

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

IN THE MATTER OF: )

E W. D )

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) OAH No. 13-1031-CSS

) CSSD No. 001188669

**DECISION AND ORDER**

**I. Introduction**

The custodian of record, D B, appealed a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. D's case on December 31, 2012. The hearing was held on August 20, 2013. Both parties appeared by telephone. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record and after careful consideration, CSSD's Decision on Nondisclosure of Identifying Information dated December 31, 2012 is affirmed. Ms. B's contact information may not be released.

**II. Facts**

In December 2012, Ms. B requested that CSSD not disclose her contact information. In support of her request, she filed a copy of a long-term domestic violence order (DVO) issued against Mr. D.<sup>1</sup> On December 31, 2012, CSSD issued a Decision on Nondisclosure of Identifying Information that granted her request for nondisclosure and ordered that her contact information be withheld.<sup>2</sup> Ms. B filed an appeal and requested a formal hearing on July 23, 2013.<sup>3</sup> On August 15, 2013, CSSD filed a Motion for Summary Adjudication, requesting that Ms. B's appeal be dismissed because CSSD had already granted her request for nondisclosure and there was no reason to hold a hearing.

**III. Discussion**

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

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<sup>1</sup> Exh. 1.

<sup>2</sup> Exh. 2.

<sup>3</sup> 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.<sup>[4]</sup>

This proceeding involves only the issue whether Ms. B'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. As the person who requested the hearing, Ms. B, has the burden of proving by a preponderance of the evidence that CSSD's decision was incorrect.<sup>5</sup>

Ms. B mistakenly requested a hearing. CSSD's decision was that her contact information could NOT be disclosed. She already had the relief she initially requested from CSSD, but apparently misunderstood the agency's order.

In response to Ms. B's appeal, CSSD filed a Motion for Summary Adjudication. Summary adjudication in an administrative proceeding is similar to summary judgment in a civil proceeding, and the same basic legal principles apply. Summary adjudication may be granted where there are no material facts in dispute and one party is entitled to judgment as a matter of law,<sup>6</sup> in other words, that there is no need for a hearing.

CSSD has shown there is no genuine issue of material fact in this case. CSSD's decision was that Ms. B's contact information could not be released, yet she mistakenly filed an appeal. Ms. B still wants her information to be kept confidential, so there is no reason to hold a hearing.

#### **IV. Conclusion**

CSSD's Motion for Summary Adjudication should be granted. Ms. B mistakenly requested a hearing after the division granted her request for nondisclosure of her contact

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<sup>4</sup> AS 25.27.275.

<sup>5</sup> 15 AAC 05.030(h).

<sup>6</sup> *Smith v. State*, 790 P.2d 1352, 1353 (Alaska 1990); 2 AAC 64.250(a).

information. CSSD's Decision on Nondisclosure of Identifying Information should remain in effect as issued.

**THEREFORE IT IS ORDERED:**

- CSSD's Motion for Summary Adjudication is granted;
- CSSD's Decision on Nondisclosure of Identifying Information dated December 31, 2012, remains in effect as issued;
- As stated in CSSD's order, Ms. B's contact information may not be released.

DATED this 10<sup>th</sup> day of September, 2013.

Signed  
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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 27<sup>th</sup> day of September, 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.]