

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

IN THE MATTER OF:)

T C)

) OAH No. 12-0108-CSS

) CSSD No. 001141823

DECISION AND ORDER

I. Introduction

This matter involves an appeal by the custodian, J L. K, of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. C's child support case on April 11, 2012.

The formal hearing was held on May 17, 2012. Mr. C appeared in person; Ms. K participated by telephone. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, CSSD's April 11, 2012, Decision on Nondisclosure of Identifying Information is affirmed. Ms. K's contact information may be released to Mr. C.

II. Facts

On January 5, 2012, Mr. C requested Ms. K's contact information.¹ CSSD informed Ms. K and requested her input, but she did not respond.² On April 11, 2012, CSSD issued a Decision on Nondisclosure of Identifying Information that allowed disclosure of Ms. K's contact information.³ She appealed on April 16, 2012.⁴

III. Discussion

This matter does not involve Mr. C's child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. K'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 information will not be disclosed to another case party. The applicable statute governing this action states as follows in its entirety:

¹ Exh. 1.

² Exh. 2; Pre-Hearing Brief at pg. 1.

³ Exh. 3.

⁴ Exh. 4.

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. K'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. K, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁶

At the formal hearing, Mr. C acknowledged that three years ago he struck his wife during a disagreement that resulted in him being charged by the police with family violence, a misdemeanor. He said that he attended an anger management class and learned "a lot" through the class. As a result, he said the charges against him were dismissed. CSSD filed a printout of Mr. C's criminal history from the "CourtView" online resources available to the public. The printout shows that the January 2009 charges against Mr. C for family violence were dismissed upon him pleading "no contest" to Disorderly Conduct.⁷ He was fined \$1,000 and sentenced to 90 days in jail, but \$500 of the fine and all of the jail time was suspended.⁸ In addition, Mr. C was placed on three years' informal court probation, which apparently has concluded.⁹

Mr. C testified that his only intent in seeking Ms. K's contact information is to see his daughter, A, who is now six years old. He said he works full-time in a restaurant as a cook, and he is still with his wife who was involved in the incident in 2009. Ms. K testified that although there was no violence between Mr. C and her, and no threats or intimidation, she is afraid he will take their child without her knowing. She said that he has never even met the child, so there is no reason for him to have her contact information.

⁵ AS 25.27.275.

⁶ 15 AAC 05.030(h).

⁷ Exh. 5 at pg. 1.

⁸ Exh. 5 at pg. 3.

⁹ *Id.*

CSSD's representative indicated that in its opinion, there is no evidence Mr. C currently has any proclivity for violence, and that as a result, the order allowing release of Ms. K's contact information to him should be affirmed.

CSSD's decision allowing disclosure of Ms. K's contact information should be affirmed. This is based on the totality of the evidence presented; in particular, Ms. K's acknowledgement that Mr. C had never been violent against her in any way, nor had he ever threatened or intimidated her. Also significant is the fact that Mr. C's charge of family violence was dismissed upon him completing an anger management course, and that the charges involved another individual and occurred over three years ago. Finally, Mr. C's testimony was credible and his manner during the hearing was calm and he did not appear evasive or seem to have any ulterior motives in seeking Ms. K's contact information. Thus, there is insufficient evidence that the "health, safety, or liberty of a party or child would be unreasonably put at risk" by the disclosure of Ms. K's contact information. CSSD's decision to release the information should be affirmed.

IV. Conclusion

Ms. K 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 to Mr. C. CSSD's decision allowing disclosure should be affirmed.

THEREFORE IT IS ORDERED:

- CSSD's Decision on Nondisclosure of Identifying Information dated April 11, 2012, is AFFIRMED;
- Ms. K's contact information may be released to Mr. C.

DATED this 5th day of June, 2012.

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 22nd day of June, 2012.

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

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