

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

IN THE MATTER OF	)	OAH No. 12-0065-CSS
K M. O	)	CSSD No. 001178304
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**DECISION AND ORDER**

**I. Introduction**

This case is Ms. F E’s appeal of a decision by the Child Support Services Division (Division) to disclose her and her child’s contact information to K M. O. <sup>1</sup> On April 3, 2012, a formal hearing was held to consider her appeal.<sup>2</sup> Mr. O did not participate.<sup>3</sup> Ms. E, the custodial parent, participated. Erinn Brian, 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. E’s contact information to Mr. O based on a finding that Mr. O’s criminal history shows that disclosure would create an unreasonable risk of harm to Ms. E and the child.

**II. Facts**

**A. History**

Mr. O requested that the Division provide him with Ms. E’s child’s contact information.<sup>4</sup> Ms. E did not respond to the notices sent to her that this request had been made.

On February 29, 2012, the Division issued a Nondisclosure of Identifying Information Decision.<sup>5</sup> The Division stated that the Division would disclose Ms. E’s contact information to Mr. O.

Ms. E requested a formal hearing. Ms. E wrote in her appeal that Mr. O had a history of violence, was a registered sex offender and that a caseworker from the Alaska Office of Children’s Services had told her that she could be arrested if she let Mr. O know of her child’s

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<sup>1</sup> See Alaska Statute 25.27.275.

<sup>2</sup> Mr. O was not at his contact number of record when he was called for the hearing.

<sup>3</sup> The hearing was audio-recorded. The record closed at the end of the hearing.

<sup>4</sup> Ex. 1.

<sup>5</sup> Division’s Pre-Hearing Brief.

location.<sup>6</sup>

The Division filed a motion for summary adjudication, alleging that its decision to provide Mr. O the contact information should be upheld as a matter of law. The Division withdrew this motion at the hearing. Having confirmed that Mr. O was a registered sex offender, the Division agreed with Ms. E that her and her child's contact information should not be disclosed.

At the hearing, Mr. O did not participate. The notice sent to his address of record was returned as undeliverable and he was not available at his phone number of record when he was called for the hearing.

A review of court system records showed that Mr. O has a criminal record, which appears to include convictions on sexual assault in the second degree and sexual abuse of a minor in the second degree in case number 4XX-03-00000CR. Docket records also indicate that Mr. O was also named as the defendant in a court proceeding on charges of burglary and theft.<sup>7</sup>

At the hearing, Ms. E explained that her child is now in state custody and that Alaska Office of Children's Services caseworker, Marcy Wolf warned her that facilitating any contact between Mr. O and her child could result in a criminal charge being brought against her for endangering her child.

### **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. E and her child would be put unreasonably at risk by the Division's disclosure of Ms. E or the child's contact information to Mr. O.

### **III. Discussion**

This case is an administrative appeal of the Division's determination that it should disclose Ms. E's address and phone number to Mr. O. 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."<sup>8</sup> This appeal does not directly involve Mr. O's child support obligation.

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<sup>6</sup> Exhibit 5.

<sup>7</sup> Exhibit A attached.

<sup>8</sup> See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

Ms. E, as the person challenging the Division's action, has the burden of proving that the Division's decision for disclosure was in error.<sup>9</sup> The Division's order was shown not to be correct by a preponderance of the evidence in the record. Court records showing Mr. O's criminal history, and the concerns Ms. E has raised show that it would create an unreasonable risk for the Division to release Ms. E's contact information. The Division should not release Ms. E's contact information to Mr. O.

**IV. Child Support Order**

1. The Division's Nondisclosure of Identifying Information Decision issued on February 29, 2012, is OVERTURNED.
2. The Division shall not release Ms. E's contact information to Mr. O.

DATED this 3<sup>rd</sup> day of April, 2012.

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 18<sup>th</sup> day of April, 2012.

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

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

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<sup>9</sup> 15 AAC 05.030(h).