

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

IN THE MATTER OF:	)	
	)	OAH No. 08-0141-CSS
M. C. L.	)	CSSD No. 001100024
_____	)	

**DECISION AND ORDER**

**I. Introduction**

This matter involves an appeal by the Custodian of record, T. A. A., of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. L.'s case on February 5, 2008.

The formal hearing was held on April 3, 2008. Neither Ms. A. nor Mr. L. appeared for the hearing. Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded; the record closed on April 13, 2008.

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. A.'s appeal is granted. She met her burden of proving by a preponderance of the evidence that CSSD's decision granting disclosure of her identifying information was incorrect.

**II. Facts**

In August 2007, CSSD received a request for nondisclosure of identifying information from T. A., the current custodian of record in Mr. L.'s child support case. CSSD sent her the blank documents to complete and return that would support her request, but she did not return them to the agency.<sup>1</sup> On February 5, 2008, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered disclosure of Ms. A.'s contact information.<sup>2</sup> She appealed on March 13, 2008.<sup>3</sup> The appeal was referred to the Office of Administrative Hearings (OAH), which sent the parties a notice of hearing by certified mail on March 18, 2008. The "green card" was returned to the OAH by the U.S. Postal Service and indicates Ms. A. received and signed for her notice on March 19, 2008.<sup>4</sup>

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<sup>1</sup> Pre-hearing brief at pg. 1.

<sup>2</sup> Exh. 2.

<sup>3</sup> Exh. 3.

<sup>4</sup> OAH file.

### III. Discussion

Ms. A. 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. L.'s child support obligation. Rather, the issue here is whether CSED correctly decided to disclose Ms. A.'s contact information to him.

Alaska Statute (AS) 25.27.275 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.<sup>[5]</sup>

It is important to note that this proceeding involves only the issue whether Ms. A.'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 or not disclose the information. The person requesting the hearing, in this case, Ms. A., has the burden of proving by a preponderance of the evidence that CSSD's decision not to disclose the contact information was incorrect.<sup>6</sup>

At the formal hearing, CSSD stated the agency has changed its position in this matter and is now requesting that its decision to disclose contact information be reversed. CSSD said this is based upon an affidavit that Ms. A. filed before the hearing. According to the affidavit,<sup>7</sup> Ms. A. is the aunt of the child in this case, S., DOB 00/00/92, and she currently has custody of S. Mr. L. is Ms. A.'s brother. Ms. A.'s affidavit claims that Mr. L. has committed domestic violence and that the Palmer court referred her petition for a domestic violence order against him to the local

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<sup>5</sup> AS 25.27.275.

<sup>6</sup> 15 AAC 05.030(h).

<sup>7</sup> Exh. 3 at pg. 2.

Office of Children's Services (OCS) in Wasilla. Ms. A.'s affidavit further asserts that S. has been the victim of emotional, mental and physical abuse.<sup>8</sup> In addition to Ms. A.'s affidavit, CSSD indicated at the hearing that the child's previous custodian had also requested nondisclosure of her contact information based on allegations of physical violence. As a result of reviewing the additional information provided for the hearing, CSSD requested that its Decision on Nondisclosure of Identifying Information be reversed and that this decision order CSSD not to disclose Ms. A.'s contact information.

The legislature has given CSSD the authority to determine whether a party may have access to another party's contact information. Based on the evidence as a whole, it now appears that "the health, safety, or liberty of a party or child" may unreasonably be put at risk by information disclosure. CSSD recommended at the hearing that Ms. A.'s contact information not be disclosed and that its decision be reversed. Based on the record as a whole, CSSD's recommendation is a reasonable one.

#### **IV. Conclusion**

Although it originally issued a decision ordering disclosure of Ms. A.'s contact information in this case, CSSD has changed its position based on the evidence presented for the hearing. CSSD's recommendation and request for nondisclosure should be adopted.

#### **THEREFORE IT IS ORDERED:**

- CSSD's February 5, 2008, Decision on Nondisclosure of Identifying Information is reversed;
- Ms. A.'s contact information may not be released.

DATED this 1st day of May, 2008.

By: Signed  
Kay L. Howard  
Administrative Law Judge

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<sup>8</sup> *Id.*

**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 19th day of May, 2008.

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

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