

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

IN THE MATTER OF:)	
)	OAH No. 13-0850-CSS
U R. D)	CSSD No. 001147527
_____)	

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodian J J. N of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. D's case on May 23, 2013. The formal hearing was held on July 9, 2013. Ms. N appeared by telephone; Mr. D did not participate.¹ Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record, CSSD's Decision on Nondisclosure of Identifying Information dated May 23, 2013 is reversed. Ms. N's contact information may not be released.

II. Facts

CSSD sent Ms. N an affidavit to fill out on March 21, 2013 in the event she wanted to keep her contact information on file with CSSD confidential. She did not respond to the agency's inquiry. As a result, CSSD issued a Decision on Nondisclosure of Identifying Information May 23, 2013 that ordered the disclosure of her contact information.² Ms. N filed an appeal and requested a formal hearing on June 6, 2013.³

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. N's contact information in the event it is requested.

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 A telephone call placed to Mr. D's telephone number was answered by a woman who identified herself as his step-mother. She stated he was not there and could not be reached by telephone. She agreed to give him the number for the Office of Administrative Hearings (OAH) when he arrived. Mr. D has not contacted the OAH.

² Exh. 1.

³ Exh. 2.

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.^[4]

This proceeding involves only the issue whether Ms. N'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. N, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁵

At the formal hearing, Ms. N testified that Mr. D had been abusive to B in the past. She stated that her son now has PTSD and ADHD and has a very hard time with males and father figures in his life. She added that he has spent "countless" numbers of hours in counseling. As a result of Ms. N's testimony, CSSD requested that its decision allowing disclosure of her contact information be reversed.

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 tends to indicate that there is a history of abuse between Mr. D and B, so release of Ms. N's contact information would be unreasonable. As a result, CSSD's decision allowing disclosure should be reversed.

IV. Conclusion

Ms. N 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.

⁴ AS 25.27.275.

⁵ 15 AAC 05.030(h).

THEREFORE IT IS ORDERED:

- CSSD's Decision on Nondisclosure of Identifying Information dated May 23, 2013, is REVERSED;
- CSSD may not release Ms. N's contact information.

DATED this 29th day of July, 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 16th day of August, 2013.

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

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