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*Governor*

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*Director*

**FINAL AGENCY DECISION**

**SUMMARY DECISION**

OAL DKT. NO. HSL 07884-20

AGENCY DKT. NO. DRA#20-009

**S.B.**,  
Petitioner,

v.

**DEPARTMENT OF HUMAN SERVICES**,  
Respondent.

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**S.B.**, petitioner, pro se

**Andrew Munger**, Deputy Attorney General, for respondent (Matthew J. Platkin, Attorney General, State of New Jersey, attorney)

Record Closed: January 3, 2023

Decided: February 14, 2023

BEFORE **JULIO C. MOREJON**, ALJ:

**STATEMENT OF THE CASE**

Petitioner, S.B., appeals the decision of respondent, Department of Human Services, Office of Program Integrity and Accountability (DHS), of substantiated abuse by S.B. of an individual receiving services from the Division of Developmental Disabilities (DDD), at The Arc of Middlesex County (The Arc); and the placement of S.B.'s name on the Central Registry of Offenders against Individuals with Developmental Disabilities (Central Registry).

## PROCEDURAL HISTORY

On the morning of July 1, 2019, police officers responded to an incident at 45 Glen Gary Road, a group home for developmentally disabled adults. Officers were responding to a report that S.B. had assaulted J.S., a developmentally disabled client who was residing at the group home.

Simultaneous with the criminal matter, and after receiving permission from the police department, DHS conducted their own investigation. The investigation revealed that based on a preponderance of the testimonial and documentary evidence obtained, the allegation that J.S. was physically abused by The Arc direct support professional, S.B., was substantiated. DHS also concluded, based on a preponderance of the evidence obtained, that S.B. verbally and psychologically abused J.S.

Therefore, on May 15, 2020, DHS issued a finding that its investigative findings substantiated that S.B. abused J.S. and that his actions met the statutory and regulatory criteria for placement of his name on the Central Registry of Offenders against Individuals with Developmental Disabilities. DHS's finding put S.B. on notice that he would be prohibited from working or volunteering in DHS funded programs and made him aware of his right to appeal.

On August 7, 2020, the DHS received a letter from S.B. requesting a fair hearing. On August 25, 2020, the DHS transmitted the matter to the Office of Administrative Law (OAL) as a contested matter.

Thereafter, on September 10, 2020, a telephone conference was held and a Prehearing Order issued. Status telephone conferences were held on December 3, 2020, January 22, 2021, and April 26, 2021. (S.B. did not appear for the April 26 telephone conference.) A hearing was scheduled for May 25, 2021, but adjourned at the request of respondent, as S.B. was awaiting trial on the pending criminal charges. A hearing was scheduled for June 22 and 23, 2021, but was later adjourned on June 15, 2021.

A status telephone conference was held on June 15, 2021, at which time S.B. admitted that he had plead guilty to the criminal charge and was placed in the Pretrial Intervention Program (PTI).<sup>1</sup> Respondent requested leave to file a motion for summary decision, which was granted, and a motion was set therein requiring respondent to file its motion by July 19, 2021 and S.B. to file his opposition by August 13, 2021. Hearing was scheduled for December 14 and 15, 2021.

On or about July 27, 2021, DHS filed its motion for summary decision and S.B. did not file an opposition to the same. The hearing scheduled for December 14 and 15, 2021, was adjourned due to the filing of the motion for summary decision. On February 16, 2022, I requested proof that the DHS had served S.B. with a copy of the motion pleadings.

On or about February 23, 2021, the DHS provided a Certification of Service that the motion pleadings had been served on S.B. on July 21, 2021, and would be served upon S.B. again by overnight mail on February 23, 2022. S.B. confirmed on February 25, 2022 that he had received the DHS'

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<sup>1</sup> The respondent advises that on May 25, 2021, S.B. pled guilty in criminal court to possession of a weapon for an unlawful purpose pursuant to 2C:39-4D, a crime of the 3rd degree. All other charges were dismissed.

motion papers. S.B. was allowed additional time to file an opposition to the motion, which he did not do. The ALJ closed the record on January 3, 2023.

### **SUMMARY AND FINDING**

In this matter, S.B., a former direct support professional at a group home operated by The Arc, challenges DHS' decision to place him on the Central Registry of Offenders against Individuals with Developmental Disabilities. The decision followed an incident between S.B. and J.S., a developmentally disabled client who resided at The Arc where S.B. was employed. The issue here is whether S.B.'s criminal conviction stemming from the incident establishes that his actions fall within the Central Registry Act's definition of verbal and/or physical abuse, thus warranting his placement on the Central Registry of Offenders against Individuals with Developmental Disabilities.

For the reasons that follow, The ALJ **FOUND** that this matter is ripe for summary decision. As the DHS' motion for summary decision was not opposed by S.B., The ALJ also **FOUND** the DHS' submission of Statement of Material Facts to be **FACT**, as discussed below:

S.B., was employed at a group home operated by The Arc, an agency that provides individuals with disabilities supports and services, as a direct support professional. In this role, he was responsible for checking in on clients and assisting them as needed while they were sleeping. S.B. was assigned to the overnight shift on July 1, 2019.

On the morning of July 1, 2019, police officers responded to an incident at The Arc located at 45 Glen Gary Road, a group home for developmentally disabled adults. Officers were responding to a report that an S.B. had assaulted a J.S., a developmentally disabled client who was residing at the group home. (DHS's Exhibit C, p. 4).

At approximately 4:00 AM on July 1, 2019, another staff member on duty at the same time, O.O., reported that J.S. was yelling and began to cry. S.B., who was assigned to J.S. one-on-one, went in to check on her alone. Ibid. O.O. heard S.B. using abusive language and yelling at J.S. to "shut up!" and "be quiet" in J.S.'s bedroom. Ibid. O.O. also heard a "snapping" sound as if J.S. was being beaten. Ibid. Id. O.O. quickly went to see what was happening and saw S.B. holding a gait belt, with which he seemed to be hitting J.S. Ibid.

O.O. reported the incident to The Arc's manager, when the manager arrived later that morning. The manager then called 911 and J.S. was taken to the hospital for a physical examination. (DHS' Exhibit B). According to The Arc's Incident Report (IR), J.S. had "abrasions on her stomach and chest area, and on her arm". (DHS' Exhibit C at 2). The DHS' Investigation Report (DHS' Exhibit C), also noted from a Supervisor that, while the incident had been routed to the Office of Investigations (OI) with an allegation of physical abuse with minor injury, "the code was revised to physical abuse with no injury based upon information within the Middlesex Borough Police report which stated, 'none of the markings appeared consistent with injuries sustained by a nylon belt strike, but the marking could be indicative of either self-injurious behavior or abuse by another.'" Ibid.

When the police officers interviewed S.B. after the incident, he admitted that he had grown "frustrated" with J.S. after entering her bedroom earlier that morning and, as a result, had taken the

white nylon belt typically used to secure J.S. during the day when she became agitated, and struck “her two (2) to three (3) times with the belt in her midsection.” (DHS’ Exhibit B, at 5).

As a result, S.B. was arrested and formally charged with aggravated assault in violation of N.J.S.A. 2C:12-1(B)(7), a crime of the 3rd degree, possession of a weapon for an unlawful in violation of N.J.S.A. 2C:39-4D, a crime of the 3rd degree, and unlawful possession of a weapon in violation of N.J.S.A. 2C:39-5d, a crime of the 4th degree. (DHS’ Exhibit B). On December 18, 2019, S.B. was indicted by a grand jury of Middlesex County. (DHS’ Exhibit B, p7-8).

Simultaneous with the police investigation, DHS conducted their own investigation. (DHS’ Exhibit C). This investigation found that, based on a preponderance of the testimonial and documentary evidence obtained, the allegation that J.S. was physically and verbally abused by S.B. was substantiated. (DHS’ Exhibit C, p. 4-5). According to The Arc Personnel Action Form, S.B. was terminated from employment effective July 12, 2019, due to substantiated emotional/psychological abuse and physical intimidation of an individual receiving services. Id. at 3.

Despite having admitted to the police that he “struck” J.S. with a gait belt two to three times in her midsection after growing frustrated with her, (DHS’ Exhibit B) in his answers to interrogatories, S.B. stated that he “did not” strike J.S. but “struck her bedside”. Further, S.B. also admitted to the police that he yelled at J.S. to “shut up” and also admitted in his answers to interrogatories that he yelled at her to “shut up” because he wanted her to keep quiet. (DHS’ Exhibit D, paragraph 9).

Notwithstanding his inconsistent admissions to the police on the date of the incident and his answers to interrogatories served by DHS in this matter, on May 25, 2021, S.B. pled guilty in criminal court to possession of a weapon for an unlawful purpose pursuant to 2C:39-4D, a crime of the 3rd degree and was admitted into the Pretrial Intervention Program. (DHS’ Exhibit E).

## **LEGAL ANALYSIS AND CONCLUSIONS**

### **I. Standard for Summary Decision**

Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Such motion “shall be served with briefs and with or without supporting affidavits” and “[t]he decision sought may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b). When the motion “is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Id.

Determining whether a genuine issue with respect to a material fact exists requires consideration of whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. Brill v. Guardian Life Ins. Co. of Am. 142 N.J. 520, 540 (1995).

**II. S.B.’s guilty plea and other admissions made in the record meet the standard for abuse under the Central Registry Act. As there are no disputes of material fact as to whether his actions fall under the Central Registry Act, the ALJ should grant DHS’ motion for summary decision.**

The issue before the ALJ is whether there is sufficient evidence in the record to establish that S.B. committed acts against J.S., a developmentally disabled individual, which constitute abuse under the Central Registry Act (CRA), N.J.S.A. 30:6D-77 to -82. DHS asserts that there is no issue of material fact that S.B.’s acts, which include yelling at J.S. to “shut up” and using a gait belt to either strike or threaten to strike her, fall within the provisions of the CRA. Accordingly, DHS argues, because this misconduct constitutes a plain violation of the statute, S.B.’s placement on the Central Registry of Offenders against Individuals with Developmental Disabilities must be affirmed. The ALJ agreed.

It is the policy in New Jersey to provide for the protection of individuals with developmental disabilities. N.J.S.A. 30:6D-73(a). The Legislature created the Central Registry to protect the legal rights and safety of individuals with developmental disabilities “by identifying those caregivers who have wrongfully caused them injury” and preventing those caregivers who become offenders from working with individuals with developmental disabilities in the future. *Ibid.* The CRA establishes a Central Registry of Offenders against Individuals with Developmental Disabilities (“Central Registry”) for caregivers that are found to have committed substantiated acts of abuse, neglect, and/or exploitation against individuals with developmental disabilities. N.J.S.A. 30:6D-77(a)-(b). A “caregiver” is defined under the Act as “a person who receives State funding, directly or indirectly, in whole or in part, to provide services or supports, or both, to an individual with a developmental disability; except that “caregiver” shall not include an immediate family member of an individual with a developmental disability.” N.J.S.A. 30:6D-74. The CRA prohibits any caregiver placed on the Central Registry from receiving “State funding, directly or indirectly, in whole or in part, to provide services or supports, or both, to an individual with a developmental disability.” N.J.A.C. 10:44D-1.1(a).

Here, after investigating this matter, DHS found that the findings substantiated that S.B. abused J.S. and that his actions met the statutory and regulatory criteria for placement of his name on the Central Registry. It is undisputed that S.B. was a caregiver for J.S. within the meaning of the Act and that J.S. is an individual receiving services from the Division of Developmental Disabilities (DDD). The inquiry here is two-fold. The first issue is there is any dispute of material fact that S.B. committed an act of abuse against J.S. on July 1, 2019. If so, the second question is whether S.B.’s actions were intentional, reckless or with careless disregard to the well-being of J.S. which could have resulted in fear or injury to him or potentially exposed her to an injurious situation within the meaning of the Act.

The burden of proof falls on the agency in enforcement proceedings to prove a violation. *See Cumberland Farms, Inc., v. Moffett*, 218 N.J. Super, 331, 341 (App. Div. 1987). As such, DHS bears the burden of establishing the truth of the allegations by a preponderance of the competent, credible evidence. *See Atkinson v. Parsekian*, 37 N.J. 143, 149 (1962). Evidence is said to preponderate “if it establishes the reasonable probability of the fact.” *Jaeger v. Elizabethtown Consol. Gas Co.*, 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). The evidence must “be such as to lead a reasonably cautious mind to the given conclusion.” *Bornstein v. Metro. Bottling Co.*, 26 N.J. 263, 275 (1958).

What is required to meet this burden is fact-specific and, as such, must be judged on a case-by-case basis.

“Abuse” is defined under the regulations as “wrongfully inflicting or allowing to be inflicted physical abuse, sexual abuse or verbal or psychological abuse or mistreatment by a caregiver upon an individual with a developmental disability.” N.J.A.C. 10:44D-1.2; see also N.J.S.A. 30:6D-74. “Physical abuse” is defined as any acts by a caregiver against an individual with a developmental disability that causes “pain, injury, anguish or suffering” and include, but are not limited to, “the individual with a developmental disability being kicked, pinched, bitten, punched, slapped, hit, pushed, dragged or struck with a thrown or held object.” Ibid. “Verbal or psychological abuse or mistreatment” is defined as any “verbal or non-verbal act or omission by a caregiver that inflicts one or more of the following: emotional harm; mental distress; or invocation of fear, humiliation, intimidation or degradation to an individual with a developmental disability.” N.J.A.C. 10:44D-1.2. Examples include, but are not limited to “bullying; . . . verbal assault; . . . [and/or] intimidating gestures, such as shaking a fist at an individual with a developmental disability.” Ibid.

Here, S.B. pled guilty in criminal court to the charge of Possession of a Weapon for an Unlawful Purpose in the 3<sup>rd</sup> degree, N.J.S.A. 2C:39-4. This is defined as “[a]ny person who has in his possession any weapon, except a firearm, with a purpose to use it unlawfully against the person or property of another is guilty of a crime of the third degree.” For the reasons that follow, this guilty plea is an admission of guilt on that charge, and S.B. is not permitted to re-litigate the facts underlying his plea. Through his guilty plea, of being in “possession of a weapon” in the facts as charged, S.B. admitted that he intended to use the white nylon belt unlawfully against J.S., which in and of itself is a violation of the CRA. (DHS’ Exhibits B and E).

The New Jersey Supreme Court has long adhered to the rule that an attorney or judge’s criminal conviction conclusively establishes the underlying facts of that conviction in subsequent disciplinary and/or removal proceedings. See In re Coruzzi, 95 N.J. 557, 571 (1984). The Court had previously made clear its “practice to accept a criminal conviction as conclusive evidence of guilt in attorney disciplinary proceedings. . . . The fact of guilt will not be retried, except as it pertains to the severity of the discipline to be imposed.” In re Rosen, 88 N.J. 1, 3 (1981) (internal citations omitted). As a result, no guilty plea can be revisited in a subsequent disciplinary proceeding. Rather, only the underlying facts can be revisited for purposes of determining whether mitigating factors exist that would decrease or enhance the disciplinary penalty. See ibid.

The Supreme Court later expanded on this reasoning by holding that a guilty plea in a criminal proceeding should have this same conclusive effect on a casino employee’s license revocation proceeding. In State v. Gonzalez, 142 N.J. 618 (1995), a casino employee entered guilty pleas for the conspiracy to distribute marijuana and the possession of marijuana with intent to distribute within 1,000 feet of a school. Based on the judgment of conviction, the Division of Gaming Enforcement (Division) filed a complaint with the Casino Control Commission (Commission) seeking the revocation of the employee’s casino employee license. A hearing was conducted, and the employee testified under oath that, despite his entry of the guilty pleas, he did not commit the offenses charged. The hearing examiner issued an initial decision revoking the employee’s license, but the Commission remanded the case for further proceedings. During the second hearing, the employee was again allowed to testify, over the Division’s objections, that he was not guilty of the offenses. The examiner

found that the employee's denial was credible, that he had been rehabilitated pursuant to the Act, and he possessed the "good character, honesty and integrity" required under the Act to retain his casino employee license. The Appellate Division reversed based on the doctrines of issue preclusion and judicial estoppel.

The Court held that the guilty plea leading to a judgment of conviction has the force of an admission of guilt on the charge, and as such, the employee should not be permitted to re-litigate the underlying facts of his criminal conviction.<sup>2</sup> In so finding, the Court found a comparison to attorney discipline hearings useful because, "like a casino employee license revocation hearing, its underlying purpose is to protect the public." *Id.* at 631. Given the common goals in casino employee revocation proceedings and attorney disciplinary proceedings, the Court concluded that the effect of a guilty plea should be the same for both. *See ibid.*

Additionally, the Court held that it could reach the same conclusion based on the doctrine of judicial estoppel, which "bar[s] a party to a legal proceeding from arguing a position inconsistent with one previously asserted." *Id.* at 632 (quoting *N.M. v. J.G.*, 255 N.J. Super. 423, 429 (App.Div.1992)). The Court found that when the employee entered his guilty pleas, he established that he conspired to possess and distribute marijuana and that he possessed marijuana with the intent to distribute it within a school zone. *See ibid.* The employee's attempt to change his testimony at the license revocation hearing, the Court noted, "indicates that he was playing fast and loose with the courts and the casino regulators," which the Act simply does not tolerate. *Ibid.* The Court noted that the employee had first benefitted from his guilty pleas by receiving a lenient sentence, then denied his guilt in the license revocation proceeding to show not only that he was rehabilitated, but to deny that he had committed the disqualifying criminal offense in the first place. *See id.* As such, the Court found that the employee "had his cake and he ate it too." *Ibid.* (quoting *Duplan Corp. v. Deering Milliken, Inc.*, 397 F. Supp. 1146, 1177 (D.S.C.1974)). As such, the Court concluded that judicial estoppel acted to protect the "integrity of both the judicial process and the casino industry when the Commission acts in its quasi-judicial capacity." *Ibid.*

Finally, and most pertinently here, in *A.M. v. Dep't of Human Serv.*, OAL Dkt. HSL 08268-17, Initial Decision, adopted, Director (December 13, 2017), the Administrative Law Judge (ALJ) applied the rationale expressed in *Gonzalez* to a caregiver's challenge to DHS' placement of her name on the Central Registry. In that case, a group home manager was accused of committing acts of exploitation against five individuals receiving DDD services. DHS substantiated these allegations against the caregiver, finding that she had used her position to access service recipient funds for her own profit. As such, DHS found that the caregiver's actions met the statutory and regulatory criteria for placement of her name on the Central Registry. The caregiver appealed and the matter was transmitted to the OAL as a contested case. Concurrently, the county prosecutor charged the caregiver with Theft by Unlawful Taking in the 3<sup>rd</sup> degree for purposefully and unlawfully taking money belonging to disabled clients in an amount in excess of \$500, in violation of N.J.S.A. 2C:20-3(a). The

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<sup>2</sup> The Court cited *Eaton v. Eaton*, 119 N.J. 628, 643 (1990) in comparing this case to a trial involving a cause of action based on tort or contract, where a party's guilty plea can be introduced into evidence as an admission but "it does not constitute conclusive proof of the facts underlying the offense." *Gonzalez*, 142 N.J. at 629 (citing *Eaton*, 119 N.J. at 644). In that context, the party who has entered the plea may rebut or explain the circumstances surrounding the admission. *See ibid.* But to apply this same rationale to a casino employee revocation proceeding and allow a repudiation of the facts underlying criminal convictions "would be inimical to the policies that underlie the Act." *Ibid.*

caregiver then pled guilty to a disorderly person offense for Theft by Unlawful Taking and agreed to pay \$4,569 in restitution to the New Jersey Institute for Disabilities as part of a consent judgment. She also agreed to relinquish all present/future employment with state and/or public agencies; relinquishment of all present and future employment in the field of social services; and agreed to never accept employment if the job involves working with people with disabilities.

The ALJ granted DHS' motion for summary decision and affirmed DHS' determination to place the manager's name on the Central Registry. DHS had placed the manager on the Central Registry due to her substantiated act of exploitation, in violation of the CRA's regulations, N.J.A.C. 10:44D-4.1(d) ("any single act or set of acts that dispossesses a service recipient or group of service recipients of a monetary value of \$100.00 or more."). The ALJ found that the caregiver's guilty plea to Theft by Unlawful Taking, along with the terms of her restitution agreement, fell squarely within the definition of "exploitation" under the CRA. The ALJ noted that New Jersey's explicit purpose in creating the Central Registry was to protect individuals with developmental disabilities. This, the ALJ found, mirrored the goal of protecting the public through casino employee revocation and attorney disciplinary proceedings, as discussed in Gonzalez. See N.J.S.A. 30:6D-73(a). Like Gonzalez, the ALJ here concluded that the caregiver's guilty plea and restitution payment in the amount of \$4,569 constituted an admission to the charge of exploitation.

Based on Gonzalez and A.M., S.B.'s guilty plea to the possession of a weapon for an unlawful purpose serves as a conclusive admission to the underlying facts in this matter. Regardless of whether S.B. hit J.S., hit the bed next to J.S., or threatened to hit J.S. with the gait belt (for which there is conflicting information in the record), his plea establishes the fact that, at a minimum, he possessed the gait belt with the intention of using it unlawfully against J.S. This fact alone is enough to constitute abuse under the CRA. S.B. also admitted to the police that he yelled at J.S. "shut up," and later admitted in his answers to interrogatories that he did so because he wanted her to keep quiet for the other patients in the room. (DHS' Exhibit D, paragraph 9). In sum, the ALJ **CONCLUDED** that S.B.'s admitted acts fall within the scope of the CRA for physical, verbal, and/or psychological abuse of J.S., a developmentally disabled individual.

The second prong of this inquiry is whether S.B.'s actions were intentional, reckless or with careless disregard to J.S.'s well-being. To warrant the inclusion of a caregiver on the Central Registry for a substantiated incident of abuse, "the caregiver shall have acted with intent, recklessness, or careless disregard to cause or potentially cause injury to an individual with a developmental disability." N.J.S.A. 30:6D-77(b)(1). The Act's implementing regulations, promulgated by DHS, specifically defines these mental elements:

1. Acting intentionally is the mental resolution or determination to commit an act.
2. Acting recklessly is the creation of a substantial and unjustifiable risk of harm to others by a conscious disregard for that risk.
3. Acting with careless disregard is the lack of reasonableness and prudence in doing what a person ought not to do or not doing what ought to be done.

[N.J.A.C. 10:44D-4.1(b).]

Here, the ALJ **CONCLUDED** that S.B.'s guilty plea establishes the requisite mental state for inclusion on the Central Registry under the CRA, as do his answers to the interrogatories. S.B.'s acts establish, at a minimum, that he acted with a careless disregard as to whether his actions would cause or potentially cause harm to J.S.

The ALJ **CONCLUDED** that the evidence in the record, as contained in DHS' motion for summary decision, establishes that there is no dispute of material fact as to whether S.B.'s admitted actions meet the standard for abuse under the CRA and, therefore, The ALJ **CONCLUDED** that DHS' motion for summary decision is **GRANTED** herein.

In sum, the ALJ **CONCLUDED** that S.B.'s guilty plea to the Possession of a Weapon for an Unlawful Purpose constituted an admission to an act that establishes abuse under the CRA. S.B. also explicitly admitted that he committed acts of verbal abuse in his answer to the interrogatories. Because these material facts are not in dispute, the ALJ **AFFIRMED** DHS's placement of S.B. on the Central Registry and grant DHS' motion for summary decision.

The ALJ **CONCLUDED** that respondent has proved by a preponderance of the undisputed, credible evidence that petitioner committed acts of physical abuse against J.S., an individual with developmental disabilities, and that S.B.'s placement on the Central Registry was appropriate.

### **ORDER**

The ALJ **ORDERED** that respondent DHS' application for summary disposition is **GRANTED**, and it is further **ORDERED**, that the DHS' placement of S.B. on the Central Registry is **AFFIRMED**.

### **FINAL AGENCY DECISION**

Pursuant to N.J.A.C. 1:1-18.1(f) and based upon a review of the ALJ's Initial Decision and the entirety of the OAL file, I concur with the Administrative Law Judge's findings and conclusions. I **CONCLUDE and AFFIRM** that the Department has met its burden of proving sufficiently that the evidence in the record, as contained in DHS' motion for summary decision, establishes that there is no dispute of material fact as to whether S.B.'s admitted actions meet the standard for abuse under N.J. S.A. 30:6D-73 et seq. The ALJ correctly found that there were no material facts in dispute; the certifications showed that S.B. had pled guilty in criminal court, to a lesser offense than had originally been charged, in return for his voluntary agreement to enter a pre-trial program. Therefore, the matter was correctly decided by way of summary decision because there were no relevant facts in dispute that would necessitate a hearing, as a matter of law.

I further **CONCLUDE and AFFIRM** that there is a preponderance of the evidence demonstrating that S.B.'s guilty plea to the Possession of a Weapon for an Unlawful Purpose constituted an admission to an act that establishes abuse under N.J. S.A. 30:6D-73 et seq. I further **CONCLUDE and AFFIRM** that there is a preponderance of the evidence demonstrating that S.B.'s acts establish, at a minimum, that he acted with a careless disregard as to whether his actions would cause or potentially cause harm to J.S. I further **CONCLUDE and AFFIRM** that S.B.'s

placement on the Central Registry of Offenders against Individuals with Developmental Disabilities is correct and proper.

Therefore, pursuant to N.J.A.C 1:1-18.6(d), it is the Final Decision of the Department of Human Services that I **ORDER** the placement of S.B.'s name on the Central Registry of Offenders against Individuals with Developmental Disabilities.

Date: March 30, 2023

*Deborah Robinson*

Deborah Robinson, Director  
Office of Program Integrity and Accountability