

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

IN THE MATTER OF:)

T. E.)

OAH No. 07-0045-CSS

CSSD No. 001145069

**ORDER GRANTING MOTION
FOR SUMMARY ADJUDICATION**

I. Introduction

On February 2, 2007, CSSD filed a Motion for Summary Adjudication in this child support case. Oral argument on the motion was held on February 22, 2007. The Custodian, S. E., filed the appeal but did not participate. The Obligor parent, Mr. E., also did not participate. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded; the record closed on August 12, 2006.

Kay L. Howard, Administrative Law Judge with the Alaska Office of Administrative Hearings, conducted the oral argument. Having reviewed the record, and after due deliberation, I have concluded CSSD's motion for summary adjudication should be granted because its nondisclosure decision was correctly issued.

II. Facts

On August 31, 2006, Ms. E. filed an affidavit and requested confidentiality of her contact information.¹ On December 13, 2006, CSSD issued a Decision on Nondisclosure of Identifying Information that granted Ms. E.'s request for address confidentiality and stated her contact information would not be released.² Ms. E. filed an appeal on January 22, 2007.³ The appeal was referred to the Office of Administrative Hearings (OAH), which sent the parties a notice of hearing by certified mail on February 6, 2007. The "green card" returned to the OAH by the U.S. Postal Service indicates Ms. E. received her notice on February 20, 2007.⁴

¹ Exh. 1.

² Exh. 2.

³ Exh. 4.

⁴ OAH file.

III. Discussion

Ms. E. filed an appeal and requested a formal hearing, but she failed to appear for the hearing. Therefore, this decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a decision if the requesting party fails to appear.

This matter does not involve Mr. E.'s support obligation. Rather, the issue here is whether CSSD correctly decided not to disclose Ms. E.'s contact information. In 1997, the Alaska legislature adopted AS 25.27.275, which 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.^{5]}

It is important to note that this proceeding involves only the issue whether Ms. E.'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 grant her request for address confidentiality. The person requesting the hearing, in this case, Ms. E., has the burden of proving by a preponderance of the evidence that CSSD's decision not to disclose the contact information was incorrect.⁶

At the formal hearing, CSSD stated the agency does not understand why Ms. E. filed the appeal. She requested address confidentiality and filed with it a copy of a domestic violence protective order issued by the court on November 1, 2006.⁷ CSSD stated the agency believes Ms. E. did not understand that its Decision on Nondisclosure of Identifying Information actually granted her request, and that is why she filed the appeal.

⁵ AS 25.27.275.

⁶ 15 AAC 05.030(h).

⁷ Exh. 3.

CSSD's opinion appears to be correct. Based upon Ms. E.'s request and a domestic violence order issued by the court against Mr. E., CSSD decided not to release Ms. E.'s contact information. CSSD made the correct decision not to release Ms. E.'s contact information, and it seems that she simply misunderstood that CSSD had granted her request. Neither party appeared to present evidence, so I find, based on the evidence as a whole, that there are no material facts in dispute and that CSSD's decision was correct and should be affirmed.

IV. Conclusion

CSSD reasonably ordered nondisclosure in this matter, and there are no facts in evidence to dispute the agency's decision. Accordingly, I conclude in the absence of material issues of fact that CSSD is entitled to summary judgment as a matter of law and the agency's Motion for Summary Adjudication should be granted.

THEREFORE IT IS ORDERED:

- CSSD's February 2, 2007, Motion for Summary Adjudication is granted;
- CSSD's December 13, 2006, Decision on Nondisclosure of Identifying Information is affirmed;
- Ms. E.'s contact information may not be released.

DATED this 27th day of March, 2007.

By: Signed
Kay L. Howard
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 within 30 days after the date of this decision.

DATED this 12th day of April, 2007.

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

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