

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

IN THE MATTER OF:)

S. J. Z.)

OAH No. 10-0596-CSS

CSSD No. 001167545

DECISION AND ORDER

I. Introduction

This matter involves an appeal by the custodian, M. L. S., of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. Z.'s child support case on October 26, 2010.

The formal hearing was held on December 16, 2010. Neither Ms. S. nor Mr. Z. participated. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, CSSD's Decision on Nondisclosure of Identifying Information is reversed. Ms. S.'s contact information may not be released.

II. Facts

In an application for child support services, Ms. S. requested nondisclosure of her contact information.¹ On September 21, 2010, CSSD sent her a blank affidavit form to fill out with specific information and return to the agency.² Ms. S. did not respond to CSSD's request for information, so on October 26, 2010, CSSD essentially denied her request by issuing a Decision on Nondisclosure of Identifying Information that ordered the release of her contact information if requested.³ Ms. S. appealed CSSD's decision on November 23, 2010 and provided more specific information.⁴

III. Discussion

This matter does not involve Mr. Z.'s child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. S.'s contact information to him. Alaska Statute (AS) 25.27.275 authorizes CSSD to decide on an *ex parte* basis that a case party's identifying

¹ Exh. 1.

² Exh. 2.

³ Pre-Hearing Brief at pg. 1.

⁴ Exh. 3.

information will not be disclosed to another case party. The applicable statute governing this action states as follows in its entirety:

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the party or child or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter. A person aggrieved by an order of nondisclosure issued under this section that is based on an ex parte finding is entitled on request to a formal hearing, within 30 days of when the order was issued, at which the person may contest the order.^[5]

This proceeding involves only the issue whether Ms. S.’s contact information kept on file by CSSD should be released. The scope of the inquiry in nondisclosure cases is very narrow and is limited simply to a determination whether CSSD reasonably decided to disclose or not disclose the information. The person requesting the hearing, in this case, Ms. S., has the burden of proving by a preponderance of the evidence that CSSD’s decision to disclose the contact information was incorrect.⁶

Neither party appeared at the formal hearing, but Ms. S. submitted a statement with her appeal that during the summer of 2008 Mr. Z. “punched me – 5 stitches to my top left lip – he also bent both my thumbs back & screamed in my right ear”⁷ Based on this new information, CSSD requested that its decision to release Ms. S.’s contact information be reversed because her statement constitutes sufficient evidence to order nondisclosure.

The legislature has given CSSD the authority to determine whether a party may have access to another party’s contact information. Based on the evidence as a whole, it now appears that “the health, safety, or liberty of a party or child” would *unreasonably* be put at risk by information disclosure in this case. In light of the statement Ms. S. made with her appeal, release of her contact information would be unreasonable. CSSD’s decision allowing disclosure should be reversed.

IV. Conclusion

Ms. S. proved by a preponderance of the evidence that CSSD’s Decision on Nondisclosure of Identifying Information was incorrect in allowing her contact information to be

⁵ AS 25.27.275.

⁶ 15 AAC 05.030(h).

⁷ Exh. 3 at pg. 2.

released. CSSD's decision allowing disclosure should be reversed and nondisclosure should be ordered.

THEREFORE IT IS ORDERED:

- CSSD's Decision on Nondisclosure of Identifying Information dated October 26, 2010, is REVERSED;
- Ms. S.'s contact information may not be released.

DATED this 18th day of January, 2011.

By: Signed
Kay L. Howard
Administrative Law Judge

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 4th day of February, 2011.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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