

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

IN THE MATTER OF)	
)	OAH No. 11-0430-CSS
Z R. H)	CSSD No. 001118901
_____)	

DECISION AND ORDER

I. Introduction

This case is Ms. K S's appeal of a decision by the Child Support Services Division (Division) to disclose her contact information to Z R. H. On November 23, 2011, a formal hearing was held to consider her appeal. Mr. H did not participate.¹ Ms. S, the custodial parent, also did not participate.² Andrew Rawls, Child Support Services Specialist, represented the Division. The hearing was audio-recorded. The record closed at the end of the hearing.

Having reviewed the record in this case and after due deliberation, the Administrative Law Judge concludes that the Division should not release Ms. S's contact information to Mr. H based on a finding that Mr. H's criminal history, and the history of petitions for restraining orders against him, show that disclosure would create an unreasonable risk of harm to Ms. S and the child.

II. Facts

A. History

Mr. H requested that the Division provide him with Ms. S's contact information.³ Ms. S did not respond to the notices sent to her that this request had been made.

On October 21, 2011, the Division issued a Nondisclosure of Identifying Information Decision.⁴ The Division stated that the Division would disclose Ms. S's contact information to Mr. H.

Ms. S requested a formal hearing.⁵ Ms. S wrote in her appeal that Mr. H had not had contact with the child more than a couple of times since she had obtained a restraining order.

¹ Mr. H declined to participate when he was called for the hearing.

² Ms. S did not appear, nor did she provide a phone number to call her at for the hearing as directed by the notice sent to her at her addresses of record. Ms. S was not available at either of her phone numbers of record.

³ Ex. 1.

⁴ Division's Pre-Hearing Brief.

⁵ Exhibit 5.

Ms. S also wrote that Mr. H already had her email address, phone number, and other social network information. Ms. S wrote that she was concerned that he did not ask her directly for other information and that she would want a visitation monitor if visitation was to be allowed to make sure her son was safe.

At the hearing, Mr. H declined to participate or testify under oath. He asserted that Ms. S had already provided him with the information he wanted and that she had told him she would withdraw her appeal.

A review of court system records showed that Mr. H has an extensive criminal record, which includes a conviction on a Disorderly Contact - Challenge to Fight conviction as recent as August of this year, in case number 3XX-11-00000CR. Docket records indicate that Mr. H was named as the defendant in a court proceeding for a long-term domestic violence restraining order requested by Ms. S, as well as a 2011 Ex Parte order requested by another individual who alleged that Mr. H was stalking him.⁶

B. Findings

Based on the evidence in the record, the Administrative Law Judge finds that it is more likely than not that the health and safety of Ms. S and her child would be put unreasonably at risk by the Division's disclosure of Ms. S's contact information to Mr. H.

III. Discussion

This case is an administrative appeal of the Division's determination that it should disclose Ms. S's address and phone number to Mr. H. This appeal does not directly involve Mr. H'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."⁷ Ms. S, as the person challenging the Division's action, has the burden of proving that the Division's decision for disclosure was in error.⁸ The Division's order was shown not to be correct by a preponderance of the evidence in the record. That evidence is very limited, due to the lack of participation by the parents. Court records showing Mr. H's criminal history, the evidence of requests for restraining orders against Mr. H, and the concerns Ms. S raised in her appeal request

⁶ Exhibit A attached.

⁷ See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

show that it would create an unreasonable risk to for the Division to release Ms. S's contact information.

The Division should not release Ms. S's contact information to Mr. H. It is not clear that Ms. S has already provided Mr. H with her current address. It is not clear even that the Division has her current address on file. Although Ms. S cannot waive the Division's statutory obligation to protect her and her child's contact information once it has been determined that it would create an unreasonable risk to for the Division to release the information in its records, Ms. S is free to provide any information she wants to provide to Mr. H.

IV. Child Support Order

1. The Division's Nondisclosure of Identifying Information Decision issued on October 21, 2011, is OVERTURNED.
2. The Division shall not release Ms. S's contact information to Mr. H.

DATED this 25th day of November, 2011.

By: Signed
Mark T. Handley
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 14th day of December, 2011.

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

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

⁸ 15 AAC 05.030(h).