

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

IN THE MATTER OF)
)
 W. M.) Case No. OAH-09-0382-CSS
) CSSD Case No. 001046836
_____)

ORDER GRANTING SUMMARY ADJUDICATION

I. Introduction

The obligor, W. M., appeals an Administrative Child Support and Medical Support Order issued by the Child Support Services Division (CSSD) on June 27, 2009. A hearing was held on August 12, 2009; neither Mr. M. nor the custodian, C. N., appeared at the hearing.¹ Andrew Rawls represented CSSD. The child is B. D. (DOB 00/00/85).

CSSD moved for summary adjudication. CSSD's motion is granted and the administrative order is affirmed.

II. Facts

Mr. M.' paternity was established by the Nome Superior Court on February 16, 1996. CSSD (then known as the Child Support Enforcement Division, or CSED) established an administrative support order in 1998. Mr. M. appealed CSSD's administrative order, requesting a paternity test and arguing that he was not the child's father. CSSD moved to dismiss the case, but the revenue hearing examiner ruled that, although she lacked jurisdiction over the issue of paternity, a hearing was still needed to determine Mr. M.' income. Two hearings were held, but Mr. M. did not appear or submit any information. Support was then set based on default statistical income figures.

More recently, CSSD vacated the previous support order and entered a new one based on actual income. The new order substantially reduced the amount of arrears that Mr. M. owes. Mr. M. appealed the new order, stating that no genetic testing has ever been done. Mr. M. has not disputed the support amounts.

III. Discussion

In his appeal, Mr. M. states that "I would like to have genetic testing done, none has never taken place. Alaska Statute 25.27.900(12). It's just to make positive that's my child. I

¹ Neither party provided a number to be contacted at for the hearing. The administrative law judge called Mr. M. at the number on file; the person answering the phone said he was at work and unavailable for the day, and took a message. The administrative law judge called Ms. N. before the hearing; she stated that she did not wish to participate.

was told it was very expensive to take the test that's why I did not pursue the test I had very few money or none at all."

CSSD has the authority to do genetic testing and to disestablish "paternity of a child whose paternity was established in this state other than by court order."² Because paternity was established by a judge in court, CSSD does not have the authority to do genetic testing in this case, unless ordered to do so by the court. While Mr. M. may wish to have genetic testing done, he will need to do so by filing an appropriate action to disestablish paternity in the Superior Court.

IV. Conclusion

CSSD does not have the authority to grant Mr. M.' request for genetic testing; such a request must be made to the court. Because there is nothing that could be accomplished at an administrative hearing, CSSD is entitled to summary adjudication.

V. Order

IT IS HEREBY ORDERED that CSSD's Motion for Summary Adjudication is GRANTED. No further hearing will be scheduled in this matter.

IT IS FURTHER ORDERED that the Administrative Child Support and Medical Support Order issued by the Child Support Services Division on June 27, 2009, is AFFIRMED.

DATED this 28th day of September, 2009.

By: *Signed* _____
DALE WHITNEY
Administrative Law Judge

² AS 25.27.166(a).
OAH No. 09-0382-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 22nd day of October, 2009.

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

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