

SUPREME COURT OF THE STATE OF ALASKA

Shanigan v. Shanigan

386 P.3d 1238 (Alaska 2017) · No. S-15956 · Decided January 6, 2017

SUMMARY

The Alaska Supreme Court reversed an order reducing Terrence Shanigan’s child support obligation. The court held that CSSD incorrectly calculated his gross and adjusted annual income, including federal income tax and Medicare deductions, and that the resulting calculation did not establish the material change in circumstances required for modification. The court also held that Terrence should have been required to submit a sworn income affidavit, particularly concerning income from a consulting business.

CASE DETAILS

COURT	Supreme Court of the State of Alaska
WRITING FOR THE COURT	Maassen, Justice; Stowers, Chief Justice; Winfree, Justice; Bolger, Justice
JURISDICTION	Alaska
DECIDED	January 6, 2017
DOCKET	S-15956
DISPOSITION	reversed
PROCEDURAL POSTURE	Elissa Shanigan appealed the superior court's order modifying and reducing Terrence Shanigan's child support obligation.
STANDARD OF REVIEW	The court reviews factual findings, including findings regarding a party's income, for clear error. A finding is clearly erroneous when review of the record leaves the court with a definite and firm conviction that a mistake has been made.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion
PARTIES	Elissa Shanigan v. Terrence Shanigan

TOPICS

- child support
- family law procedure
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the superior court erred by adopting CSSD's erroneous calculations of Terrence's income and tax deductions when modifying child support.
2. Whether the evidence established a material change in circumstances under Alaska Civil Rule 90.3(h)(1) sufficient to support modification of child support.
3. Whether the superior court erred by granting the modification without requiring Terrence to submit the income affidavit required by Alaska Civil Rule 90.3(e)(1).

HOLDINGS

1. The superior court erred by relying on CSSD's erroneous calculations of Terrence's gross income, federal income tax, and Medicare tax obligations. The corrected calculation produced only an approximately 10.7 percent reduction in the existing support obligation, so the Rule 90.3(h)(1) presumption of a material change did not apply.
2. The superior court erred by granting the child support modification without requiring Terrence to submit the income affidavit required by Alaska Civil Rule 90.3(e)(1).

KEY QUOTATIONS

"CSSD has no decision-making role to play [in child support determinations], and the court has no obligation to accept CSSD's initial calculation." (-11-)

"As 'the party attacking the child support determination,' she 'bore the burden of proving, by the preponderance of the evidence, that [CSSD's] income calculations were incorrect.'" (-12-)

"It was error to grant a modification in Terrence's favor in the absence of his supporting affidavit." (-13-)

FACTUAL BACKGROUND

The parties divorced in January 2012, and Elissa received sole legal and primary physical custody of their two minor children. The original child support order required Terrence to pay \$1,932.92 per month. After Terrence sought review in 2014, CSSD calculated a reduced obligation of \$1,617 per month based on income calculations that overstated his gross income and federal and Medicare tax obligations. Elissa submitted competing calculations and an accountant's affidavit showing that the reduction would be approximately 10.7 percent, not more than 15 percent, and also challenged Terrence's failure to submit a sworn income affidavit concerning his employment and consulting income.

PROCEDURAL HISTORY

After the parties divorced, the superior court awarded Elissa sole legal and primary physical custody of their two children and ordered Terrence to pay \$1,932.92 per month in child support. CSSD later requested a modification based on its calculation that Terrence's obligation had decreased by more than 15 percent. The superior court

adopted CSSD's calculation and reduced the obligation to \$1,617 per month, denying Elissa's motions for reconsideration. The Alaska Supreme Court reversed.

DISPOSITION

reversed

CASES CITED

- Wilhour v. Wilhour, 308 P.3d 884, 887 (Alaska 2013)
- Sharpe v. Sharpe, 366 P.3d 66, 68-69 (Alaska 2016)
- Bennett v. Bennett, 6 P.3d 724, 726 (Alaska 2000)
- Reilly v. Northrop, 314 P.3d 1206, 1213 (Alaska 2013)
- McDonald v. Trihub, 173 P.3d 416, 422-23 (Alaska 2007)
- Monette v. Hoff, 958 P.2d 434, 437 (Alaska 1998)
- Nunley v. State, Department of Revenue, Child Support Enforcement Division, 99 P.3d 7, 9 (Alaska 2004)
- Harris v. Westfall, 90 P.3d 167, 175 (Alaska 2004)