

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

IN THE MATTER OF)
)
 W. M.) Case No. OAH-09-0383-CSS
) CSSD Case No. 001011851
_____)

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, S. B., appeared at the hearing.¹ Andrew Rawls represented CSSD. The emancipated child is D. A. (DOB 00/00/84).

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

II. Facts

Mr. M.'s paternity was established by the Nome Superior Court on July 9, 1991. CSSD (then known as the Child Support Enforcement Division, or CSED) established an administrative support order in 2001. Mr. M. appealed CSED's administrative order, arguing that CSED's calculations were inaccurate and that unusual circumstances required variation of the support amount. After a formal hearing before a Department of Revenue hearing examiner, ongoing support was set at \$322 per month on November 28, 2001.

On December 19, 2006, Mr. M. requested a default review. On June 27, 2009, CSSD vacated the previous order and issued a new order that eliminated arrears for the period from January 1, 1986, through June 30, 1995. On July 17, 2009, Mr. M. appealed the new order and asked for genetic testing.

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 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."

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 attempted to call Ms. B. at two numbers on file for her. One number was disconnected, the second number was for a Nome hotel that did not recognize Ms. B. as an employee or guest.

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. 09-0383-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 Whitney
Name
Administrative Law Judge
Title

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