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ADMINISTRATIVE
HEARINGS

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

WINONA COLEMAN,

Petitioner,

Case No. 02-0998

Rendition No DCF-02- 251 -FO

BJS-CWS

vs.

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES

Respondent.

FILED

SEP 23 2002

DCF Department Clerk

FINAL ORDER

THIS CAUSE is before me as the result of a Recommended Order (RO) that was issued by an Administrative Law Judge (ALJ) assigned by the Division of Administrative Hearings, to hear this case.

Transcript of the hearing was not filed. The Petitioner filed a Proposed Recommended Order and the Respondent did not. The Respondent filed exceptions to the ALJ's RO.

An exemption hearing before a district level review committee was conducted on or about January 30, 2002. This committee recommended that the Petitioner's request for an exemption be granted based upon positive letters of reference from her employer; her 25-year history of working with children with the same employer; participation in a twelve-step recovery program; attendance and participation as an usher in her church; and, successful and early completion of her probation.

I concur with the recommendation of the exemption committee. The Petitioner, in her position of as recreation supervisor, is responsible for

supervising and managing recreation leaders and other employees, and has limited direct contact with children. During her twenty-five year work history, there apparently has been no indication that, in her position, she has posed a danger to anyone.

Given the concerns listed in the Exemption Review, the district level decision is understandable. The decision to grant this exemption is made by a *very narrow margin*. Although the Petitioner has a long and successful work history, she also has a history of violence and alcohol-related arrests. It is apparent that the Petitioner has a tendency to become violent when she is intoxicated. As noted by the arrest report, she had been drinking on the evening of this incident. Most troubling is that this incident occurred in the presence of an 11-year old child, the victim's son. It is very obvious that the Petitioner has an alcohol abuse problem, and that she should completely abstain from the use of alcohol.

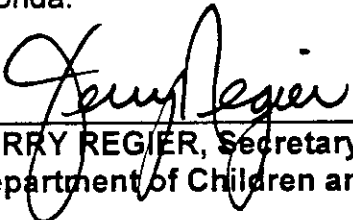
Although the ALJ also recommends that the Petitioner's exemption be granted, the recommendation is based on the conclusion of law that the Petitioner has "not committed an act that constitutes domestic violence as defined in Section 741.30, Florida Statutes (1999)." I respectfully disagree with this interpretation of law by the ALJ and hereby reject it. The Petitioner admits that she was living with the victim at the time of her arrest; the arrest report indicates her arrest was for "domestic battery"; she pled no contest to the charge of domestic battery; she was placed on probation for domestic battery; and, a condition of her probation was completion of the Family Violence Program.

For these reasons, I substitute the ALJ's conclusions of law in paragraph's 12, 14 and 15 with the conclusions of law as contained in the Respondent's exception, which is hereby accepted, adopted and incorporated herein by reference. The substituted conclusions of law is as or more reasonable than that which is rejected.

Except as otherwise indicated, I accept, adopt and incorporate herein by reference the findings of fact and conclusion of law in the ALJ's RO.

And the undersigned being otherwise duly advised, the Petitioner's request for an exemption is hereby granted.

DONE and ORDERED on this 23^d day of September, 2002 in Tallahassee, Leon County, Florida.



JERRY REGIER, Secretary
Department of Children and Family Services


NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, OR with the District Court of Appeal in the district where the party resides. The Notices must be filed within thirty (30) days of the rendition of this final order.¹

¹The date of the "rendition" of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the thirtieth day after that date.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing FINAL ORDER has been sent by U.S. Mail or hand delivery to each of the persons named above on this 23^d day of September, 2002.


PAUL FLOUNLACKER, Agency Clerk
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