

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

IN RE T [REDACTED] P [REDACTED],
Petitioner.

*Petition for Direct Appeal to the Georgia
Office of State Administrative Hearings*

Docket No.: [REDACTED]
[REDACTED]-OSAH-DIRECT APPEAL-
PET_CSS-60-Boggs



FINAL ORDER

On September 29, 2023, Petitioner T [REDACTED] P [REDACTED] used an OSAH Form 2 to file a Petition for Direct Appeal with the Office of State Administrative Hearings (“OSAH”). **Copies of the OSAH Form 2 and its attachment have been included with this Order.**

Purpose of Petitions for Direct Appeal

An OSAH Form 2 is used to submit what is known as a “Petition for Direct Appeal.” These petitions may be filed when the following occurs:

- (1) a party has already submitted a hearing request to another state agency;
- (2) **AND** after at least thirty (30) days (or a shorter period allowed by law), that agency does not send the hearing request to OSAH for docketing and scheduling.¹

The Petition for Direct Appeal is a party’s way of asking OSAH to proceed with scheduling a hearing, even if the other agency delays sending the original hearing request to OSAH.²

The granting or denial of a Petition for Direct Appeal shall be within the OSAH Judge’s discretion.³ That said, even if all the requirements listed above are met, an OSAH Judge can preside over a hearing only if she has authority to do so under the law.⁴ Pursuant to the Administrative Procedure Act (“APA”), O.C.G.A. § 50-13-41 *et seq.*, OSAH’s jurisdiction is

¹ O.C.G.A. § 50-13-41(a); Ga. Comp. R. & Regs. 616-1-2-.03(a).

² *Id.*

³ Ga. Comp. R. & Regs. 616-1-2-.03(2)(d).

⁴ See *Mitchell v. Mitchell*, 220 Ga. App. 682, 683 (1996) (“Subject-matter jurisdiction is established by our laws, and there is nothing parties to a suit can do to give a court jurisdiction over a matter that has not been conferred by law.”) (citations and quotations omitted.)

limited to “contested cases.”⁵ A “contested case,” in turn, is defined as a proceeding “in which the legal rights, duties, or privileges of a party are required by law to be determined . . . after an opportunity for hearing.”⁶

Review of Ms. P [REDACTED]’s Request

Ms. P [REDACTED] indicated on her OSAH Form 2 that she submitted her hearing request to the Department of Human Services, Division of Child Support Services (“DCSS”) on August 22, 2023. She asserts that DCSS closed her son’s child support case improperly. She cites Docket Number 1840017, which corresponds to the child support case *DHS, DCSS ex rel. K [REDACTED] P [REDACTED] [sic] v. I [REDACTED] F [REDACTED]*. This case was heard by OSAH in 2019, with Ms. P [REDACTED] listed as the custodial parent.

Based on the above, OSAH cannot grant Ms. P [REDACTED]’s Petition for Direct Appeal. Simply put, OSAH does not have authority to provide the requested relief.⁷

OSAH’s jurisdiction over matters of child support is limited to three types of actions involving DCSS: the establishment of paternity and/or initial support orders;⁸ reviews and modifications of existing support orders issued by OSAH;⁹ and “certain enforcement actions” that DCSS initiates.¹⁰

Regarding initial support orders, custodial parents are not parties to actions subrogated by DCSS.¹¹ Ms. P [REDACTED], therefore, is not a party to the case *DHS, DCSS ex rel. K [REDACTED] P [REDACTED] [sic] v. I [REDACTED] F [REDACTED]*, and she lacks standing to seek any relief from that resulting child support order before OSAH.

As for reviews and modifications, a custodial parent does have a right to an OSAH hearing in the event she disagrees with DCSS’s findings following that agency’s review of an existing order.¹² However, the review is limited to addressing the custodial parent’s objections to DCSS’s recommendation that the previously ordered support amount should increase, decrease, or stay the same.¹³ These review/modification proceedings do not encompass challenges to DCSS’s decision

⁵ O.C.G.A. § 50-13-41(a)(1).

⁶ *Id.* § 50-13-2(2).

⁷ *See* O.C.G.A. §§ 50-13-2(2), 50-13-41(a)(1); *see also Mitchell*, 220 Ga. App. at 683.

⁸ *See* O.C.G.A. §§ 19-6-15, 19-11-13.

⁹ *See id.* § 19-11-12(d)(4)(A).

¹⁰ *See* Ga. Comp. R. & Regs. 290-7-1-.19(a).

¹¹ *See* O.C.G.A. §§ 19-11-6, 19-11-8. DCSS has authority to seek support on a child’s behalf when either (i) the child receives public assistance, or (ii) a custodial parent applies to DCSS for child support services. *Id.* § 19-11-6(a), (c).

¹² *See id.* § 19-11-12(d)(4)(A).

¹³ *Id.*

to close a child support case.

Finally, OSAH's jurisdiction over "certain enforcement actions" is limited to such actions as tax-refund intercepts, wage garnishment, income withholding, passport suspensions, and license revocations/suspensions.¹⁴ For each of these actions, the right to a hearing rests with the *obligor* against whom the enforcement action is taken, not the *obligee* seeking to have the order enforced.¹⁵ Thus, Ms. P [REDACTED], as the purported obligee, is not entitled to relief from OSAH under these provisions.

Conclusion

For the reasons listed above, Ms. P [REDACTED]'s OSAH Form 2 does not meet the requirements for Direct Appeal. Her petition to have a hearing scheduled at this time is therefore **DENIED**.

SO ORDERED, this 2nd day of October, 2023.



Lisa Boggs
Administrative Law Judge



¹⁴ See Ga. Comp. R. & Regs. 290-7-1-.08 to -.12, -.19; see also O.C.G.A. §§ 19-11-18(a), 19-11-19, 19-11-20.

¹⁵ See Ga. Comp. R. & Regs. 290-7-1-.08 to -.12, -.19. An obligee does have a right to contest DCSS's decision to redirect support payments to another relative or caretaker other than the obligee. See *id.* 290-7-1-.15(b). However, this situation does not match Ms. P [REDACTED]'s description in her Petition for Direct Appeal.