

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

In the Matter of)

H D. G)

OAH No. 15-0711-CSS

Agency No. 001188861

DECISION AND ORDER

I. Introduction

This case is H G’s appeal of a decision by the Child Support Services Division (Division) to not disclose M G and her children’s contact information to Mr. G.¹ On July 8, 2015, a formal hearing was held to consider Mr. G’s appeal. Mr. G did not participate.² Ms. G, the custodial parent, participated. Andrew Rawls, Child Support Services Specialist, represented the Division. The hearing was audio-recorded. The record closed on July 20, 2015.

Having reviewed the record in this case and after due deliberation, the Administrative Law Judge concludes that the Division should not release Ms. G’s contact information to Mr. G. Two prior ex parte domestic violence orders were issued against Mr. G at Ms. G’s request, and Mr. G did not provide persuasive evidence that showed that the Division’s determination that disclosure would create an unreasonable risk of harm to Ms. G and the children was incorrect. There is an existing court order regarding custody of the Gs’ children in case number 4FA-13-00000CI. Mr. G should address any issues he has with amendments to, or enforcement of, that order through the court.

II. Facts

A. History

Mr. G requested that the Division provide him with Ms. G’s or their children’s contact information. Ms. G responded to the notice sent to her regarding this request. She requested that her contact information not be disclosed, and provided a copies of a 20-Day Ex Parte Domestic Violence Protective Order in case number 4FA-13-00000CI.³

On December 27, 2012, the Division had issued a Nondisclosure of Identifying

¹ See Alaska Statute 25.27.275.

² Mr. G did not provide a contact number for the hearing prior to the hearing as directed on the notice sent to him on June 17, 2015. He was not available at his contact numbers of record. Mr. G did file a request to reschedule after the hearing but the hearing was not rescheduled because he did not show good cause as explained in the discussion section of this decision.

³ Exhibits 1, 2, & 3.

Information Decision.⁴ The Division stated that the Division would not disclose Ms. G's contact information to Mr. G.

Mr. G did not request a formal hearing until May 27, 2015.

Prior to the hearing, the Division confirmed that there were court records showing two domestic violence orders against Mr. G, as well as two court custody orders and two court child support orders in case number 4FA-13-00000CI.

Prior to the hearing, the Administrative Law Judge reviewed on-line court docket records for Mr. G. These records were discussed at the hearing and marked as exhibit A.

Ms. G explained that her understanding of the current court custody order is that she is required to keep Mr. G informed of her current address and phone number. Ms. G believes that Mr. G has this information as well as her email address, but does not often use them to contact the children.

Ms. G explained at the hearing that she believes that she and her children are at risk of harm from Mr. G based on their history and his prior acts of domestic violence. Ms. G agreed that it would be safer if Mr. G continued to obtain her contact information directly from her, pursuant to the court custody order, so that she can work through the court if problems develop. The Division agreed with Ms. G that her and her child's contact information should not be disclosed by the Division.

At the hearing, Mr. G did not participate. Mr. G did not provide a contact number for the hearing as directed on the notice of hearing which was sent to him by certified mail on June 17, 2015. Mr. G's first contact phone number of record with the division was his home phone, and the woman who answered at the time set for the hearing said that he was at work and should be available at his cell phone number. This cell phone number was his second contact number of record, but there was no answer at that number, so a message was left informing him that he had ten days to file a request to reschedule and show good cause for missing his hearing.

A notice was also sent to Mr. G after the hearing, informing him that he had until July 20, 2015 to provide a submit a written statement showing good cause for his failure to participate in the hearing and requesting that the hearing be rescheduled. Mr. G did file a request to reschedule by email on July 20, 2015 to an email address of the Division, one of the parties, rather than the email address provided on the notice. In his request, Mr. G explained that he missed the hearing "due to formation." Mr. G also asserted that he "was not really aware of a hearing by phone."

⁴ Exhibit 4.

B. Findings

Based on the evidence in the record, the Administrative Law Judge finds that it is more likely than not that the health, safety and freedom of Ms. G and her children would be put unreasonably at risk by the Division's disclosure of Ms. G or the children's contact information to Mr. G.⁵ The Administrative Law Judge finds that Mr. G did not show reasonable cause for his failure to participate in the hearing.

III. Discussion

This case is an administrative appeal of the Division's determination that it should not disclose Ms. G's address and phone number to Mr. G. This 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 would be unreasonably put at risk by the disclosure of identifying information."⁶ This appeal does not directly involve custody issues or Mr. G's child support obligation.

Ms. G, as the person challenging the Division's action, has the burden of proving that the Division's decision for disclosure was in error.⁷ The Division's order was not shown to be incorrect by a preponderance of the evidence in the record. Court records showing domestic violence protective orders, and the concerns Ms. G has raised, show that it would create an unreasonable risk to for the Division to release Ms. G's contact information.

The Division should not release Ms. G's contact information to Mr. G. There is an existing court order regarding custody of the children in case number 4FA-13-00000CI that covers the parents' duty to keep each other informed of their contact information. Mr. G should address any issues he has with amendments to, or enforcement of, that order through the court.

As the party who requested the formal hearing in this case, Mr. G had to show reasonable cause for his failure to appear at the hearing in order to have the hearing rescheduled at his request.⁸ Mr. G did not show reasonable cause for his failure to participate in the hearing.

In the context of the formal hearing for this telephonic child support appeal, "appear" means having provided a phone number to call prior to the time scheduled for the hearing, as directed by the notice sent to him three weeks prior to the hearing, and being available at that phone number at the time set for the hearing. Mr. G did not provide a phone number prior to the

⁵ Exhibits A & B & Recording of Hearing.

⁶ See Alaska Statute 25.27.275 & Alaska Regulation 15 AAC 125.860.

⁷ 15 AAC 05.030(h).

⁸ 15 AAC 05.030(j).

hearing. He was also unavailable at his phone numbers of record with the Division. Mr. G's assertion that he was unaware of the hearing is not credible. The notice was sent to him in more than enough time for him to receive it. He did not directly assert that he did not receive the notice.

Since Mr. G probably did receive the notice, he either did not read the notice or chose to ignore it, neither of these is reasonable cause for failing to appear. If he had a conflict or potential conflict with the time set for the hearing, he could have filed a request to reschedule the hearing prior to the hearing date, rather than simply failing to appear. Mr. G's request to reschedule the hearing should not be granted.

IV. Child Support Order

1. Mr. G's request to reschedule the hearing is DENIED.
2. The Division's Nondisclosure of Identifying Information Decision issued on July 21, 2014, is AFFIRMED.
3. The Division shall not release Ms. G's contact information to Mr. G.

DATED this 4th day of August, 2015.

By: Signed
Mark T. Handley
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 27th day of August, 2015.

By: Signed
Signature
Mark T. Handley
Name
Administrative Law Judge
Title

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