

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

In the Matter of:)	
)	OAH No. 13-1255-CSS
D D. D)	CSSD No. 001185334
_____)	

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodian N K. D of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. D's case on June 18, 2013. The formal hearing was held on October 10, 2013. Ms. D appeared by telephone; Mr. D could not be reached so he 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 June 18, 2013 is reversed. Ms. D's contact information may not be released.

II. Facts

On April 4, 2013, Ms. D submitted an affidavit and request for nondisclosure of identifying information to CSSD.² Her application had two check boxes marked, one stating that the obligor had committed domestic violence against her or the child, and one that stated he had been charged with a crime or been involved in a criminal case in which she was a party, victim or witness.³ The application also stated that the obligor had threatened to kill (him)self in her driveway.⁴ On June 18, 2013, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the disclosure of Ms. D's contact information.⁵ Ms. D filed an appeal and requested a formal hearing on June 28, 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 ever

¹ A call was placed to Mr. D's telephone number on record, but the system reported that the telephone was not accepting calls.

² Exh. 2.

³ *Id.*

⁴ *Id.*

⁵ Exh. 3.

⁶ Exh. 4.

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:

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 in 2006, Mr. D got intoxicated and punched out two walls in their home.⁹ She added that he was so drunk he called the troopers on himself, after which he was arrested. She said that the charges were eventually dropped, but that the violence continued until they separated about two years ago. Ms. D stated Mr. D has hit and choked her, but that he primarily threatens to hurt himself, such as the time in 2011 when he brandished a handgun in her driveway and threatened to kill himself because she had not given him some items he demanded. Ms. D called the troopers, but Mr. D left before they arrived. Following Ms. D's testimony, CSSD requested that its decision allowing disclosure of her contact information be reversed and replaced with an order that does not allow disclosure of her information.

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

⁷ AS 25.27.275.

⁸ 15 AAC 05.030(h).

⁹ The facts are taken from Ms. D's testimony unless otherwise cited.

information disclosure in this case. The hearing testimony proves by a preponderance of the evidence 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.

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 June 18, 2013, is REVERSED;
- CSSD may not release Ms. D's contact information.

DATED this 14th day of October, 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 1st day of November, 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.]