

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

In the Matter of)	
)	
S F. N)	OAH No. 18-0343-CSS
_____)	Agency No. 001150826

DECISION AND ORDER

I. Introduction

Custodian Q T appeals a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued on January 29, 2018. CSSD’s decision granted S N’s request for release of Ms. T’s identifying information.

The formal hearing took place on April 5, 2018. Ms. T appeared by telephone and represented herself. Mr. N could not be reached at any of the three telephone contact numbers in CSSD’s casefile, and he did not participate.¹ Child Support Specialist Brandi Estes represented CSSD. The hearing was recorded. All submitted documents were admitted to the record, which closed following the hearing.

Based on the record and after careful consideration, CSSD’s 2018 Decision on Nondisclosure of Identifying Information is reversed. This leaves in effect a 2008 decision in which CSSD granted Ms. T’s request for nondisclosure of her contact information, but with a modification. Ms. T has authorized a limited release of identifying information to Mr. N: her mailing address and two email addresses. This is consistent with the terms of the parties’ 2007 Child Custody Order, and it permits Mr. N to write to his daughter twice weekly. However, CSSD may not release other identifying information regarding Ms. T or the parties’ child, J.

II. Facts

Mr. N and Ms. T are the parents of J, who is now 14. Ms. T has exercised sole legal and physical custody of J since at least 2007 pursuant to a Child Custody Order issued by an Alaska Superior Court judge on August 24, 2007.²

¹ Mr. N has not kept his telephone or mailing information current with CSSD, as he is obligated to do under AS 25.27.265(b). The first telephone number was disconnected. The second went to a fax machine. An answering machine picked up at the third number, but the outgoing message indicated that the number belonged to a business entity. Similarly, the notice assigning this case to an administrative law judge was sent by first-class mail to Mr. N at his last known address on file with CSSD. It was returned as undeliverable. The Notice of Hearing, sent by certified mail to the same address, also was returned as undeliverable. The undersigned finds that Mr. N received appropriate notice of the proceedings under AS 25.27.265 and Alaska Rule of Civil Procedure 5(b).

² Exhibit 1, pp. 4-9.

The Child Custody Order provides background on the parties' communication difficulties and Mr. N's history of abusing telephone contacts with Ms. T. Because of the "unhealthy psychological elements" involved in Mr. N's conduct, the court ordered an end to all oral communication between the parents until Mr. N satisfied certain conditions. The court ruled that Mr. N could "communicate with J by writing to her twice weekly."³ To move beyond twice-weekly writings, the custody order specifies the steps Mr. N must complete. Among other actions, he is to obtain a mental health screening and follow through on treatment recommendations, obtain a substance abuse assessment, complete alternatives to violence counseling program, and complete a parenting class. When all requirements are satisfied, the custody order outlines the process through which Mr. N may seek to reinstate telephone or other contacts with J and/or Ms. T.

The 2007 Child Custody Order remains in effect. There is no evidence showing that Mr. N completed the above requirements or that he has asked the superior court to reinstate contacts other than those allowed via mail.

Prior to the hearing in this matter, Ms. T submitted other evidence of Mr. N's history of problematic behaviors, including a harassing/threatening voice message he left for her in 2007 and evidence of 2007 Georgia criminal charges against him for making terroristic threats (a felony) and harassing phone calls (a misdemeanor).⁴ The charges were dismissed in 2009 for lack of documents to complete the file.⁵ Ms. T also submitted evidence of Alaska criminal charges against Mr. N in 2002 for assault in the fourth degree and for furnishing alcohol to a minor (both misdemeanors).⁶

In 2007 and 2008, Ms. T submitted requests to CSSD to withhold her identifying information from Mr. N, as permitted under AS 25.27.275 and 15 AAC 125.860.⁷ Her written requests alleged that Mr. N had threatened and harassed her and her family, including threats to take J and to kill Ms. T and her husband.⁸ CSSD granted her request in a Decision on Nondisclosure of Identifying Information it issued on April 15, 2008.⁹ It then placed a "family

³ Exhibit 1, p. 6.

⁴ T Exhibits 5, 6, 7.

⁵ Exhibit 1, pp. 2-3.

⁶ T Exhibits 1, 2.

⁷ Exhibit 7.

⁸ *Id.*

⁹ Exhibit 5.

violence indicator” on the case. Most likely to comply with the Child Custody Order, Ms. T nonetheless authorized CSSD in 2008 to release her mailing address and email address to Mr. N.¹⁰

In 2015, CSSD denied Mr. N’s request for release of Ms. T’s identifying information, concluding that the 2008 decision remained in effect.¹¹ In November 2017, Mr. N again requested Ms. T’s identifying information.¹² He asserted that CSSD never should have placed a “family violence indicator” on his case, that the claims against him had been fabricated, and that he had been vindicated by the dismissal of the Georgia criminal charges. He requested J’s address, so he could write to her as permitted by the custody order.

On January 29, 2018, CSSD issued the Decision on Nondisclosure of Identifying Information that is at issue in this case, stating it would release Ms. T’s identifying information to Mr. N unless she objected within 30 days.¹³ The decision was based on the Child Custody Order’s authorization for twice-weekly written communication. However, it did not clearly state whether CSSD would release only Ms. T’s mailing address or whether other identifying information also would be available to Mr. N.

Ms. T timely objected, arguing that release of her identifying information placed her and her family at risk of physical or emotional harm. She pointed to Mr. N’s history of abusive and controlling behavior, expressed concern about the threats he has made in the past, and noted that he has not completed the classes and other steps required by the Child Custody Order to move beyond written communication.¹⁴ She agreed Mr. N can write to J, and she provided her mailing address and two email addresses to facilitate that contact. She objected to release of her physical address, telephone number, or other any identifying information.

After reviewing Ms. T’s submissions to the record, the CSSD hearing representative agreed CSSD’s 2018 decision was issued in error and should be overturned.

III. Discussion

This matter does not involve Mr. N’s child support obligation. The only issue is whether CSSD correctly decided to disclose Ms. T’s or J’s identifying information to Mr. N when he requested it. Identifying information can include, for example, mailing address, physical address, telephone numbers and email addresses.

¹⁰ Exhibit 6. Ms. T’s mailing address is not the same as her physical address.

¹¹ Exhibit 4.

¹² Exhibit 1, p. 1.

¹³ Exhibit 2.

¹⁴ Exhibit 3.

Alaska Statute 25.27.275 authorizes CSSD to decide on an *ex parte* basis whether a parent or child's identifying information may be disclosed to the other parent. The statute states 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.

Pursuant to this provision and its regulations at 15 AAC 125.860, in 2008 CSSD granted Ms. T's request for a nondisclosure order based on evidence of domestic violence she submitted. After Mr. N provided it with a copy of the 2007 Child Custody Order, CSSD's 2018 decision shifted to Ms. T the burden of showing that her identifying information should not be released. As the party requesting the hearing, Ms. T bears the burden of proving by a preponderance of the evidence that CSSD's 2018 decision was incorrect.¹⁵ She met this burden.

Ms. T showed that CSSD's 2008 nondisclosure order should remain in place, as modified by the limited disclosures she authorized. Because of Mr. N's history of threats and harassing telephone calls, the 2007 Child Custody Order specifically limits his contacts with Ms. T and J to written communication. Ms. T has provided Mr. N with her mailing address and two email addresses, so he may continue writing to J. She authorized CSSD to release this information to Mr. N in 2008, and she repeated her limited authorization during the hearing in this matter. This release complies with the parties' custody order but also protects Ms. T from other forms of contact with Mr. N, as the Child Custody Order contemplates.

In light of Mr. N's past conduct, the terms of the Child Custody Order, and Mr. N's apparent failure to complete the remedial steps required by the custody order, Ms. T showed that disclosure of identifying information other than the information she specifically authorized would unreasonably place her and her family's health and safety at risk. Therefore, CSSD may not release other identifying information. CSSD's decision allowing disclosure is reversed.

¹⁵ 15 AAC 05.030(h).

IV. Conclusion

Ms. T showed that CSSD’s January 29, 2018 Decision on Nondisclosure of Identifying Information was incorrect. Except for the information Ms. T has specifically authorized released to Mr. N (her mailing address and two email addresses), Ms. T’s and J’s identifying information may not be released. CSSD’s 2018 decision allowing disclosure is therefore reversed.

THEREFORE IT IS ORDERED:

- CSSD’s Decision on Nondisclosure of Identifying Information, issued January 29, 2018, is REVERSED;
- CSSD’s Decision on Nondisclosure of Identifying Information issued April 15, 2008, remains in effect, as modified below;
- CSSD may disclose to Mr. N Ms. T’s mailing address and the two email addresses she authorized, but it may not disclose other identifying information regarding Ms. T or J.

Dated: April 9, 2018.

Signed
 Kathryn Swiderski
 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.

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 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 15 day of May, 2018.

By: Signed
 Signature
 Sheldon Fisher
 Name
 Commissioner, Dept. of Revenue
 Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]