



State of New Jersey

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ELIZABETH CONNOLLY
COMMISSIONER

FINAL DECISION
OAL DKT. NO. HSL 06686-17
AGENCY DKT. NO. DRA# 17-004

C.W.,

Petitioner,

v.

DEPARTMENT OF HUMAN SERVICES,

Respondent.

A. INTRODUCTION

C.W. brought an appeal of her placement on the Central Registry of Offenders against Individuals with Developmental Disabilities. Following an investigation by the Department of Human Services' (DHS) Office of Investigations, C.W. was substantiated as having committed acts of exploitation against several individuals receiving services from the Division of Developmental Disabilities (DDD). DHS issued a written notice, dated October 7, 2016, informing C.W. that her actions met the statutory and regulatory criteria for placement of her name on the Central Registry of Offenders against Individuals with Developmental Disabilities. By letter dated May 1, 2017, C.W. requested a hearing to appeal the placement. On May 9, 2017, DHS transmitted the matter to the Office of Administrative Law (OAL) where it was filed on May 10, 2017 for hearing as a contested case.

After the OAL's Pre-Hearing Order of June 6, 2017, the DAG for DHS served C.W. with discovery requests (Interrogatories and a Request for Admissions) on June 15, 2017. Although the Administrative Law Judge (ALJ) explained the discovery process to C.W.; granted her an extension from August 2 to August 31, 2017, to comply with her discovery obligations; and warned her of the consequences of failing to provide responses to the Department's discovery requests, C.W. never responded to any discovery requests.

On August 30, 2017, DHS filed a Motion for Summary Decision. In support of the motion, DHS submitted a brief and certification with supporting exhibits. The ALJ scheduled the matter for a pre-hearing conference on September 6, 2017. C.W. requested the opportunity to oppose the

motion; she filed a letter of explanation on September 20, 2017. After allowing DHS the opportunity to submit a reply, the ALJ closed the record on September 30, 2017.

B. THE INITIAL DECISION

1. ALJ's Findings

Based upon a review of the documentary evidence attached as exhibits to the Certification in Support of Respondent's Motion for Summary Decision, the ALJ found the following to be undisputed facts:

- (1) The Court issued a Pre-Hearing Order dated June 6, 2017, which required the parties to serve any discovery requests they wished to make by no later than June 16, 2017, and to respond to each other's discovery requests no later than July 19, 2017, which was extended to August 2, 2017, and then again extended to August 31, 2017.
- (2) The DAG representing DHS served Interrogatories and a Request for Admissions on C.W. on June 15, 2017, well within the time frames set forth in the Pre-Hearing Order.
- (3) C.W. did not serve any discovery requests upon DHS.
- (4) As of the date of the Initial Decision, the C.W. had not provided answers to the Interrogatories.
- (5) As of the date of the Initial Decision, the C.W. has not provided responses to DHS's Request for Admissions.
- (6) The C.W. has not moved to seek an extension of the time for complying with either of DHS's discovery requests.
- (7) DHS filed and served its Motion for Summary Decision on October 11, 2017, within the timeframe set forth in the Pre-Hearing Order, as amended.
- (8) The ALJ never received opposition papers from C.W. by the October 25, 2017, due date. C.W. was notified by letters from the OAL, dated October 16 and 20, 2017, reminding her of the due date.
- (9) C.W. has neither affirmed nor denied the statements contained in the Respondent's Request for Admissions. If admitted or deemed admitted, the statements would demonstrate that C.W. took money from several individuals with developmental disabilities without their consent and used that money to pay for her own personal expenses, including her rent.
- (10) DHS has provided documents to C.W. and has attached same to its Motion, which on their face, indisputably and conclusively demonstrate that C.W. acquired monies from the bank accounts of several individuals with developmental

disabilities on multiple occasions and used that money for the payment of her own personal expenses, including her rent.

The ALJ stated: “Discovery in an OAL action is substantially similar to discovery in the Superior Court. The types of discovery devices and techniques available are set forth in N.J.A.C. 1:1-10.2. The time periods for responses and objections to discovery requests are set forth in N.J.A.C. 1:1-10.4. N.J.A.C. 1:1-10.4 provides only fifteen (15) days for parties to respond to discovery requests, such as Interrogatories, a Notice to Produce Documents, or a Request for Admissions. Motions and sanctions for failure to provide discovery responses are set forth in N.J.A.C. 1:1-10.5. Under N.J.A.C. 1:1-13, judges are authorized to issue Pre-Hearing Orders to foster efficient and expeditious proceedings and are empowered to enforce them under N.J.A.C. 1:1-14.14. N.J.A.C. 1:1-10.4(c) specifically provides that in the case of a notice requesting admissions, each matter therein shall be admitted unless within fifteen days the receiving party answers, admits, or denies the request or objects to it pursuant to N.J.A.C. 1:1-10.4(d). In the case at bar, the Pre-hearing Order afforded thirty (30) days to parties to respond to a Request for Admissions.”

The DAG for DHS filed a Motion for Summary Decision based on the uncontroverted proofs it offered and upon the C.W.’s failure to deny statements set forth in the Request for Admissions. C.W. never filed any opposition papers to DHS’s Motion for Summary decision despite the ALJ’s reminder to do so.

2. ALJ’s Conclusions

The ALJ found that C.W. failed to respond to the Request for Admissions. The ALJ concluded that, pursuant to N.J.A.C. 1:1-10.4, the matters contained in each of the statements in the Request for Admissions are deemed admitted. The ALJ further concluded that the documents offered by the Department proved that the C.W. took money from the bank accounts of several individuals with developmental disabilities without their consent and used said money for her own personal expenses, including payment of her rent.

The ALJ concluded that C.W. exploited several individuals with developmental disabilities by taking their money without their consent.

The ALJ concluded that the decision reached by the DHS on August 5, 2016, that the allegations of exploitation against C.W. were substantiated and that the decision reached by the DHS on October 7, 2016, to enter C.W.’s name in the DHS Central Registry were both based upon a preponderance of the credible evidence; were not arbitrary or capricious; and should be affirmed.

3. ALJ’s Order

The ALJ ordered that DHS’s motion for summary decision should be granted, dismissed the appeal, and authorized that DHS’s determination to place C.W.’s name on the Central Registry should be affirmed.

C. EXCEPTIONS

No exceptions were filed.


D. 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 C.W. had dispossessed a group of service recipients of a monetary value of \$100 or more. The ALJ correctly found that there were no material facts in dispute. 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 C.W. exploited individuals with developmental disabilities of an amount over \$100 and that her 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 C.W. on the Central Registry of Offenders against Individuals with Developmental Disabilities.

Date: 1/2/18



Lauri Woodward, Director
Office of Program Integrity and Accountability