

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

IN THE MATTER OF:)

E. D. N.)

) OAH No. 08-0318-CSS
) CSSD Case No. 001141773
)

DECISION

I. Introduction

E. D. N., an obligor on a child support order, filed a request for identifying information concerning the custodian, L. W. H., and his child. Ms. H. objected to disclosure of the information and filed an appeal, which the Division of Child Support Services referred to the Office of Administrative Hearings.

The administrative law judge conducted a hearing in the matter on September 3, 2008. Mr. N. participated. Ms. H. was not available at her telephone number of record and she did not participate. David Peltier represented the division.

The division's decision to release identifying information is reversed.

II. Facts

L. H. is the custodian of her son, E. D. N. E. D. N. is the boy's father.

E. D. N. is a registered sex offender¹ who has a criminal record including felony convictions for attempted sexual abuse of a minor (2000),² forgery (2000, 2007),³ and conspiracy to commit robbery (2000).⁴ He has also been convicted of domestic violence (1999).⁵ Ms. H. is fearful for her own and her child's safety if their location is disclosed to Mr. N.

III. Discussion

15 AAC 125.860 provides that the division will grant a request for nondisclosure of identifying information "if the agency determines that the health, safety, or liberty of a

¹ Exhibit 6, p. 1; Post Hearing Brief (September 3, 2008).

² Exhibit 5, p. 7.

³ Exhibit 5, pp. 1, 2; Exhibit 6, pp. 4-7.

⁴ Exhibit 5, p. 5.

⁵ Exhibit 6. pp. 8-9.

parent or child is put unreasonably at risk by disclosure of identifying information about the parent or child.”

In this case, a substantial period of time has passed since Mr. N.’s conviction for domestic violence. However, when coupled with his status as a registered sex offender and his continued course of criminal behavior, his past conduct creates an unacceptable risk to the safety of his child should identifying information be revealed at this time. Mr. N.’s expressed desire to contact his child would best be considered in the courts, in a proceeding addressing visitation or custody. However, contact information should not be disclosed by the division, which lacks any method of exercising oversight or control over parental conduct.

IV. Conclusion

The division’s decision to provide identifying information should be and hereby is REVERSED.

DATED: October 1, 2008.

Signed

Andrew M. Hemenway
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 notices, 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 R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of October, 2008.

By: Signed
Andrew M. Hemenway
Administrative Law Judge

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