Paternity.<sup>5</sup> Ms. N. appealed on April 1, 2009, stating CSSD was not supposed to release the obligee S.’s information.<sup>6</sup> On April 15, 2009, CSSD filed a Motion for Dismissal of Ms. N. appeal.

The Office of Administrative Hearings (“OAH”) sent the parties a notice of the date and time for the hearing by certified mail. Ms. N. notice was received and signed for and the green card was returned to the OAH on April 23, 2009. Mr. R.’s green card was not returned to the

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<sup>1</sup> Neither party appeared or provided telephone numbers to be reached for the hearing.  
<sup>2</sup> Exh. 1 at pg. 1.  
<sup>3</sup> Exh. 2.  
<sup>4</sup> Exh. 7 at pg. 1.  
<sup>5</sup> Exh. 4.  
<sup>6</sup> Exh. 6.

OAH and neither party appeared or participated in the hearing. Because Ms. N. notice of the hearing was received and signed for, service of the notice was found to be effective and the hearing was conducted without her participation.<sup>7</sup>

At the hearing, CSSD stated it appears Ms. N. was not appealing the paternity order, just making a complaint to CSSD about nondisclosure of information. CSSD said that the custodian had not previously made a request for nondisclosure of contact information, but in light of her appeal statement, CSSD had sent her a blank form to make a specific request for nondisclosure. CSSD also said that the agency had not released any confidential information in the meantime. CSSD asserted that since Ms. N. appeal does not address the paternity issue that it should be dismissed and the paternity order should be affirmed.

### **III. Discussion**

Ms. N. filed an appeal of CSSD's Order Establishing Paternity and she received the notice of the date and time set for the hearing. However, she failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a child support decision if the person requesting the hearing fails to appear.

Based on the evidence in the record, Ms. N. does not contest the establishment of Mr. R.'s paternity of the child S. Rather, it appears that Ms. N. used the preprinted appeal form simply to communicate with CSSD. There is no evidence that she was appealing the paternity order.

The person who filed the appeal, in this case, Ms. N., has the burden of proving by a preponderance of the evidence that the agency's child support determination is incorrect.<sup>8</sup> In the absence of any testimony or other evidence from her, there is insufficient evidence in the record to prove that CSSD's Order Establishing Paternity was issued in error.

### **IV. Conclusion**

Ms. N. filed an appeal form but she did not intend to appeal CSSD's Order Establishing Paternity. Ms. N. has not stated she contests paternity of the child S. Therefore, CSSD's Motion for Dismissal should be granted and the Order Establishing Paternity should be affirmed. CSSD

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<sup>7</sup> "If the department mails a document by registered or certified mail, service is effective if the mailing is addressed to the latest address provided to the department." 15 AAC 05.010(c).

<sup>8</sup> 15 AAC 05.030(h).

said it had sent a form to Ms. N. that would enable her officially to request information nondisclosure.

**V. Order**

- CSSD’s April 15, 2009, Motion for Dismissal is granted and Ms. N. appeal is dismissed;
- CSSD’s March 6, 2009, Order Establishing Paternity is affirmed.

DATED this 1st day of June, 2009.

By: Signed  
Kay L. Howard  
Administrative Law Judge

**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 19th day of June, 2009.

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

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