

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

IN THE MATTER OF: )

M. E. M. )

) OAH No. 11-0096-CSS

) CSSD No. 001102218

**DECISION AND ORDER**

**I. Introduction**

This matter involves an appeal by M. E. M. of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in his child support case on March 1, 2011. The formal hearing was held on April 4, 2011. Mr. M. participated by telephone; custodian S. L. K. appeared in person with counsel, Darrell L. Thompson. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record, CSSD's Decision on Nondisclosure of Identifying Information dated March 1, 2011, is reversed. Mr. M.'s contact information may not be released.

**II. Facts**

In November 2010, Ms. K. requested disclosure of Mr. M.'s contact information.<sup>1</sup> CSSD sent Mr. M. two notices of her request but he did not respond. On March 1, 2011, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the disclosure of his contact information.<sup>2</sup> Mr. M. appealed CSSD's decision on March 14, 2011, arguing his safety is in jeopardy.<sup>3</sup>

**III. Discussion**

This matter does not involve Mr. M.'s child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose his contact information to Ms. K.

Alaska Statute (AS) 25.27.275 authorizes CSSD to decide on an *ex parte* basis that a case party's identifying information will not be disclosed to another case party. The applicable statute governing this action states as follows in its entirety:

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<sup>1</sup> Exh. 1.

<sup>2</sup> Exh. 2.

<sup>3</sup> Exh. 2.

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.<sup>[4]</sup>

This proceeding involves only the issue whether Mr. M.'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, Mr. M., has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.<sup>5</sup>

At the formal hearing, Mr. M. claimed that he fears for his safety because of Ms. K.'s history of domestic violence while they were married and afterwards. He stated at least three domestic violence cases filed in the Superior Court involve Ms. K. in addition to an incident between them in 1999 when they were married.

Ms. K. testified that while she was pregnant with the parties' child in 1999 that there was an incident involving violence between her and Mr. M. She said he sat on her stomach and shoved her around and that she defended herself and then called the police. As a result of that incident, two domestic violence orders were issued – one against each of them.

Also, Ms. K. acknowledged that she is trying to get Mr. M.'s contact information for the purpose of serving him with court documents. For his part, Mr. M. acknowledged he objects to release of his information so he may avoid service, claiming Ms. K. abuses the legal process.

The legislature has given CSSD the authority to determine whether a party may have access to another party's contact information. The statute addressing disclosure does not make a value judgment on why the information is requested or why the request is contested. Here, it is fairly obvious that Ms. K.'s underlying motive in requesting Mr. M.'s information is to accomplish service on him and Mr. M.'s opposition seeks to avoid service. The parties' motives are essentially irrelevant to the legal inquiry. The testimony given at the hearing tends to

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<sup>4</sup> AS 25.27.275.

<sup>5</sup> 15 AAC 05.030(h).

confirm that there is a history of violence between Mr. M. and Ms. K. Thus, regardless who initiated it or whom the perceived victim may have been, the standard set out in AS 25.27.275 leads to the conclusion that “the health, safety, or liberty of a party or child” would *unreasonably* be put at risk by information disclosure in this case.

**IV. Conclusion**

Mr. M. proved by a preponderance of the evidence that CSSD’s Decision on Nondisclosure of Identifying Information was incorrect in allowing his contact information to be released. CSSD’s decision allowing disclosure should be reversed.

**THEREFORE IT IS ORDERED:**

- CSSD’s Decision on Nondisclosure of Identifying Information dated March 1, 2011, is REVERSED;
- Mr. M.’s contact information may not be released.

DATED this 21<sup>st</sup> day of April, 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 9<sup>th</sup> day of May, 2011.

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

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