

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

IN THE MATTER OF)	OAH No. 13-0163-CSS
B D. J)	CSSD No. 001107923
)	
_____)	

DECISION AND ORDER

I. Introduction

On February 28, 2013, a formal hearing was held to consider whether the identifying and contact information of U G, who is the custodial parent of their child, should be released to B D. J.¹ Mr. G did not participate.² Ms. J participated. Erinn Brian, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed at the end of the hearing.

This case is Ms. J's appeal of the Division's decision not to disclose Mr. G's contact information to Ms. J. Having reviewed the record in this case and after due deliberation, I conclude that of the Division should not release Mr. G's contact information to Ms. J.

II. Facts

A. History

On July 19, 2001, the Division issued a Nondisclosure of Identifying Information Decision denying Ms. J filed request that the Division provide her with Mr. G's contact information. Ms. J did not appeal that decision. That 2001 decision was based on an affidavit by Mr. G, in which he explained that Ms. J had been charged with a crime of domestic violence against him and that a restraining order had been issued. Mr. G, was concerned that Ms. J would use his contact information to harass him. The decision states that the Division would not provide the requested information based on the Division's finding that the health, safety, or liberty of Mr. G and his children would be put at risk unreasonably if this information was released.³

In December of 2012, Ms. J filed another request with Division to provide her with Mr.

¹ The hearing was held under Alaska Statute 25.27.275.

² Mr. G did not provide a phone number for the hearing as instructed on the notice that was sent to him. Both his phone numbers of record were not in service when he was call at the time of the hearing.

³ Exhibit 2, page 2 & Recording of Hearing.

G's contact information.⁴ The Division issued a Notification of Prior Decision of Nondisclosure of Identifying Information Decision again denying Ms. J's request on January 23, 2013.⁵ Ms. J requested a formal hearing.⁶

At the hearing, Ms. J admitted that she had been charged with a crime of domestic violence against Mr. G and that a restraining order had been issued in 1999. Ms. J asserted that the judge in that case had told her that the charge would be dismissed if she moved, and that she had moved. Mr. G explained that she wanted Mr. G's contact information so that she could contact her son. Ms. J denied that Mr. G's allegations of abusive and harassing behavior were true.⁷

B. Findings

Based on the evidence in the record, I conclude that it is more likely than not that the health and safety of Mr. G and their child would be put unreasonably at risk by the Division's disclosure of his contact information.⁸

III. Discussion

This case is an administrative appeal of the Division's determination that it should disclose Mr. G's address and phone number to Ms. J. This appeal also does not involve Ms. J'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."⁹

Ms. J's desire to have contact with does not show that the health, safety, or liberty of Mr. G would be unreasonably put at risk by providing his contact information to her. In a child support hearing, the person who filed the appeal, in this case, Ms. J, has the burden of proving by a preponderance of the evidence that the Division's decision is incorrect.¹⁰ Ms. J did not meet her burden of proof to show that the Division's decision was incorrect. Ms. J admitted that there had been both the criminal charge and the restraining order on which the nondisclosure decision was based. Her attempts to deny the allegations of past abuse and harassment were not credible.

⁴ Exhibit 1.
⁵ Exhibit 2, page 1.
⁶ Exhibit 3.
⁷ Recording of Hearing.
⁸ Recording of Hearing & Exhibit 3.
⁹ See Alaska Statute 25.27.275.

She continually drifted off these subjects in her testimony. Her testimony was often incoherent. Ms. J had to repeat herself several times to be understood. Ms. J went into detail about why she felt she being victimized by the denial of her request for information, but did not go into any detail about the circumstance that led to the 1999 criminal charge and the restraining order.

The parties' child will be an adult in four years. Ms. J admitted that she has had no contact with him since the year that he was born. Ms. J asserted that she had reason to believe that the child had been admitted to a mental hospital. Mr. G, the custodial parent, is in the best position to determine whether the benefit of their son to have contact with Ms. J after 14 years would outweigh the risks and he has chosen not to initiate that contact. Because of Ms. J's history, there is a risk to Mr. G's and the child's health and safety if Ms. J acquires Mr. G's contact information.

The risk to Mr. G's and the child's health is real. There is no clear benefit that would result from disclosure. I therefore conclude that it is unreasonable to risk Mr. G's health and safety by disclosure, or to use the phrasing of the statute, her health and safety would be unreasonably put at risk by disclosure.

IV. Conclusion

I conclude the health and safety of Mr. G would be put unreasonably at risk by the Division's disclosure of Mr. G's contact information. The Division should not release Mr. G's contact information to Ms. J.

V. Child Support Order

1. The Division's Nondisclosure of Identifying Information Decision issued on July 19, 2001 is AFFIRMED.
2. The Division's Notification of Prior Decision of Nondisclosure of Identifying Information Decision issued on January 23, 2013 is AFFIRMED.
3. The Division shall not release Mr. G's contact information to Ms. J.

DATED this 1st day of March, 2013.

By: Signed _____
Mark T. Handley
Administrative Law Judge

¹⁰ Alaska Regulation 15 AAC 05.030(h).

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 20th day of March, 2013.

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

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