

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

IN THE MATTER OF:)	
)	OAH No. 09-0048-CSS
R. L. T. III)	CSSD No. 001064856
_____)	

DECISION AND ORDER

I. Introduction

This matter involves an appeal by the custodian, S. L. S., of a Decision on Nondisclosure of Identifying Information that the Child Support Services Division (CSSD) issued in Mr. T.'s child support case on January 9, 2009.

The formal hearing was held on February 24, 2009. Ms. S. participated by telephone. Mr. T. appeared in person. Andrew Rawls and Erinn Brian, Child Support Specialists, represented CSSD. The hearing was recorded; the record closed on February 24, 2009.

Based on the record and after careful consideration, CSSD's January 9, 2009, Decision on Nondisclosure of Identifying Information is affirmed. Ms. S.'s contact information may be released to Mr. T.

II. Facts

On November 7, 2008, Mr. T. filed a request for disclosure of Ms. S.'s identifying information.¹ CSSD informed the custodian by mail and sent her a blank affidavit form to fill out and return in case she objected to the disclosure of her contact information.² Ms. S. did not respond to CSSD's request for information.³

On January 9, 2009, CSSD issued a Decision on Nondisclosure of Identifying Information that ordered the disclosure of Ms. S.'s contact information.⁴ Ms. S. appealed CSSD's decision on January 26, 2009, asserting she had had no contact with Mr. T. in 11 years and there is no need for him to have her personal information because he can contact her through CSSD.⁵

¹ Exh. 1.

² Exh. 2.

³ See Exh. 3.

⁴ Exh. 3.

⁵ Exh. 5.

III. Discussion

This matter does not involve Mr. T.'s child support obligation. Rather, the issue here is whether CSSD correctly decided to disclose Ms. S.'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.^[6]

This proceeding involves only the issue whether Ms. S.'s contact information kept on file by CSSD should be released to Mr. T. 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. S., has the burden of proving by a preponderance of the evidence that CSSD's decision to disclose the contact information was incorrect.⁷

At the formal hearing, Ms. S. stated she had not had any contact with Mr. T. in 12 years and she did not know of any reason for contact to occur. She stated in the past Mr. T. was controlling, manipulative and aggressive and he has a history of drinking and getting in fights. Ms. S. believes contact from the obligor would cause harm to the emotional and mental health of their son, R., DOB 00/00/97.

In response, Mr. T. testified he had never been the subject of a domestic violence action and that his only arrests had been for driving offenses, not violent acts. He acknowledged that he has occasionally been in fights, but claimed it is set off by drinking, which he has significantly reduced, especially in public. Mr. T. explained that he used to be an angry young man; he was on his own at the age of 14 and had been incarcerated for two years by the time he reached 18

⁶ AS 25.27.275.

years of age. He claimed he is not that person anymore and is trying to get his life back together, part of which involves having a relationship with his son. Finally, Mr. T. maintained that releasing Ms. S.'s contact information to him would not put either her or their son R. at risk.

At the close of the formal hearing, CSSD requested that its decision to release Ms. S.'s contact information be affirmed, asserting there is no evidence in the record that indicates its decision should be reversed.

The legislature has given CSSD the authority to determine whether a party may have access to another party's contact information. Ms. S.'s concern is understandable, but based on the evidence as a whole, it does not appear that "the health, safety, or liberty of a party or child" would *unreasonably* be put at risk by information disclosure in this case. Mr. T.'s testimony was credible and sincere. CSSD's decision allowing disclosure should be affirmed.

IV. Conclusion

Ms. S. did not prove by a preponderance of the evidence that CSSD's Decision on Nondisclosure of Identifying Information was incorrect in allowing her contact information to be released to Mr. T. CSSD's decision allowing disclosure should be affirmed.

THEREFORE IT IS ORDERED:

- CSSD's January 9, 2009, Decision on Nondisclosure of Identifying Information is AFFIRMED;
- Ms. S.'s contact information may be released to Mr. T.

DATED this 27th day of March, 2009.

By: Signed
Kay L. Howard
Administrative Law Judge

⁷ 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.

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 13th day of April, 2009.

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

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