

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE COMMISSIONER OF HUMAN SERVICES

In re the Revocation of the  
Foster Care License of Janet  
and David Lynn

**RECOMMENDATION ON MOTION  
FOR SUMMARY DISPOSITION**

The above matter is pending before Administrative law Judge (ALJ) George A. Beck. The Department of Human Services (DOH) filed a motion for summary disposition of this matter on August 15, 2005. The Licensees were allowed until August 31, 2005 to file a response, but none was filed. Counsel for the licensees advised the ALJ on September 6, 2005 that no response would be filed. The OAH record therefore closed on September 6, 2005.

Kristin Larson, Assistant Anoka County Attorney, Government Center, 2100 Third Ave., Anoka, MN. 55303-2265, represented DOH. Jon P. Erickson, Esq., Barna, Guzy & Steffen, Ltd., 400 Northtown Financial Plaza, 200 Coon Rapids Boulevard, N.W., Coon Rapids, MN. 55433 represented the Licensees, Janet and David Lynn.

Based upon the filings by the parties and for the reasons set out in the memorandum that follows,

IT IS RECOMMENDED: That the Commissioner of Human Services GRANT the DOH's Motion for Summary Disposition and dismiss this appeal.

IT IS ORDERED: That the hearing scheduled for September 22, 2005 is cancelled.

Dated this 9th day of September, 2005

s/George A. Beck  
GEORGE A. BECK  
Administrative Law Judge

**NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Commissioner Kevin Goodno, Department of Human Services at 651-296-2701, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

## MEMORANDUM

Summary Disposition is the administrative equivalent of summary judgment.<sup>[1]</sup> Summary disposition is appropriate when there is no genuine issue of fact and a party is entitled to judgment as a matter of law. The moving party must show that no genuine issues of fact exist and that the law entitles it to a decision in its favor.<sup>[2]</sup>

The record indicates that the Licensees were licensed to provide foster care on Oct. 18, 2004 in connection with the pre-adoptive placement of J.L.K. (then 18 months old) in their home by Anoka Social Services. On January 18, 2005 the County received a report of physical abuse to J.L.K. Upon investigation, the County determined that a skull fracture suffered by the child while in Ms. Lynn's care, for which the child was hospitalized, could not have occurred as Ms. Lynn claimed. The County concluded that J.L.K. had been abused and that maltreatment was substantiated.

The licensees were sent a letter on January 24, 2005 advising them of the County's determination and stating that they were disqualified from providing foster care. The letter advised the Lynns of their right to request reconsideration within 15 days if they did not agree with the maltreatment determination and the right to request reconsideration of the disqualification within 30 days. The letter also stated that the disqualification may result in the revocation of the foster care license. The Licensees did not request reconsideration of either determination.

On April 20, 2005, Anoka County recommended to DOH that it revoke the Lynn's license due to the maltreatment finding and the disqualification that were not contested by the Licensees. DOH then issued an Order of Revocation on June 10, 2005. By a letter dated June 17, 2005, counsel for the Lynn's filed a request for a hearing on the revocation. At the time Ms. Lynn was being prosecuted for assault in the first degree.

DOH points out that when a person does not request reconsideration of a determination of serious maltreatment, it is conclusive.<sup>[3]</sup> The statutory provision authorizing a contested case hearing under Chapter 14 limits jurisdiction to cases where reconsideration of a maltreatment finding or a disqualification was requested.<sup>[4]</sup> Accordingly, since there is no jurisdiction to hear the issues that are already conclusively determined, there are no facts in dispute, and this matter should be dismissed.

G.A.B.

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<sup>[1]</sup> Minn. R. 1400.5500 (K).

<sup>[2]</sup> Minn. R. Civ. P. 56.03; Highland Chateau v. Minn. Dep't. of Pub. Welfare, 356 N.W.2d 804,808 (Minn. Ct. App. 1984) rev. denied, Feb. 6, 1985.

<sup>[3]</sup> Minn. Stat. § 245C.29.

<sup>[4]</sup> Minn. Stat. § 245C.28, subd. 1(a).