

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

IN THE MATTER OF)	
H A. S)	OAH No. 13-1075-CSS
)	
_____)	CSSD No. 001167835

DECISION & ORDER ON SUMMARY ADJUDICATION

I. Introduction

This case is H A. S's appeal the decision of the Alaska Child Support Service Division (Division) to disclose his contact information to D A. C. On August 28, 2013, a formal hearing was held to consider a motion for summary adjudication filed by the Division. Mr. S participated. Ms. C, the custodial parent, did not participate.¹ Andrew Rawls, Child Support Services Specialist, represented the Division. The hearing was audio-recorded. The record closed at the end of the hearing.

Because the disclosure would create an unreasonable risk of harm, the Administrative Law Judge concludes that the Division's motion should be denied and the Division's order should be overturned.

II. Facts

The parties are currently in a custody dispute in an Alaska court case.² Mr. S and Ms. C both requested that the Division provide them with the other parent's contact information.³ On January 28, 2013, the Division issued a Nondisclosure of Identifying Information Decision. This decision notified the parties that Ms. C's contact information would be disclosed to Mr. S.⁴ Ms. C then filed an affidavit explaining that she was the victim of statutory rape, which had resulted in the child in this case.

On June 21, 2013, the Division issued another two Nondisclosure of Identifying Information Decisions. These decisions notified the parties that Ms. C's contact information

¹ Ms. C did not appear or provide a phone number to participate in the hearing by teleconference as instructed by the notice sent to her by certified mail. There was no answer at Ms. C's phone numbers of record when she was called at the time set for the hearing.

² Recording of Hearing.

³ Division's pre hearing brief & Recording of Hearing.

⁴ Exhibit 2.

would not be disclosed to Mr. S, but Mr. S's contact information would be disclosed to Ms. C.⁵ Mr. S requested a formal hearing.⁶

In his request for a formal hearing, Mr. S indicates that he does not want Ms. C to receive his contact information from the Division because she could just call him and ask for it.⁷

Prior to the hearing, the Division filed a motion for summary adjudication arguing that no hearing was necessary because the parties were already in contact. Ms. C did not respond to the Division's motion, or participated in the hearing.

At the hearing, Mr. S explained that he did not want Ms. C to have his contact information because it might lead to face to face confrontations between the parents, which had come close to violence in the past. Mr. S was also concerned that such contact would also cause emotional distress to his girlfriend. Based on the information provided by Mr. S at the hearing, the Division agreed that Mr. S's identifying information should not be disclosed.

III. Discussion

Mr. S showed that there are factual matters in dispute regarding the Division's decision not to disclose Ms. C's contact information. Mr. S provided evidence that disclosure would create an unreasonable risk of harm. The motion for summary adjudication should therefore be denied.⁸

Only a court can issue an order directly limiting Ms. C and Mr. S's contact with their child and each other, and it appears that the parents are currently working through the court system to resolve custody and visitation issues.

This appeal is not before a court. This case is Mr. S's administrative appeal of the Division's determination that it should not disclose Mr. S address and phone number to Ms. C. This appeal does not directly involve Mr. S's child support obligation, visitation or custody. This appeal 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

⁵ Exhibit 6.

⁶ Exhibit 7.

⁷ Exhibit 4.

⁸ *French v. Jadon, Inc.*, 911 P.2d 20, 23 (Alaska 1996).

would be unreasonably put at risk by the disclosure of identifying information.”⁹

Mr. S has shown that the health and safety of the parents would be unreasonably put at risk by the disclosure of Mr. S’s identifying information. Ms. C also has also provided evidence that contact between herself and Mr. S outside the context of court proceedings creates a risk of harm in her request to protect her contact information from disclosure.¹⁰ Mr. S’s identifying information should not be disclosed.

IV. Conclusion

I conclude that the Mr. S’s request not to disclose his address and phone number to Ms. C should be granted.

V. Child Support Order

The Division’s Motion for Summary Adjudication is DENIED. The Division’s Nondisclosure of Identifying Information Decision regarding Mr. S’s identifying information issued on June 24, 2013, is overturned. The Division will not disclose Mr. S’s contact information to Ms. C.

DATED this 3rd day of September, 2013.

By: Signed _____
Mark T. Handley
Administrative Law Judge

⁹ See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

¹⁰ Exhibit. 4, page 1.

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 3rd day of October, 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.]