

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

IN THE MATTER OF:)

T S)

) OAH No. 11-0330-CSS

) CSSD No. 001141910

DECISION AND ORDER

I. Introduction

This matter involves an appeal by the custodian, F E. A, of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. S's child support case on June 21, 2011.

The formal hearing was held on September 13, 2011. Ms. A appeared in person; Mr. S participated by telephone. Erinn Brian, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, CSSD's June 22, 2011, Decision on Nondisclosure of Identifying Information is affirmed. Ms. A's contact information may be released if it is requested, unless she reapplies for nondisclosure and supplies evidence sufficient to support nondisclosure.

II. Facts

In September 2007, Mr. S requested Ms. A's contact information.¹ On December 17, 2007, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered her contact information would not be disclosed because she was living with family members who did not want the address released.² Neither party appealed that decision. In June 2011, while reviewing prior decisions, CSSD determined that the legal standard for nondisclosure had not been met and reversed its 2007 decision, thus allowing nondisclosure.³ Ms. A did not appeal this decision so her contact information was released to Mr. S on August 3, 2011.⁴ She filed an appeal on August 18, 2011.⁵

¹ Exh. 1.

² Exh. 4.

³ Exh. 5.

⁴ Exh. 6.

⁵ Exh. 7.

III. Discussion

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

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:

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.^[6]

This proceeding involves only the issue whether Ms. A's contact information kept on file by CSSD may 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. A, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁷

At the formal hearing, CSSD's representative indicated that the division reversed its 2007 decision because there was no evidence that the "health, safety, or liberty of a party or child would be unreasonably put at risk" by the disclosure of Ms. A's contact information. The reason for the earlier order preventing disclosure was that Ms. A lived with family members who did not want the address released. When Ms. A did not timely appeal the second order allowing disclosure, CSSD released her information to Mr. S. The parties understand, given that Ms. A's current information has already been released, that the issue in this appeal, for practical reasons, is whether her information may be released in the future.

Ms. A testified that she is a single mother living with her parents and that they do not want their information released. She denied that Mr. S had ever acted in a manner that would cause her to fear for the safety of herself, her child or family members. Mr. S testified that his

⁶ AS 25.27.275.

⁷ 15 AAC 05.030(h).

only reason for requesting Ms. A's contact information was that he was hoping to get photographs of his daughter. He said he is not contemplating contact with Ms. A or their child because he lives out of state and cannot afford the travel expenses.

CSSD's decision allowing disclosure of Ms. A's contact information should be affirmed. This is based on the evidence presented at the hearing, in particular, Ms. A's testimony that Mr. S had never done anything to cause her to fear for the safety of her or her child. Thus, there is no evidence that the "health, safety, or liberty of a party or child would be unreasonably put at risk" by the disclosure of her contact information.

IV. Conclusion

Ms. A did not prove by a preponderance of the evidence that CSSD's Decision on Nondisclosure of Identifying Information was incorrect in allowing her contact information to be released. CSSD's decision allowing disclosure should be affirmed.

THEREFORE IT IS ORDERED:

- CSSD's Decision on Nondisclosure of Identifying Information dated June 22, 2011, is AFFIRMED;
- Ms. A's contact information may be released if requested, unless she reapplies for nondisclosure and supplies sufficient evidence to support her request.

DATED this 3rd day of October, 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.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, 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 Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 21st day of October, 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.]