

Pending before the Court is a Request for Review of a Commissioner's Order ("ROCO") filed by L----- H----- ("Father"). Father is seeking a review of the Order entered by Commissioner Jessica Markowski-Kelly on June 30, 2026 awarding child support to M---- H----- ("Mother"). Specifically, Father alleges that the Commissioner erred by awarding child support for minor child, L----- W. H----- (hereinafter "the Child"), born 10/02/2015, as the Child is not his biological child. Father attached what he alleges to be proof of genetic testing from 2016, confirming that the Child is not his biological child. For the reasons cited herein, the Court affirms the Commissioner's Order.

PROCEDURAL HISTORY

The Court will not recite the entire legal history in the file but will rather cite only the relevant pleadings and orders. On 10/20/2024, Petitioners DCSS/M---- H----- filed for child support in the instant Petition. On 4/10/2025, Father filed for Paternity Determination, requesting to be removed as the Child's father, in Petition 25-08671. On 4/28/2025, the Commissioner entered an Order Dismissing the Petition for Paternity Determination as Father had signed a Voluntary Acknowledgement of Paternity for the Child on September 20, 2020 and had not challenged paternity within the time allowed by Delaware's Parentage Act to request rescission. This was a final Order on Paternity. No Request for Review of Commissioner's Order was filed regarding the dismissal of the Petition for Paternity Adjudication. Father then filed another Petition for Paternity Adjudication on June 2, 2025 in Petition 25-14912 which was virtually identical to the Petition dismissed on April 28, 2025. On September 16, 2025 the Commissioner dismissed this second Petition for Paternity Adjudication based upon the doctrine

of *res judicata* as the issue presented was the same issue alleged in the April 10, 2025 Petition. No Review of Commissioner's Order was filed for the Dismissal of Petition 25-14912. On June 30, 2026, the Commissioner entered an Order establishing Child Support in Petition 24-24025. The Child Support Order states that regarding the Child "Parentage was adjudicated by prior Court Order dated 4/28/2025." On August 6, 2026, Father filed this ROCO of the June 30, 2026 Order.

STANDARD OF REVIEW

A party may seek a review of a Commissioner's Order pursuant to 10 *Del. C.* § 915(d)(1), which provides:

Any party, except a party in default of appearance before a Commissioner, may appeal a final order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by the rules of Court, within 30 days from the date of the Commissioner's order. A judge of the Court shall make a *de novo* determination of those portions of the Commissioner's order to which objection is made. A judge of the Court may accept, reject, or modify in whole or in part the Order of the Commissioner. The judge may also receive further evidence or recommit the matter to the Commissioner with instruction.¹

Because this was a Commissioner's final order, the Court reviews the Order *de novo*.²

According to *Black's Law Dictionary* a *de novo* review is "[a]n appeal in which the appellate court uses the trial court's record but reviews the evidence and law without deference to the trial court's rulings."³ Pursuant to Family Court Civil Rule 53.1(b), an appeal of a Commissioner's Order must "set forth with particularity the basis for each objection."⁴ Upon taking the matter

¹ 10 *Del. C.* § 915(d)(1).

² *Id.*

³ *Black's Law Dictionary* (10th ed. 2014).

⁴ FAM. CT. CIV. P. R. 53.1(b).

under review, a judge of the Court will make a *de novo* determination regarding the objected to portions of the Commissioner's Order.⁵ A judge will make an independent decision by reviewing the Commissioner's findings of fact determined at the Commissioner's hearing, any testimony and documentary evidence on the record, and the specific objections of the moving party.⁶

ARGUMENTS RAISED

The only Argument raised in this ROCO is settled by a question of law and not fact. While whether Father is biologically the father of the Child is a factual dispute, the resolution of the issue was not determined upon the facts, but rather upon principles of law. The Commissioner found on April 28, 2025 that since Father did not challenge paternity within the time frame allotted by Delaware's Parentage Act at 13 *Del. C.* §§8-307, 8-308, he was precluded from contesting paternity. Unfortunately for Respondent, the Request for Review of Commissioner's Order was also untimely and therefore must be DENIED.

ANALYSIS

THE REQUEST FOR REVIEW OF COMMISSIONER'S ORDER MUST BE DENIED AS UNTIMELY

On April 28, 2025, the Commissioner made a finding that Respondent could not challenge his Voluntary Acknowledgement of Paternity and dismissed his Paternity Petition. He did not file a ROCO within 30 days as required by Family Court Civil Rule 53.1(b) and 10 *Del. C.* §901(d)(1). Likewise, after the September 16, 2025 Order dismissing his second Paternity

⁵ 10 *Del. C.* § 915(d)(1); *see also* FAM. CT. CIV. P. R. 53.1(e).

⁶ *C.M. v. L.A.*, 2007 WL 4793042, at *1 (Del. Fam. Ct. Dec. 27, 2007).

Petition, Father did not file a ROCO within 30 days. The Order entered on June 30, 2026 was only on child support as paternity had already been adjudicated in the April 28, 2025 Order. Furthermore, even if this Order could be considered as the Order adjudicating parentage, it is still filed too late as it was filed more than 30 days after June 30, 2026.

For the foregoing reasons, the Court dismisses this ROCO as untimely and the Commissioner's Order is **AFFIRMED**.

IT IS SO ORDERED

/ Felice Glennon Kerr /
FELICE GLENNON KERR, Judge

Cc: Parties/Counsel
The Honorable Jessica Markowski-Kelly

Date mailed: