

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

IN THE MATTER OF: )

K. R. H. )

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) OAH No. 08-0544-CSS

) CSSD No. 001110298

**DECISION AND ORDER**

**I. Introduction**

This matter involves an appeal by the Custodian of record, Y. M. V., of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. H.'s case on September 9, 2008.

The formal hearing was held on October 20, 2008. Ms. V. appeared by telephone and her mother, R. S., appeared on her behalf in person; Mr. H. did not participate.<sup>1</sup> Andrew Rawls, Child Support Specialist, represented CSSD. The hearing was recorded; the record closed on October 20, 2008.

Kay L. Howard, Administrative Law Judge, conducted the hearing. Based on the record as a whole and after careful consideration, Ms. V.'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 and should be reversed so that the information would not be disclosed.

**II. Facts**

On June 18, 2008, CSSD received a request for nondisclosure of identifying information from the obligor, K. R. H.<sup>2</sup> CSSD sent Ms. V. notification that the request had been made, but she did not respond to the notice.<sup>3</sup> On September 9, 2008, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered disclosure of Ms. V.'s contact information.<sup>4</sup> She appealed on October 1, 2008.<sup>5</sup> The appeal was referred to the Office of Administrative Hearings (OAH), which sent the parties a notice of hearing by certified mail on October 3, 2008. The "green card" was returned to the OAH by the U.S. Postal Service and

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<sup>1</sup> A telephone call placed to Mr. H.'s representative, K. R., was not answered.

<sup>2</sup> Exh. 1.

<sup>3</sup> Pre-hearing brief at pg. 1.

<sup>4</sup> Exh. 3.

<sup>5</sup> Exh. 4.

indicates Ms. V.'s representative, her mother R. S., received and signed for her notice on October 4, 2008.<sup>6</sup> The notice sent to Mr. H.'s representative, K. R., was not returned and there was no answer to the telephone call placed to her number at the time of the hearing.

### **III. Discussion**

This matter does not involve Mr. H.'s child support obligation. Rather, the issue here is whether CSED correctly decided to disclose Ms. V.'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>[7]</sup>

It is important to note that this proceeding involves only the issue whether Ms. V.'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. V., has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.<sup>8</sup>

Ms. V. testified that Mr. H. had been physically abusive to her when she was pregnant. Ms. V.'s mother, R. S., testified that she observed the abuse and at one time even had to pull Mr. H. off Ms. V. when he was hitting her. Both Ms. V. and Ms. S. testified that Ms. V. hesitated to end the relationship, so her father had to get a restraining order because she wouldn't. Ms. V. added that Mr. H. has cell phone numbers he can call to make contact with the child, K., but that Ms. V. has no contact information for Mr. H.

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<sup>6</sup> OAH file.

<sup>7</sup> AS 25.27.275.

<sup>8</sup> 15 AAC 05.030(h).



**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 4th day of December, 2008.

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

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