

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

IN THE MATTER OF)	OAH No. 08-0071-CSS
E. R.)	CSSD No. 001131419
)	
_____)	

DECISION AND ORDER

I. Introduction

On March 10, 2008, a formal hearing was held to consider whether the identifying and contact information of A. B. (Custodian) should be released to E. R. (Obligor).¹ Mr. R. did not appear.² Ms. B. did not participate either.³ David Peltier, Child Support Services Specialist, represented the Child Support Service Division (Division). The hearing was audio-recorded. The record closed on March 20, 2008.

This case is Mr. R.'s appeal of the Division's decision to not disclose Ms. B.'s contact information to Mr. R. Having reviewed the record in this case and after due deliberation, I conclude that of the Division correctly decided that it should not release Ms. B.'s contact information to Mr. R..

II. Facts

A. History

Mr. R. requested that the Division provide him with Ms. B.'s contact information. Ms. B. filed an objection to this request.⁴ On February 4, 2008, the Division issued a Nondisclosure of

¹ The hearing was held under Alaska Statute 25.27.275.

² Mr. R. did not appear or provide a telephone number to call for the hearing as instructed in the notice of hearing sent to him at his address of record. This is not surprising as the notice was returned stamped: "RETURN TO SENDER UNCLAIMED UNABLE TO FORWARD." I called his phone number of record at the time set for the hearing, but he was not there.

³ Ms. B. called prior to the hearing as instructed in the notice of hearing but she informed the staff that she did not wish to participate.

⁴ Ex. 1.

Identifying Information Decision.⁵ The decision states that the Division would not provide the information based on the Division's review of the evidence Ms. B. had provided to show that her health, safety, or liberty would be put at risk unreasonably if this information was released.⁶

Mr. R. requested a formal hearing. Mr. R. explained in his appeal that he was concerned about his children and was planning to petition the court for shared custody of the children.

B. Findings

In response to the Division's notification of Mr. R.'s request, Ms. B. sent in an objection in which she explained why she believed her health and safety would be put at risk by the disclosure of her address and phone number.⁷ Ms. B. also provided three Alaska court case numbers for cases involving Mr. R. In these three cases, Ms. B. was granted a domestic violence restraining order against Mr. R., Ms. B. was granted custody of their children, and Mr. R. was convicted of Assault in the 4th degree.⁸

Mr. R. did not participate in the hearing scheduled for his appeal. Given the fact that Ms. B. had provided case numbers, I located and printed out some of the Alaska Court System records for Mr. R. from its webpage prior to the hearing. These records were discussed at the hearing. They indicate that in addition to the 2004 cases cited by Ms. B., another domestic violence restraining order was issued against Mr. R. by another party in 2006.⁹ At the hearing, the Division maintained that its decision should be upheld.¹⁰

Based on the evidence in the record, I conclude that it is more likely than not that the health and safety of Ms. B. would be put unreasonably at risk by the Division's disclosure of her contact information.¹¹

⁵ Ex. 2.

⁶ Ex. 1 & 2.

⁷ Ex. 1.

⁸ Ex. 1 & A.

⁹ Ex. A.

¹⁰ Recording of Hearing.

¹¹ Recording of Hearing and Ex. A.

III. Discussion

This case is an administrative appeal of the Division's determination that it should disclose Ms. B.'s address and phone number to Mr. R. This appeal also does not involve Mr. R.'s child support obligation.

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."¹²

Because of Mr. R.'s criminal history, there is a threat to Ms. B.'s health and safety if Mr. R. acquires this information. In determining whether it is reasonable to put Ms. B.'s health and safety at risk though disclosure, one must determine if the potential benefits of disclosure outweigh both the likelihood and the seriousness of the harm that could result.

The risk to Ms. B.'s health and safety is real. Mr. R. has not shown any benefit that would result from the disclosure. Mr. R. can bring his action to modify his child custody order directly with the court that issued the order. The Division has no jurisdiction over child custody issues. If Mr. R. has information that leads him to be concerned about his children's safety or welfare, he should bring those concerns to the immediate attention of the Alaska Division of Children's Services, as well as the court.

IV. Conclusion

I conclude the health and safety of Ms. B. would be put unreasonably at risk by the Division's disclosure of Ms. B.'s contact information. The Division should not release Ms. B.'s contact information to Mr. R.¹³

V. Child Support Order

1. The Division's Nondisclosure of Identifying Information Decision issued on February 4, 2008 is AFFIRMED.

¹² See Alaska Statute 25.27.275

¹³ This decision is issued under the authority of 15 AAC 05.030(j), which authorizes the entry of a decision if "a person requests a hearing and fails to appear at the hearing."

¹⁴ Ex.8, page 2.

2. The Division shall not release Ms. B.'s contact information to Mr. R..

DATED this 9th day of April, 2008.

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 24th day of April, 2008.

By: Signed
Signature
Jerry Burnett
Name
Director, Admin Services
Title

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