

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

| | | |
|------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| X Y |) | OAH No. 14-2111-CSS |
| _____ |) | Agency No. 001123318 |

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodian U M. T of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. Y's case on September 24, 2014. The hearing was held on January 21, 2015. Both parties participated by telephone. Joe West, 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 September 24, 2014 is reversed. Ms. T's contact information may not be released.

II. Facts

On July 30, 2014, Mr. Y submitted a written request to CSSD for Ms. T's contact information.¹ CSSD subsequently sent Ms. T a notice that her contact information had been requested, and asked her to reply to the request.² Ms. T did not respond, so on September 24, 2014, CSSD issued a Decision on Nondisclosure of Identifying Information that indicated Ms. T's contact information would be released in 30 days.³ Ms. T filed an appeal and requested a formal hearing on November 6, 2014.⁴

III. Discussion

This matter does not involve Mr. Y's child support obligation. Rather, the issue here is whether CSSD's decision to disclose Ms. T's contact information to Mr. Y was correct.

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:

¹ Exh. 1.
² Pre-Hearing Brief at pg. 1.
³ Exh. 2.
⁴ Exh. 3.

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.^[5]

This proceeding involves only the issue whether Ms. T'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. T, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁶

Mr. Y and Ms. T were previously married; she was granted custody of their son when they separated. She submitted a statement with her appeal, and also testified, that there had been violence in their relationship, both during the marriage and after the divorce. In particular, she recounted an incident that occurred on January 3, 2010 in which she and Mr. Y encountered each other in a local No Name store. She stated that Mr. Y chased her and their son through the store, and when she obtained assistance from store employees, he tried to lunge over them to get to her.⁷ The police were called and recommended that Ms. T obtain a restraining order, but she was too afraid to go through with it.⁸ However, she did obtain one when, during this case, she realized CSSD intended to release her contact information to Mr. Y.⁹

Mr. Y did not dispute Ms. T's testimony. Rather, he explained his behavior in the No Name store by saying that Ms. T was keeping their son from him and he hadn't seen the child "for a long time." Mr. Y added that he had had to take his son's Christmas presents to school, which was embarrassing to have to do. Mr. Y acknowledged he had Ms. T's telephone number but did not know her physical address.

The documents provided for this appeal include the police report from the No Name incident, the domestic violence order Ms. T obtained on January 15, 2015, and a copy of

⁵ AS 25.27.275.

⁶ 15 AAC 05.030(h).

⁷ Exh. 3 at pg. 2.

⁸ *Id.*

⁹ *See* Exh. 5.

CourtView records for Mr. Y that indicate he was arrested on December 26, 2011 for DUI, Disorderly Conduct, and Assault on a Police Officer.¹⁰ He was subsequently convicted of the charges after pleading “No Contest,” and an additional charge for refusal to submit to a chemical test was dismissed by the prosecution.¹¹

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 hearing testimony and documents filed in this matter prove by a preponderance of the evidence that Mr. Y has a history of domestic violence and that release of Ms. T’s contact information would be unreasonable. As a result, CSSD’s decision allowing disclosure should be reversed.

IV. Conclusion

Ms. T 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, issued on or about September 24, 2014, is REVERSED;
- CSSD may not release Ms. T’s contact information.

Dated: May 14, 2015

Signed _____
Kay L. Howard
Administrative Law Judge

¹⁰ Exh. 4.

¹¹ *Id.* An additional charge for refusing to submit to a chemical test was dismissed by the prosecution.

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.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 within 30 days after the date of this decision.

DATED this 28th day of May 2015.

By: Signed
Signature
Kay L. Howard
Name
Administrative Law Judge
Title

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