

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

IN THE MATTER OF:)

T. L. D.)

) OAH No. 06-0738-CSS

) CSSD No. 001143899

DECISION AND ORDER

I. Introduction

This matter involves an appeal by custodial parent J. P. J. of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. D.'s case on September 21, 2006.

The formal hearing was held on November 20, 2006. Ms. J. did not participate; Mr. D. appeared telephonically. David Peltier, Child Support Specialist, represented CSSD. The hearing was recorded; the record closed on November 30, 2006.

Kay L. Howard, Administrative Law Judge, Alaska Office of Administrative Hearings, conducted the hearing. Based on the record as a whole and after due deliberation, Ms. J.'s appeal is denied. She did not meet the burden of proving by a preponderance of the evidence that CSSD's nondisclosure decision was incorrect.

II. Facts

A. History

On August 31, 2006, Ms. J. requested in an affidavit submitted to CSSD that her contact information be kept confidential.¹ The document did not provide any information in support of her request. On September 21, 2006, CSSD issued a Decision on Nondisclosure of Identifying Information that determined Ms. J.'s contact information may be released.² Ms. J. filed an appeal on October 20, 2006.³

B. Findings

Based on the evidence in the record and after due consideration, I hereby find:

1. Ms. J.'s certified notice of the date and time for the hearing was sent to her address and it was signed for on November 8, 2006;

¹ Exh. 1.

² Exh. 2.

³ Exh. 3.

2. Ms. J. did not appear for the hearing;
3. Ms. J. did not meet her burden of proving by a preponderance of the evidence that CSSD's Decision on Nondisclosure of Identifying Information was incorrect, as required by 15 AAC 05.030(h);
4. Based on the lack of information supplied by Ms. J. with her request for nondisclosure, CSSD correctly decided her contact information would be released.

III. Discussion

This matter does not involve Mr. D.'s child support obligation. Rather, the issue in this appeal is whether CSSD correctly decided to disclose Ms. J.'s contact information after she requested nondisclosure.

In 1997, the Alaska legislature adopted AS 25.27.275, which authorizes CSSD to decide on an *ex parte* basis (based on information provided by only one party) 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.^[4]

It is important to note that this proceeding involves only the issue whether Ms. J.'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 the information. The person requesting the hearing, in this case, Ms. J., has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁵

⁴ AS 25.27.275.

⁵ 15 AAC 05.030(h).

For Ms. J. to prevail in preventing her address information from being released, she would have to show that the “health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure . . . ,” as set out in AS 25.27.275. CSSD’s nondisclosure statute was designed to prevent a party to a child support case from obtaining the other party’s address and going to that location to commit dangerous and/or unlawful conduct. The legislature has given CSSD the authority to allow one party access to another party’s contact information only in cases where it appears to the agency that an unreasonable risk is not present.

Ms. J. did not provide any supporting evidence that the “health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure.” CSSD made the assessment based on her lack of information that an unreasonable risk, as contemplated by the statute, is not present in this case. Ms. J. made a brief written statement in her appeal request which says that other than Mr. D. denying paternity, “there has not been any violence.”⁶

Based on the record as a whole, the administrative law judge agrees with CSSD. Ms. J. did not meet her burden of proving by a preponderance of the evidence that CSSD’s decision was incorrect. The record in this case does not support a finding that release of her contact information presents an unreasonable risk to Ms. J. or the Obligee D.

IV. Conclusion

CSSD’s order should be affirmed.

THEREFORE IT IS ORDERED:

- CSSD’s September 21, 2006, Decision on Nondisclosure of Identifying Information is affirmed;
- Ms. J.’s identifying information may be released.

DATED this 20th day of December, 2006.

By: Signed
Kay L. Howard
Administrative Law Judge

⁶ Exh. 3.

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 5th day of January, 2007.

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

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