

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SISLYN GONSALVES d/b/a GONSALVES
FAMILY HOME DAY CARE

v.

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES

CASE NO. 05-2434
RENDITION NO. DCF-06-~~700~~-FO

FILED

AUG - 3 2006

J. Michael (cut)
FILED
06 AUG 10 AM 9:50
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

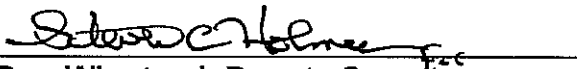
DCF Department Clerk

THIS CAUSE is before me for entry of a Final Order. The Recommended Order concluded that the Department appropriately suspended petitioner's family day care home license because of petitioner's husband's conviction of aggravated child abuse following an incident where petitioner's husband struck their teen-aged son. The administrative law judge (ALJ) also recommended that the Department stay the suspension (i.e. allow petitioner to operate) while petitioner finds a location to operate the day care where her husband would not be present, or while her husband pursues an exemption from disqualification pursuant to section 435.07, Florida Statutes. Neither party filed exceptions to the Recommended Order. The Recommended Order is approved and adopted with a slight modification.

The Department does not have the authority to stay the suspension of petitioner's license to allow petitioner time to resolve her husband's inability to be in the home while children are present. Section 402.305(2), Florida Statutes, precludes petitioner's husband from being in the residence while it is operating

as a family day care home. The Department cannot waive application of the statute.¹

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 2 day of August, 2006.


Don Winstead, Deputy Secretary
Department of Children and Family Services

RIGHT TO APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, IN THE FIRST DISTRICT COURT OF APPEAL OR IN THE DISTRICT COURT OF APPEAL WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA RULES OF APPELLATE PROCEDURE. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

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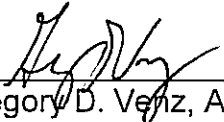
Child Care Licensing
Department of Children and Family Services
210 North Palmetto Ave., Suite 451J
Daytona Beach, FL 32114

Ann Cole, Clerk
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

¹ Petitioner's family day care home license expired between entry of the Recommended Order and this Final Order. Petitioner is not currently operating a family day care home.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Final Order was provided to the above-named individuals at the listed addresses, by U.S. Mail, this 3 day of August, 2006.



Gregory D. Venz, Agency Clerk
Department of Children and Families