

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

IN THE MATTER OF)	OAH No. 10-0007-CSS
R. A. M.)	CSSD No. 001052004
)	
_____)	

DECISION AND ORDER

I. Introduction

On January 25, 2010 a formal hearing was held to consider whether the identifying and contact information of N. A. (Custodian) should be released to R. A. M. (Obligor).¹ Mr. M. did not participate.² Ms. A. participated. The child in this case is B. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed at the end of the hearing.

This case is Ms. A.'s appeal of the Division's decision to disclose her contact information to Mr. M. Having reviewed the record in this case and after due deliberation, the Administrative Law Judge concludes that the Division should not release Ms. A.'s contact information to Mr. M. based on a finding that Mr. M.'s criminal history, and his history of substance abuse, harassment and domestic abuse, show that disclosure would create an unreasonable risk of harm to Ms. A. and B..

II. Facts

A. History

Ms. A. requested that the Division not provide Mr. M. with Ms. A.'s contact information.³ Mr. M. filed no objection to this request. However, the Division determined that it should release Ms. A. contact information to Mr. M., even though Ms. A. had explained on the request form she provided to the Division, that Mr. M. had committed acts of domestic violence

¹ The hearing was held under Alaska Statute 25.27.275.

² Mr. M. did not appear, nor did he provide a phone number to call at him for the hearing as directed by the notice sent to him at his addresses of record.

³ Ex. 1.

against her; that she had obtained a domestic violence restraining order against Mr. M. in February of 2008; and that Mr. Munroe had a very dangerous, long criminal history and a history of drug abuse.⁴

Without further inquiry, the Division determined that it should release Ms. A. contact information to Mr. M. despite Ms. A.'s written reasons for fearing for the safety of her child and herself, because, although she had signed the form, Ms. A. had neglected to get the form notarized. On November 24, 2009, the Division issued a Nondisclosure of Identifying Information Decision.⁵ The Division stated that the Division would disclose Ms. A.'s contact information to Mr. M..⁶

Ms. A. requested a formal hearing.⁷ Prior to the hearing, the Division filed a Pre-Hearing Brief in which the Division changed its position. The Division stated that it had determined that Mr. M. has a criminal history and a history of domestic violence against Ms. A. In its Pre-Hearing Brief the Division stated that its position was that Ms. A. had shown that her and her child's health, safety, or liberty would be unreasonably put at risk by the disclosure of her identifying information.⁸

At the hearing, Ms. A. explained Mr. M.'s history of drug addiction, and his harassment of her. Ms. A. provided examples of Mr. M.'s acts of domestic violence committed against her and B.⁹ These included threats to kidnap and hide B. Ms. A. explained that at one point the threats, harassment and abuse became so serious that Ms. A. and B. were forced to first disconnect their phone and then later had to suddenly move in the face of an immediately threatening situation.

The Division explained that in addition to domestic violence orders. The Division's recent research had shown that Mr. M. had only recently been released from prison, and that his criminal history included weapons charges. Court records also show a felony assault charge in case number 3AN-99-0411CR.¹⁰

B. Findings

Based on the evidence in the record, Administrative Law Judge finds that it is more likely

⁴ Ex. 1.

⁵ Recording of Hearing -Testimony of Ms. A.

⁶ Ex. 1.

⁷ Ex. 5.

⁸ Division's Pre-Hearing Brief.

⁹ Recording of Hearing -Testimony of Ms. A.

than not that the health and safety of Ms. A. and B. would be put unreasonably at risk by the Division's disclosure of Ms. A.'s contact information.¹¹

III. Discussion

This case is an administrative appeal of the Division's determination that it should disclose Ms. A.'s address and phone number to Mr. M. This appeal does not directly involve Mr. M.'s child support obligation.

This is a nondisclosure case under a statute which authorizes the Division to order that a case party's contact information will not be disclosed if the "health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information."¹² Ms. A., as the person challenging the Division's action, has the burden of proving that the Division decision for disclosure was an error.¹³

Ms. A. was a credible witness.¹⁴ Her testimony is supported by court records and the Division's research showing that Mr. M. has a history of domestic violence, substance abuse and violent crimes. It would create an unreasonable risk to require the Division to release Ms. A.'s contact information.

IV. Conclusion

The Division should not release Ms. A.'s contact information to Mr. M..

V. Child Support Order

1. The Division's Nondisclosure of Identifying Information Decision issued on November 24, 2009 is Overturned.
2. The Division shall not release Ms. A.'s contact information to Mr. M.

DATED this 3rd day of February, 2010.

By: Signed
Mark T. Handley
Administrative Law Judge

¹⁰ Recording of Hearing -Testimony of Ms. A.

¹¹ See Alaska Statute 11.41.436.

¹² See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

¹³ 15 AAC 05.030(h).

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.

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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of February, 2010.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

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

¹⁴ Recording of Hearing -Testimony of Ms. A.