

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

IN THE MATTER OF: )  
 )  
K R. W ) OAH No. 13-1032-CSS  
 ) CSSD No. 001138977  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

This matter involves an appeal by custodian D D of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. W's case on July 8, 2013. The formal hearing was held on August 20, 2013. Ms. D appeared by telephone; Mr. W did not participate.<sup>1</sup> Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded.

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

**II. Facts**

Ms. D applied for tribal assistance on January 22, 2013.<sup>2</sup> In her application, she noted that she wanted her address kept confidential. CSSD received a copy of her application on March 22, 2013 and requested additional information from her.<sup>3</sup> Ms. D did not respond to the agency's inquiry. As a result, CSSD issued a Decision on Nondisclosure of Identifying Information on July 8, 2013, that ordered the disclosure of her contact information.<sup>4</sup> Ms. D filed an appeal and requested a formal hearing on July 23, 2013.<sup>5</sup>

**III. Discussion**

This matter does not involve Mr. W'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 ever requested.

Alaska Statute (AS) 25.27.275 authorizes CSSD to decide on an *ex parte* basis that a case

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<sup>1</sup> A telephone call placed to the first of Mr. W's telephone numbers was answered by an individual who did not know where Mr. W was. The second number was out of service. Mr. W has not contacted the OAH.

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

<sup>3</sup> Exhs. 2-3.

<sup>4</sup> Exh. 4.

<sup>5</sup> Exh. 5.

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>[6]</sup>

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.<sup>7</sup>

At the formal hearing, Ms. D testified that in 2003 or 2004, Mr. W broke into her house and "put his hands on me." She also claimed that he had kidnapped her and would not let her see her family when they were in Anchorage. CSSD stated it had checked the online court records and found that Mr. W was charged with domestic violence in 2004.

Following Ms. D's testimony, CSSD requested that its decision allowing disclosure of her contact information be reversed. The agency also stated that it had issued a nondisclosure order in this case in 2006, and that it should be renewed. That information was not in the materials distributed to the administrative law judge and parties prior to the hearing.

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 violence between Mr. W 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.

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<sup>6</sup> AS 25.27.275.

<sup>7</sup> 15 AAC 05.030(h).

**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 July 8, 2013, is REVERSED;
- CSSD may not release Ms. D’s contact information.

DATED this 11<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 30<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.]