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

In the Matter of:)
) OAH No. 14-1348-CSS
H A. C, JR.) CSSD No. 001169192
)
_____)

DECISION AND ORDER

I.   Introduction

This matter involves an appeal by obligor H A. C of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. C's case on July 8, 2014. The formal hearing was held on September 15, 2014. Mr. C appeared by telephone; custodian D M. D could not be reached, so she did not participate.[1] Joe West, Child Support Specialist, represented CSSD. The hearing was recorded.

Based on the record, CSSD's Decision on Nondisclosure of Identifying Information dated July 8, 2014 is reversed. Ms. D's contact information may be released.

II.   Facts

On April 9, 2013, Mr. C requested Ms. D's contact information.[2] On July 24, 2013, Ms. D called CSSD and requested nondisclosure of her contact information.[3] She alleged that Mr. C had "been both threatening & harassing her" and threatening to take their daughter L away from Ms. D.[4]

On January 16, 2014, Ms. D signed an Affidavit and Request for Nondisclosure of Identifying Information.[5] Her affidavit had one check box marked, stating that the obligor had committed domestic violence by harassing her.[6] The application also stated that the obligor had threatened to take their daughter away from her.[7] On January 28, 2014, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the nondisclosure of Ms. D's contact

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[1]   A call was placed to Ms. D's telephone number on record, but the call went unanswered.
[2]   Exh. 1.
[3]   Exh. 2.
[4]   *Id.*
[5]   Exh. 3.
[6]   *Id.*
[7]   *Id.*

information.[8] Mr. C renewed his request for information and Ms. D again responded that she did not want her contact information disclosed.[9] On July 8, 2014, CSSD again ruled that Ms. D's information would not be disclosed; Mr. C appealed.[10]

III.   Discussion

This matter does not involve Mr. C's child support obligation. Rather, the issue here is whether CSSD correctly decided that Ms. D or her daughter's health, safety, or liberty were unreasonably at risk if Ms. D's contact information is ever released.

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.[11]

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 of whether CSSD reasonably decided to disclose or not disclose the information. The person requesting the hearing, in this case, Mr. C, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.[12]

At the formal hearing, Mr. C submitted testimony that he wanted a relationship with his daughter, but that Ms. D was not cooperating. Ms. D's refusal to tell him where L was physically living prompted Mr. C to register L in the Children's Passport Issuance Alert Program and petition the court for custody.[13] Following Mr. C's testimony, CSSD agreed that the record

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8   Exh. 4.
9   Exh. 5; Exh. 6.
10   Exh. 7; Exh. 8.
11   AS 25.27.275.
12   15 AAC 05.030(h).
13   The facts are taken from Mr. C's testimony and Exhibits A, B, and C unless otherwise cited.

did not support a nondisclosure order, and that CSSD's initial finding should be reversed and replaced with an order that does allow disclosure of Ms. D's contact information.

Because Ms. D did not participate, it is unknown what her response to Mr. C's testimony would have been. The finding in support of nondisclosure cannot be supported by assertions that have been rebutted by the hearing record. Based on the evidence as a whole, it now appears that "the health, safety, or liberty of a party or child" would *not* unreasonably be put at risk by information disclosure in this case, so release of Ms. D's contact information would be reasonable. As a result, CSSD's decision *not* allowing disclosure should be reversed.

IV.   Conclusion

Mr. C proved by a preponderance of the evidence that CSSD's Decision on Nondisclosure of Identifying Information was incorrect. CSSD's decision allowing nondisclosure should be reversed.

THEREFORE IT IS ORDERED:

- CSSD's Decision on Nondisclosure of Identifying Information dated July 8, 2014 is REVERSED;

- CSSD may release Ms. D's contact information.

DATED this 16th day of September, 2014.   *Signed*_____
                                                                      Rebecca L. Pauli
                                                                      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 3rd day of October, 2014.

                                        By: *Signed*_____
                                                      Signature
                                                      Rebecca L. Pauli_____
                                                      Name
                                                      Administrative Law Judge_____
                                                      Title

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