

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

IN THE MATTER OF:)

K B. D)

) OAH No. 13-0223-CSS

) CSSD No. 001187007

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodian M M. D of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. D's case on February 8, 2013. The formal hearing was held on March 12, 2013. Ms. D appeared in person; Mr. D did not participate. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record, CSSD's Decision on Nondisclosure of Identifying Information dated February 8, 2013 is reversed. Ms. D's contact information may not be released.

II. Facts

The parties were previously married. The Superior Court issued a Decree of Divorce on October 19, 2012.¹ Mr. D applied for child support services on October 22, 2012.² On December 3, 2012, Ms. D telephonically requested CSSD not disclose her contact information.³ CSSD sent her a form to fill out, which she completed, but CSSD did not receive.⁴ On February 8, 2013, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the disclosure of her contact information.⁵ Ms. D filed an appeal and requested a formal hearing on February 19, 2013.⁶

III. Discussion

This matter does not involve Mr. D's child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. D's contact information in the event it is requested.

¹ Exh. 1.
² Exh. 2.
³ CSSD's Pre-hearing Brief at pg. 1.
⁴ See Exh. 4.
⁵ Exh. 4.
⁶ Exh. 5.

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:

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.^[7]

This proceeding involves only the issue whether Ms. D's contact information kept on file by CSSD should 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. D, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁸

At the formal hearing, Ms. D testified that Mr. D has been violent with her in the past. She stated she had filed more than one domestic violence (DV) petition against him, but that for various reasons none of them resulted in a DV order being issued. She provided copies of email messages that Mr. D had sent her, the most notable of which states, "[a]ll I have to say is the angel of death is coming for you and you should repent before it is too late."⁹ Ms. D stated that she fears for her safety and that of her child.

The legislature has given CSSD the authority to determine whether a party may have access to another party's contact information. Based on the evidence as a whole, it now appears that "the health, safety, or liberty of a party or child" would *unreasonably* be put at risk by information disclosure in this case. The testimony given at the hearing and the documents provided tend to confirm that there is a history of violence between Mr. D and Ms. D, so release of Ms. D's contact information would be unreasonable. As a result, CSSD's decision allowing disclosure should be reversed.

⁷ AS 25.27.275.

⁸ 15 AAC 05.030(h).

⁹ Exh. 5 at pg. 4.

IV. Conclusion

Ms. D proved 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. CSSD’s decision allowing disclosure should be reversed.

THEREFORE IT IS ORDERED:

- CSSD’s Decision on Nondisclosure of Identifying Information dated February 8, 2013, is REVERSED;
- CSSD may not release Ms. D’s contact information.

DATED this 11th day of April, 2013.

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.

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 29th day of April, 2013.

By: *Signed* _____
 Signature
 Jay D. Durych _____
 Name
 Administrative Law Judge _____
 Title

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