

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

In the Matter of)	
)	
B O. M)	OAH No. 15-0198-CSS
<hr style="width:40%; margin-left:0"/>)	Agency No. 001101547

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodian T L. N of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. M’s case on January 31, 2015. The formal hearing was held on March 31, 2015. Mr. M appeared in person; Ms. N could not be reached so she did not participate.¹ James Pendergraft, 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 January 31, 2015 is reversed. Ms. N’s contact information may not be released.

II. Facts

On October 26, 2014, Mr. M submitted a written request to CSSD for Ms. N’s contact information.² CSSD subsequently sent Ms. N a notice that her contact information had been requested, and asked her to reply to the request.³ Ms. N did not respond, so on January 31, 2015, CSSD issued a Decision on Nondisclosure of Identifying Information that indicated Ms. N’s contact information would be released in 30 days.⁴ Ms. N filed an appeal and requested a formal hearing on February 9, 2015.⁵ She withdrew from CSSD’s services on the same day.⁶

III. Discussion

This matter does not involve Mr. M’s child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. N’s contact information to Mr. M when he requested it.

¹ Calls were placed to Ms. N’s two contact numbers, but she could not be reached. The first call went unanswered so there was no opportunity to leave a message; the system reported that the second number was no longer in service.

² Exh. 1.

³ Exh. 2.

⁴ Exh. 3.

⁵ Exh. 4 at pg. 1.

⁶ Exh. 4 at pg. 2.

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. N'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. N, has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁸

Ms. N could not be reached for the hearing, but Mr. M appeared and testified. He said he had requested Ms. N's contact information in order to serve her with court papers and to pursue visitation with their son, B, who is currently 15 years old.

During questioning, Mr. M acknowledged that he has a history of domestic violence. He said that approximately sixteen years ago, he was convicted of assault and served 90 days in jail for "pushing" his girlfriend at the time, a woman named K. He denied any other domestic violence events have occurred, saying that he's had only misdemeanors since then.

The obligor has a more extensive history than he admitted. According to the Alaska court system database, the case with his girlfriend, K, occurred in 1998.⁹ In addition, Mr. M has also been named as a respondent in domestic violence proceedings in 2001, where the petitioner's initials were JM; and in 2004, where the petitioner's initials were MB. In the 2004 case, the court issued a 20-day protective order followed by a one-year protective order.¹⁰ Mr.

⁷ AS 25.27.275.

⁸ 15 AAC 05.030(h).

⁹ Exh. 5.

¹⁰ *Id.*

M has had criminal cases, as well. The most relevant one for this appeal involves him being charged in 2012 with Assault 2, which is a felony.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, specifically, Mr. M's admission that he has been charged with domestic violence, and the printout of his record from the court system database, prove by a preponderance of the evidence that Mr. M has a history of domestic violence and that release of Ms. N's contact information would be unreasonable. As a result, CSSD's decision allowing disclosure should be reversed.

IV. Conclusion

Ms. N 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 January 31, 2015, is REVERSED;
- CSSD may not release Ms. N's contact information.

Dated: April 23, 2015.

Signed

Kay L. Howard
Administrative Law Judge

¹¹ *Id.*

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 13th 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.]