

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

IN THE MATTER OF:)

D. H.)

) OAH No. 10-0535-CSS
) CSSD Case No. 001044819
)

DECISION

I. Introduction

D. H., an obligor on a child support order, filed a request for the disclosure of the address of F. S., the custodian of record. Ms. S. objected to disclosure of the information but the Division of Child Support Services granted Mr. H.'s request. Ms. S. filed an appeal.

A telephonic administrative hearing was scheduled. Ms. S. participated and Erinn Brian represented the division. A telephone call was placed to Mr. H.'s telephone number of record, but he did not answer. Mr. H. has not subsequently contacted the Office of Administrative Hearings.

Because Mr. H. withdrew his previous request for identifying information based on Ms. S.'s objection, the division's decision is reversed.

II. Facts

D. H. and F. S. are the parents of a daughter, S. S., presently seventeen years old. Before S. was born, Mr. H. had been dating Ms. S.'s niece. After S. was born, Mr. H. married Ms. S.'s niece, and remains married to her.

Since S. was born, Mr. H. and Ms. S. have had only infrequent contacts. Mr. H. spoke with his daughter on the telephone on one occasion in about 2004. In 2006, Mr. H. requested contact information, and the division agreed to disclose it to him. Ms. S. appealed, and an administrative hearing was conducted at which both Mr. H. and Ms. S. participated.

The administrative law judge found that the evidence presented did not show that Mr. H. presented an unreasonable risk to Ms. S.¹ However, after hearing Ms. S.'s

¹ In Re D. H., OAH No. 06-0319-CSS at 4 (Commissioner of Revenue 2006).

testimony and understanding her concerns about disclosing contact information to him, Mr. H. stated that he wished to withdraw his request.²

III. Discussion

The division's regulations provide for non-disclosure of identifying information if the division determines "that the health, safety or liberty of a parent or child is put unreasonably at risk by disclosure of [the] identifying information."³

The prior decision in this case concluded that disclosure of contact information to Mr. H. would not create an unreasonable risk to the health, safety or liberty of Ms. S. or her daughter, and nothing in Ms. S.'s testimony suggests that there is any reason to believe that the situation has changed.

However, Mr. H. previously withdrew his request for identifying information after Ms. S. objected. Mr. H. did not participate in the hearing of this case, and there is no indication in the record that he would now wish to maintain his request over Ms. S.'s continuing objection.

When a party does not participate, the administrative law judge may issue a decision based on the evidence in the record.⁴ The evidence indicates that Mr. H.'s request for disclosure of identifying information was conditional on Ms. S.'s consent to disclosure: he previously withdrew his request upon her objection, and there is no apparent reason why he would not do so at this time as well. Should Mr. H. wish to pursue the matter further, he may do so by filing a proposal for action requesting that the matter be remanded for further proceedings.

IV. Conclusion

Because Mr. H.'s request for identifying information was conditional, and Ms. S. has objected, his request is deemed withdrawn. The division's decision to release that identifying information is therefore reversed.

DATED: April 13, 2011.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

² Id. at 5, note. 1.

³ 15 AAC 125.860(c). See AS 25.27.275.

⁴ 15 AAC 05.030(j).

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 6th day of May, 2011.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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