

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

IN THE MATTER OF)	OAH No. 12-0428-CSS
S C. H)	CSSD No. 001044317
)	
_____)	

DECISION AND ORDER

I. Introduction

This case is S C. H's appeal of a decision by the Child Support Services Division (Division) to disclose B E's, and her children's, contact information to Mr. H. On October 4, 2012, a formal hearing was held to consider her appeal. Mr. H did not participate. 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. H based on a finding that Mr. H's criminal history shows that disclosure would create an unreasonable risk of harm to Ms. E and the children.

II. Facts

A. History

Mr. H requested that the Division provide him with Ms. E's children's contact information. Ms. E responded to the notice sent to her that this request had been made.

On August 23, 2012, the Division issued a Nondisclosure of Identifying Information Decision. The Division determined that the Division would not disclose Ms. E's contact information to Mr. H.

Mr. H requested a formal hearing. Mr. H wrote in his appeal that he wanted to establish communications with Ms. E and the children. Mr. H did not contest the Division's determination that releasing Ms. E's contact information would create an unreasonable risk, nor the evidence that the Division relied on in making that determination.¹

The Division filed a motion for summary adjudication, alleging that its decision to not provide Mr. H the contact information should be upheld as a matter of law. The Division's

¹ Exhibit 6.

motion was denied at the hearing so that findings could be issued on the risk of disclosure.

At the hearing, Mr. H did not participate. Mr. H had filed a request to continue the hearing so that he would have more time to prepare prior to the hearing. The motion would have been taken up at the hearing, but when Mr. H was called at the time set for the hearing, he informed the prison staff that he did not want to talk to anyone. Mr. H's motion was taken up at the hearing and was denied because Mr. H chose not to participate in the hearing on his motion and because his motion did not show adequate cause to delay the hearing on the merits. Mr. H did not provide a legal or factual basis for his appeal of the Division's decision in his appeal or his motion.

The court system records that the Division relied on in its determination show that Mr. H has a criminal record, which appears to include criminal assault, theft and arson cases.²

At the hearing, the Division explained that Mr. H is currently incarcerated, serving sentences on criminal convictions, and is not scheduled to be released until 2014.

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 children would be put unreasonably at risk by the Division's disclosure of Ms. E or the children's contact information to Mr. H.

III. Discussion

This case is an administrative appeal of the Division's determination that it should not disclose Ms. E's address and phone number to Mr. H. 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."³ This appeal does not directly involve Mr. H's child support obligation.

Mr. H, as the person challenging the Division's action, has the burden of proving that the Division's decision for disclosure was in error.⁴ The Division's order was not shown to be incorrect by a preponderance of the evidence in the record. Court records showing Mr. H's criminal history 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. H.

² Exhibit 4.

³ See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

IV. Child Support Order

1. The Division's Nondisclosure of Identifying Information Decision issued on August 23, 2012, is AFFIRMED.
2. The Division shall not release Ms. E's contact information to Mr. H.

DATED this 5th day of October, 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 6th day of November, 2012.

By: Signed
Signature
Angela M. Rodell
Name
Deputy Commissioner
Title

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

⁴ 15 AAC 05.030(h).