



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact
Redact

DECISION

FOS/160212

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2014, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Wood County Human Services - WI Rapids in regard to Foster Care, a telephonic hearing was held on October 15, 2014, at Wisconsin Rapids, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's January, 2014 Foster home license application for her grandson, due to providing false information on her foster home application, and criminal convictions of petitioner and her boyfriend in violation of DCF 56.05(1), Wis. Adm. Code.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Redact foster care coordinator
Wood County Human Services - Wisconsin Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Wood County, who has been taking care of her grandson since about November, 2013. She also resided with her boyfriend, Redact, during the foster home license application period.

2. The petitioner and her boyfriend, applied as co-applicants at the county agency for a foster care license on January 24, 2014. See Exhibits 1 and 2.
3. The petitioner has the following extensive criminal history: a) petitioner found guilty of battery and two counts of misdemeanor Neglecting a Child during 1998; b) petitioner found guilty of Public Assistance failure to notify of income, a misdemeanor during 1999; c) petitioner found guilty of Disorderly Conduct during 2002 in regard to a domestic abuse incident; and d) petitioner found guilty during 2007 of Disorderly Conduct as an amended charge from the original charge of Child Abuse – Recklessly Causing Harm. See Exhibits 1 and 2.
4. [Redact Redact] has the following extensive criminal history: a) Mr. [Redact] was found guilty of the misdemeanor, Knowingly Violating a Domestic Abuse Order during 2005; b) Mr. [Redact] was found guilty of Four Counts of misdemeanor Theft of Movable Property during 2005; c) he was found guilty of a Class A misdemeanor of Battery which was amended from the original charge of Substantial Battery during 2007; d) he was found guilty of the felony, Possession with Intent of THC during 2007; e) During 2010, he was found guilty of the felony of Theft of Movable Property and a Felon possessing a Firearm; and f) As of April 4, 2014, there was a pending charge against [Redact] of a Felon Possessing a Firearm. See Exhibit 1.
5. The petitioner and her boyfriend failed to inform the county agency of any of their criminal convictions on their January 24, 2014 foster care license application, as set forth in the Findings of Fact #3 and #4 above.
6. The county agency sent an August 13, 2014 notice to the petitioner stating that her foster home license application (with [Redact Redact]) was denied due to not meeting the licensee qualification of Wis. Admin. Code DCF §56.05(1)2 and §56.05(1)(f)3b. That notice indicated several reasons for the denial including: a) petitioner and [Redact Redact] both lied on their Background Information Disclosure Forms from petitioner's January 24, 2014 foster home application by denying that either of them have ever been charged with or convicted of any crime in violation of §56.05(1)2; and b) petitioner and [Redact Redact] have each been convicted of a felony and/or misdemeanor which substantially relates to caring for children or operating a foster home in violation of §56.05(1)(f)3b, Wis. Adm. Code, as confirmed in Finding of Fact #3 and #4 above. See Exhibit 2.

DISCUSSION

The purpose of the law regulating foster care licenses is to protect and promote the health, safety, and welfare of children placed in foster homes. Wis. Stat. § 48.67; Wis. Admin. Code § DCF 56.01(1). The best interests of the child must always be the paramount consideration. Wis. Stat. § 48.01(1). Given this mandate, foster care rules must be applied and interpreted strictly to do so.

A foster home license application may be denied if the licensee fails to meet the minimum requirements for a license. See Wis. Admin. Code § DCF 56.04(5); and see, Wis. Stat. § 48.67. In order to meet the minimum requirements for a license, it is necessary to meet all requirements contained in DCF foster care rules unless an exception has been granted. Wis. Stat. § 48.67; Wis. Admin. Code §§ DCF 56.02(2) & 56.05(1)(c)1. Furthermore, a licensee is required to be familiar with DCF foster care rules and comply with their requirements. Wis. Admin. Code § DCF 56.05(1)(c)intro. & 56.05(1)(c)1. Thus, a foster home license may be denied for any failure to meet a requirement contained in DCF foster care rules (unless an exception has been granted). In this case, no exception has been granted.

The Wisconsin Administrative Code sets forth provisions concerning foster home licensee qualifications in Chapter §DCF 56 – “Foster Home Care for Children”. WI Admin Code §§DCF 56.05(1) provides, in relevant part, the following general and basic licensee qualification:

PERSONAL REQUIREMENTS AND BACKGROUND. (a) General. 1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs **or have a history of a civil or criminal conviction** or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. DHS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.

2. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements under subd. 1. **Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.**

§DCF 56.05(1)(f)3 Pursuant to s. 48.685, Stats. and ch. DHS 12, an applicant or licensee is unqualified to hold a license if the applicant or any other nonclient resident living in the household meets any of the following conditions:

. . . .
 b. **Has been convicted of a felony, misdemeanor, or other state or federal offense, the circumstances of which substantially relate to caring for children or operating a foster home or who is other-wise prohibited from licensure by statute or ch DHS 12**, including any governmental finding that the person misappropriated a client’s property.

(Emphasis added).

During the October 15, 2014 hearing, foster care coordinator, Rec Redact her supervisor Ms. Redact and social worker, Ms. Redact, presented a well-organized and documented case to establish that the county agency correctly denied the petitioner’s application for a foster home license. Ms. Redact supplemented that testimony with convincing documents (Exhibit 1 and 2) which offered substantial evidence of persuasive reasons for denying the petitioner’s foster home license application based upon requirements of the Wisconsin Administrative Code DCF Chapter 56.

During the October 15, 2014 hearing, petitioner admitted that her boyfriend, Redact Redact, was residing in her household during the 2014 foster home license application period. The petitioner was unable to refute that she or her boyfriend had been found guilty of the felony or misdemeanor crimes as set forth in Finding of Fact #3 or #4 above. Furthermore, petitioner was unable to refute that many of those conviction were for crimes which substantially relate to caring for children or operating a foster home in violation of 56.05(1)(f)3b, Wis. Adm. Code, as confirmed in Finding of Fact #3 and #4 above.

The petitioner argued that some of the events occurred many years ago. However, the multitude of felony or misdemeanor convictions of petitioner and her boyfriend does establish a pattern of negative behavior by the petitioner which severely undermines the petitioner as “a responsible, mature individual who is fit and qualified . . . and who exercises sound judgment and display the capacity to successfully nurture foster children.” . . . Petitioner was unable to refute any of the reasons for which the county had denied the petitioner’s application for a foster care license. As a result, those acts were clear violations of the Wisconsin Administrative Code, and the record of petitioners’ violations of Chapter 56 required that the county agency deny the petitioner’s foster home license application. The factual evidence in the hearing record documented that petitioner violated several foster home licensee qualifications required by the Wisconsin Administrative Code.

The ultimate objective of the licensing process is to determine if the potential foster parent is able to provide the high level of caretaking necessary for foster children. The petitioner has failed to do so. Furthermore, the evidence in the record indicates petitioner fails to meet many foster home licensee

qualifications required by the Wisconsin Administrative Code. Accordingly, for the above reasons, I must conclude that the Department correctly denied the petitioner's foster home license application.

CONCLUSIONS OF LAW

The county agency correctly denied the petitioner's January, 2014 Foster home license application for her grandson, due to providing false information on her foster home application, and criminal convictions of petitioner and her boyfriend in violation of § DCF 56.05(1), Wis. Adm. Code.

THEREFORE, it is **ORDERED**

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 12th day of January, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 12, 2015.

Wood County Human Services - WI Rapids
DCF - Foster Care