

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

In the Matter of	)	
	)	
J B	)	OAH No. 15-0864-CSS
_____	)	Agency No. 001203155

**DECISION**

**I. Introduction**

In May 2015, F T submitted a request to the Child Support Services Division that CSSD keep her address and location information confidential from the father of her child. After CSSD issued the order she had requested, Ms. T filed a request for an administrative hearing. This decision concludes, as CSSD concedes, that a non-disclosure order should not have been issued. Accordingly, Ms. T’s appeal of that order is granted.

**II. Discussion<sup>1</sup>**

J B and F T are the parents of two children.<sup>2</sup> Ms. T’s household began receiving public assistance in September 2014. The Division of Public Assistance notified CSSD of the opened case in October 2014, and CSSD opened a child support case as to the two children.

One of the forms mailed to parents when a child support case is opened allows a parent to request that CSSD withhold from the other parent, based on evidence of domestic violence, certain identifying information about the parent’s address and location.<sup>3</sup> The form itself indicates that a parent requesting a non-disclosure order must show evidence of domestic violence.<sup>4</sup> The applicable regulations go further, permitting CSSD to grant a request for a non-disclosure order “if the agency determines that the health, safety, or liberty of a parent or child is put unreasonably at risk by disclosure of identifying information about the parent or child.”<sup>5</sup>

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<sup>1</sup> The information herein comes from CSSD’s prehearing brief, case presentation, and exhibits as identified herein.

<sup>2</sup> According to CSSD’s case presentation, Mr. B remains the “putative father” at this stage of CSSD proceedings. Ms. T’s materials on appeal refer to him as the biological father of her children. Ex. 1, p. 1.

<sup>3</sup> See Ex. 1 and 15 AAC 125.860.

<sup>4</sup> Ex. 1.

<sup>5</sup> 15 AAC 125.860(c).

On May 13, 2015, Ms. T submitted a completed copy of the “Affidavit and Request for Nondisclosure of Identifying Information” form.<sup>6</sup> The form provides a list of three possible bases for the request, and asks the requesting parent to “check all that apply.” Ms. T checked the box that reads: “A domestic restraining or violence protective order has been issued against this person.” However, Ms. T also entered a handwritten notation above her checkmark that read: “wrong.”<sup>7</sup>

The form then offers two opportunities to provide explanatory information – one if the parent has checked any of the listed items, and a separate section that asks, “if you did not check any of the boxes, please explain why you feel threatened by this person.” In the first section, Ms. T wrote: “I just stated this person’s name because I just don’t want him to be near myself or my child.” In the second section, Ms. T wrote, “Due to my decision I made, just because I do not want J B the child’s father because he already plan his wedding with another woman.”<sup>8</sup>

On June 2, 2015, CSSD issued a Decision on Nondisclosure of Identifying Information, which read as follows:

You asked that identifying information be withheld.

Based on my review of the evidence, my decision is as follows: You have provided evidence of domestic violence. Your request for nondisclosure is granted.

This decision is effective June 2, 2015. You may appeal this decision by completing and returning the attached form within 30 days.<sup>9</sup>

On June 30, 2015, Ms. T submitted an appeal form which provided some background information about her relationship with and separation from Mr. B, and indicated “I don’t need a family violence/non-disclosure.”<sup>10</sup>

By submitting the form titled “Appeal of Administrative Review Decision,” Ms. T requested a formal administrative hearing.<sup>11</sup> The hearing was scheduled for July 30, 2015, and notice of the hearing was sent to Ms. T’s address of record via certified mail on July 14, 2015. Ms. T did not appear for the hearing, and was unable to be reached at either of her

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<sup>6</sup> Ex. 1, p. 1.

<sup>7</sup> Ex. 1, p. 1.

<sup>8</sup> Ex. 1, p. 1.

<sup>9</sup> Ex. 2, p. 1.

<sup>10</sup> Ex. 3, pp. 1-2.

<sup>11</sup> Ex. 3, p. 1.

phone numbers of record. Pursuant to 15 AAC 05.030(j), the record was held open for ten days after the date scheduled for the hearing to allow Ms. T to show reasonable cause for her failure to appear. She did not do so, and the decision is thus issued without evidence being taken from her. However, at the hearing CSSD conceded what appears to be the lone issue on appeal.<sup>12</sup>

At the hearing, CSSD indicated that the non-disclosure order should not have been entered given the information in Ms. T's initial application. Although she had checked the box referencing a domestic protective order, she also wrote "wrong" over that check-mark. Further, none of the descriptive information she provided with application described or suggested domestic violence. Rather, Ms. T simply indicated that she did not want to have an ongoing relationship with Mr. B.

As the Division now concedes, this is insufficient as a matter of law to support a non-disclosure order. As noted above, 15 AAC 125.860(j) authorizes such an order "if the agency determines that the health, safety, or liberty of a parent or child is put unreasonably at risk by disclosure of identifying information about the parent or child."<sup>13</sup> Here, there was no evidence before the agency that would have supported such a finding. Accordingly, as CSSD concedes, it was error to grant the non-disclosure order.

#### **IV. Conclusion**

The non-disclosure order in this matter was entered in error. Accordingly, Ms. T's request for revocation of the non-disclosure order is GRANTED.

Dated: August 11, 2015

Signed  
Cheryl Mandala  
Administrative Law Judge

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<sup>12</sup> Ms. T's Appeal of Administrative Review Decision includes a statement that she is "not depending on [her] child's father for any support from him." Ex. 3, p. 1. To the extent to which Ms. T's request for hearing could be interpreted as seeking to appeal the existence of a child support enforcement proceeding on the basis that she does not want Mr. B's support, this claim fails as a matter of law. CSSD opened its case as a result of an open public assistance case for Ms. T and the parties' children. Alaska Statutes 47.23.140 authorizes CSSD to initiate and maintain child support proceedings against an obligor for a child for whom state public assistance is being provided. Pursuant to AS 25.27.120, Mr. B is liable to the State, not to Ms. T, for support payments made while public assistance is paid for support of the parties' children. Accordingly, to the extent to which this was intended to be a separate issue on appeal, Ms. T's request on this issue is denied.

<sup>13</sup> 15 AAC 125.860.

## **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 26th day of August, 2015.

By: Signed  
Signature  
Rebecca L. Pauli  
Name  
Administrative Law Judge  
Title

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