

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF CHILDREN AND FAMILIES
CENTRAL ADMINISTRATIVE OFFICE
600 WASHINGTON STREET, 6th Floor
BOSTON, MASSACHUSETTS 02111

LINDA S. SPEARS,
COMMISSIONER

Voice: (617) 748-2000
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IN THE MATTER OF)
)
)

T. H. & L. C.)
)
)

FH #2017 0309)
)

HEARING DECISION

Procedural Information

The Appellants in this Fair Hearing are Ms. TH (or "Grandmother") and Mr. LC (or "Grandfather"), or "the Appellants." The Appellants appeal the decision of the Department of Children and Families' ("the Department" or "DCF") to support a report of neglect pursuant to Mass. Gen. L., c. 119, sec. 51A, with respect to each Appellant. Notice of the Department's decision was sent to the Appellants in one support letter dated March 8, 2017, and the Appellants filed a timely appeal on March 13, 2017.¹

The Fair Hearing was held on May 18, 2017, at the DCF Springfield Area Office. The following persons appeared at the Fair Hearing:

Linda A. Horvath, Esquire
TH
LC
JC
MA

Administrative Hearing Officer
Appellant
Appellant
DCF Response Worker
DCF Supervisor

In accordance with 110 CMR 10.03, the Administrative Hearing Officer attests to impartiality in this case, having had no direct or indirect interest, personal involvement or bias in this case.

¹ It was the intention of both Ms. TH and Mr. LC to appeal the support decisions against them by way of the appeal letter written by Ms. TH on file with the fair hearing unit. (Testimony of Appellants.) Therefore, Mr. LC has been added as an Appellant in this matter.

The Fair Hearing was recorded pursuant to DCF regulation 110 CMR 10.26.

The following documents were submitted into the record at the Fair Hearing:

For the Department:

- Exhibit 1: 2/14/17 51A Report
- Exhibit 2: 2/21/17 51A Report
- Exhibit 3: 3/8/17 51B Report
- Exhibit 4: 2/12/07 51A Report
- Exhibit 5: 2/28/07 51B Report
- Exhibit 6: 4/14/08 51A Report
- Exhibit 7: 4/25/08 51B Report
- Exhibit 8: 11/3/11 51A Report
- Exhibit 9: 11/28/11 51B Report/Initial Assessment
- Exhibit 10: 6/22/12 51A Report
- Exhibit 11: 6/29/12 51B Report

For the Appellant:

- Exhibit A: 11/21/16 Child's 504 Plan
- Exhibit B: 2016—2017 Semester Two School Progress Report
- Exhibit C: 3/23/17 [REDACTED]
- Exhibit D: 5/18/17 Health Information, Ms. TH

Statement of the Issue

The issue presented in this Fair Hearing is whether, based upon the evidence and the hearing record as a whole, and on the information available at the time of and subsequent to the investigation, the Department's decision or procedural action, in supporting the 51A report, violated applicable statutory or regulatory requirements, or the Department's policies or procedures, and resulted in substantial prejudice to the Appellant; if there is no applicable statute, policy, regulation or procedure, whether the Department failed to act with a reasonable basis or in a reasonable manner which resulted in substantial prejudice to the Appellant; for a decision to support a report of abuse or neglect, giving due weight to the clinical judgments of the Department social workers, whether there was reasonable cause to believe that a child had been abused or neglected and the actions or inactions by the parent(s)/caregiver(s) place the child(ren) in danger or pose substantial risk to the child(ren)'s safety or well-being; or the person was responsible for the child(ren) being a victim of sexual exploitation of human trafficking." Protective Intake Policy #86-015, rev. 2/28/16. 110 CMR 10.05.

Findings of Fact

1. The subject of this Fair Hearing is the female child, "T" ("the child"), who was thirteen (13) years old at the time of the subject 51A filing referenced below. (Exhibit 1, p.1.)
2. The child has diagnoses of PTSD, Major Depression with Psychotic features and Anxiety; she sometimes hears voices. She has had thoughts of hurting and killing herself. She had attempted an overdose of her own medications (Trazedone and Wellbutrin) and was hospitalized thereafter. (Exhibit 3, p.3; Exhibit A.) The child was taking Wellbutrin, Celexa, Catapres, Prozac, Seroquel, Risperdal and Trazedone at the time of the subject 51A filing. (Exhibit C.) She has a 504 Plan for accommodations at school. (Exhibit A.)
3. Ms. TH is the child's maternal grandmother and legal guardian. Mr. LC is the child's legal co-guardian and has been Grandmother's live-in partner for almost thirty years. (Exhibit 1, pp.1, 2 and 6; Exhibit 7, p.2; Testimony of Appellants.)
4. The child's mother is Ms. KR ("the mother"). (Exhibit 1, p.5.) The mother suffers from significant mental health issues including suicidal ideation and threatened attempts of suicide. (Exhibit 7, pp.2 and 3.) She was an open consumer with DCF on a CHINS Petition as a minor. The mother gave birth to the child when she was a teenager (14 years old²) and committed to DYS; the Grandmother thereafter obtained permanent guardianship of the child. (Exhibit 1, p.5; Exhibit 4, p.2.)

Relevant DCF Family History:

5. February, 2007
 - a) The mother had served three to four months in DYS lockup, and the Grandmother had already obtained guardianship of the child. An anonymous reporter filed a 51A Report on February 12, 2007, with DCF alleging neglect of the child (then 3 years old) by the Grandmother due to the Grandmother smoking marijuana in the presence of the child, for the poor living conditions of the home, and due to the Grandmother wanting to take the child to live out of state. When pressed for specifics of the conditions of the home, the reporter could not cite any. DCF screened-in the report for an investigation. (Exhibit 4, pp.2 and 5.)
 - b) During the investigation, when confronted as to whether she was the reporter in this matter, the mother initially denied it. (Exhibit 5, p.2.) The mother (then 18 years old and living in the Appellants' home) eventually admitted she was the reporter and she made the allegations because the Grandmother and Grandfather smoke "crack and weed" and because the Grandmother was selling her medication (*Id.* at pp.2—3) however, the mother denied ever seeing them do these things. (*Id.* at p.3.) The mother was upset that the Grandmother still had custody of her

² Exhibit 6, p.2.

child and that she was planning on moving out of state leaving her (and her adult brother) homeless. (Id.)

- c) The Grandmother's adult son, who was living in the home at that time as well and also has mental health issues, also alleged that the Appellants were smoking crack though he had never seen them do so. He alleged that a guy went to the house "every few days making a drop of drugs," but the son denied ever seeing the drugs. (Id.) The Appellants denied the allegations (Id. at pp.2 and 3) but for the Grandfather acknowledging he smoked "weed" but only when the child was asleep. They Appellants had strict rules in their home which neither the mother nor the Grandmother's son were willing or able to follow. (Id. at p.3.)
- d) The child's interview was unremarkable. (Id. at p.4.)
- e) The Appellants agreed to provide a drug screen from their primary care physicians (Id. at p.3) however screens could not be scheduled until after the conclusion of the investigation. (Id. at pp.4—5.)
- f) The Department supported the Grandmother for neglect of the child in part due to "possible drug use that would rise to the level of neglect" as well as a physical incident between the mother and Grandmother. DCF opened the family for services. (Id. at pp.5—6.)

6. April, 2008

- a) The Grandmother had permanent custody of the child by this time. (Exhibit 7, p.2.) As of the closing of the previous DCF case described above (2007), the Grandmother had not completed a urine screen. (Exhibit 6, p.2.) A non-mandated reporter filed a 51A report on April 14, 2008, alleging the neglect of the child (then 4 years old) by the Grandmother due to Grandmother's active use of marijuana and crack cocaine with the child in the home. The reporter alleged seeing the Grandmother "high" in mid-March or early April, 2008, but could not explain why she did not call DCF at that time. The reporter was planning on going to court to obtain custody of the child. (Id. at pp.2—3.) DCF screened-in the report for an investigation. (Id. at p.5.)
- b) During this investigation, the Appellants indicated they were expecting another 51A filing, and suspected the mother again was the reporter, as they had just returned from ██████████ in early April with the child with plans of moving there eventually. The mother wanted to keep the child in ██████████ while they were gone but the Appellants refused. At this time, the mother was living with an aunt and the Grandmother's son was incarcerated. The Appellants denied any use of drugs other than their prescription medication. (Exhibit 7, p.2.)
- c) The child's interview was unremarkable. (Id. at p.2.)
- d) Neither the child's pediatrician nor daycare provider had concerns. (Id. at pp.2 and 3.)
- e) The Department unsupported the Grandmother for neglect of the child as "[t]here was no information to suggest that [the Grandmother] is using drugs" and there were no other protective concerns. (Id. at p.3.)

7. November, 2011

- a) The mother had been living in the Appellants' home again until October 31, 2011, when the Grandmother asked her to leave following an argument between them. (Exhibit 8, p.2.) The Grandmother thereafter obtained a restraining order against the mother on November 1, 2011, as evidence reflects mother's boyfriend assaulted the mother and both mother and boyfriend smoked marijuana in the presence of the child. Grandmother suspended mother's visits with the child thereafter. (Exhibit 8, p.3.)
- b) Two days later, a non-mandated reporter filed a 51A report on November 3, 2011, alleging the neglect of the child (then 8 years old) by the Grandmother and Grandfather due to their use of illegal substances. The reporter alleged the child had discussed "funny smells in the house" and had shown her "little plates with dried white residue that reporter believes are remnants of drugs." (Exhibit 8, p.2.) The reporter also alleged that Grandfather had grabbed the child by the arm and pushed her twice. The reporter alleged she had filed a motion to terminate the Grandmother's guardianship, and was aware that the Appellants had petitioned the Court for the Grandfather to become co-guardian. (Id.) DCF screened-in the report for an investigation. (Id. at p.6.)
- c) During this investigation, the Appellants once again indicated they expected another visit from DCF due to the Grandmother and mother arguing recently. The Grandmother was not well physically and the Appellants had petitioned the Court for Grandfather to become a co-guardian in the event something had happened to the Grandmother. The Appellants denied any use of drugs other than their prescription medication. (Exhibit 9, p.2.)
- d) During her DCF interview the child objected to the statement that the Appellants were not taking good care of her. (Exhibit 9, p.2.) She denied the Appellants mistreated her, indicating it was her mother who locked her in her room when mother and her boyfriend were fighting. She denied the Appellants ever hit each other. The child was not sure if she had ever heard the words "weed" or "joints." Her Grandmother had just quit smoking cigarettes; she denied that the Appellants had ever smoked anything that didn't smell like cigarettes, but she thinks her mother had. The child mentioned nothing about finding a plate with residue on it. The child was happy living with the Appellants and did not want to live with her mother. (Id. at p.3.)
- e) The Department concluded there was "No/Minimum Concern" for this family with respect to the allegations put forth by the reporter. (Id. at p.4.) DCF found no protective concerns. "Worker informed [Grandmother] as long as the family lives in the same house and she upsets a family member she risks the chance of other reports being filed as a means of revenge against her." (Id. at p.5.)

8. June, 2012

- a) By June, 2012, the Appellants were legal co-guardians of the child. (Exhibit 11, p.2.) An anonymous reporter filed a 51A report on June 22, 2011, alleging the neglect of the child (then almost 9-years old) by the Grandmother and Grandfather

due to the following: Grandmother is a daily crack user in spite of her serious medical issues (including a stomach cyst) and in spite of needing to use an oxygen tank. There are three Caucasian men (high traffic) in and out of the home. The Grandfather is from [REDACTED] and is a fugitive from justice and is also an active drug user. (Exhibit 10, p.2.) DCF screened-in the report for an emergency response. (*Id.* at p.6.)

- b) During the response, the Appellants denied all of the allegations including the Grandmother's use of an oxygen tank and having a stomach cyst. (Exhibit 11, pp.1—2.) They suspected the allegations came from the mother and Grandmother's sister. The mother and Grandmother's son had been living in her house once again until recently. In June, 2012, among other conditions, Grandmother was being treated for leukemia and arthritis, and was prescribed radiation medications and Oxycontin, among others. (*Id.* at p.2.)
 - c) During her DCF interview, the child indicated she knew what drugs and alcohol were because of her mother and uncle, and that her mother smokes cigarettes. She denied the Appellants "use anything." She felt safe in her home. (*Id.*)
 - d) The Grandmother's therapist did not have concerns regarding her care of the child, and the therapist was well aware of the previous false allegations against Grandmother.³ (*Id.* at p.3.)
 - e) The Department unsupported the Grandmother for neglect of the child as she, Grandfather and the child denied all allegations, along with Grandmother's therapist who had no concerns and believed the allegations to be completely untrue. (*Id.* at pp.3—4.)
 - f) The DCF Supervisor concurred stating, "...the allegations were not substantiated upon visiting the family. The report appears to be vindictive and the reporter was anonymous." (*Id.* at p.4.)
9. The Grandmother has had several medical diagnoses related to her back, knees, shoulder, asthma, a large hernia, diabetes and leukemia. It is well-documented that the Department has been aware of her significant health problems for many years and the voluminous amount of medications she is prescribed for her afflictions, including Oxycontin. (Exhibit 5, p.2; Exhibit 7, p.2; Exhibit 8, p.2; Exhibit 9, p.2.)

The Present Case:

10. On February 14, 2017, five years after the family's previous DCF investigation,⁴ the Department received a report pursuant to M.G.L. c. 119, s. 51A, alleging the neglect of the child by the Appellants. The child (13 years old) informed her therapist⁵ she thinks the Appellants are selling pills out of the home as people she does not know go to the home at night and the Appellants "give them something then they leave." The child also allegedly "found" a plate with a razor and a substance on it. The child was not afraid and felt safe in the home. (Exhibit 1, pp.1 and 2.)

³ Grandmother attended therapy "to help her cope with the stress of her children and their mental illnesses." (Exhibit 11, p.2.)

⁴ Exhibit 1, p.5; See, Finding #8 above.

⁵ Exhibit 1, p.6.

11. The Department screened-in the 51A report for a non-emergency response. (Exhibit 1, p.6.)
12. On February 21, 2017, a second 51A report was filed (type of reporter unknown), alleging the neglect of the child by the Appellants. The child disclosed to the reporter, "her mother told her" that the Appellants are using cocaine. The child showed the reporter "*photos* of a razor and a plate." (Exhibit 2, pp.1 and 2.) As these were the same allegations as in the first 51A report, this report was merged into the response. (*Id.* at p.6.)
13. The following findings are derived from the child's DCF interview on March 1, 2017. (Exhibit 3, p.2.) At the time, the child was seeing her therapist once per week and saw a therapeutic mentor once per week. (*Id.* at p.3.)
 - a) The child believed the Appellants were selling their pills because "people show up at the house at nighttime...there's some passing of something and then her grandparents get money." (*Id.* at p.2.)
 - b) Her mother was staying at the house for some time and her mother "told her the truth about it and said to her that her grandparents are selling their pills and that they may be using cocaine." (*Id.*)
 - c) Although the current 51A report alleged the child had seen a plate with drug residue on it, her *mother* showed the child *a picture* of a plate and a razor with "powder" on it. (*Id.*)
 - d) The child felt safe with the Appellants but "she gets worried that someone could come to the home and hurt her or hurt her grandparents and rob them....she and her mom have talked about this." (*Id.* at p.3.)
 - e) Her mother no longer lived in the home and had moved in with a boyfriend. (*Id.*)
 - f) The child denied seeing the Appellants using any drugs, and she has never seen drugs in the home. (*Id.*)
 - g) The child was aware that her mother "gets into a lot of trouble" and smokes pot, and that she cannot live with her. The child was aware that "all she has is her grandparents." She did not want to talk much about her mother. (*Id.*)
14. The following findings are derived from the joint DCF interview with the Appellants. The DCF Response Worker ("RW") went to their home unannounced on March 3, 2017. (See, Exhibit 3, p.4—5.)
 - a) Grandmother was surprised to hear about the allegations "but at the same time she wasn't" and believed it was the mother, who they just kicked out of the house three days earlier after a 6-month stay,⁶ had filed the report on them as she had done in the past with the same allegations.
 - b) Both Appellants are retired and disabled. Both Appellants are ill. Among Grandmother's many ailments is Leukemia. She is prescribed a number of

⁶ Grandmother showed the RW the bedroom they were trying to clean out from when the mother was most recently staying with them. (Exhibit 3, p.4.)

- medications, including 15mg Oxycodone. (See, also, Exhibit D.) Grandfather was diagnosed with colon cancer. Among his medications is 5mg Oxycodone.
- c) They both are subjected to random pills counts and urine screens by their provider.
 - d) The child had difficulties when her mother was living in the home; this is when the child was hospitalized for taking pills. (See, also Exhibit B, evidencing a decline in the child's grades at school during this time.) Since the mother moved out, the child was doing well.
 - e) The Appellants keep their meds and the child's meds locked up in Grandmother's room.
15. The Appellants denied the allegations at the time of their DCF interview and at the fair hearing as they are given a set amount of medication, which they need and use, and therefore would not sell it. (Exhibit 3, p.4; Testimony of Appellants.)
16. The following facts are derived from the Clinical Nurse Supervisor at the Appellants' physician's office (the medication subscriber). The previous month, Grandmother was called into that office for a pill count. The nurse "...did not have any proof that they were selling their pills but she had a feeling" however the pill count for Grandmother was fine. The Appellants' previous urine screen was on February 6, 2017, and Grandmother appropriately tested positive for Oxycodone, but also tested positive for opiates, which Grandmother explained as having taken cough medicine with Codeine.⁷ There was no evidence of impropriety on the part of either Appellant with respect to their use/abuse/sale of their Oxycodone prescriptions. (Exhibit 3, p.7.)
17. The child's school counselor did not have any concerns regarding the child or the Appellants but for the child's anxiety over the subject allegations. The child denied having feelings of wanting to self-harm. (Exhibit 3, pp.3—4 and 6.)
18. The child's therapist, Ms. MR, had no other concerns regarding the Appellants' care of the child but for the subject allegations. The Appellants are "very involved, they advocate for [the child] and cooperate with all services and recommendations." (Exhibit 3, p.5.)
19. The child was last seen by her pediatrician in August, 2016. There were no concerns noted in her medical record. (Exhibit 3, p.5.)
20. The Care Coordinator for ICC services did not have any concerns regarding the Appellants' care of the child. The Appellants were "...very nice and very involved and organized. ICC went with [G]randmother to the IEP meeting at school last week and [G]randmother had all of her paperwork and was right on point." ICC had no concerns with regard to the home or the family. (Exhibit 3, p.6.)
21. The child's therapeutic mentor, Ms. MH, was seeing the child once per week at the home and outside the home at this time. She was aware of the allegations but "has

⁷ Grandmother had informed the RW about the positive test for opiates. (Exhibit 3, p.4.)

never had any suspicion of the grandparents selling their pills and she has never seen them under the influence... [The child] has made several comments about wanting to go to foster care... [The child] is the only kid in the home and the grandparents are older and they don't do a lot and [the child] is very bored and says things like they don't talk to her and don't understand her... [T]he grandparents are very appropriate and cooperative and the home is always in great conditions and they are always very alert and pleasant." She had no concerns regarding the child's care and well-being. (Exhibit 3, pp.6—7.)

22. On March 7, 2017, the Department supported the aforementioned report, in accordance with M.G.L. c. 119, s. 51B, for neglect on behalf of the subject child by the Grandmother and Grandfather based upon the child being "consistent in her reporting she has seen her grandparents sell their oxycodone out of the home thus placing the child at risk of harm... The fact that her grandparents are selling their medication is causing a lot of stress and anxiety for [the child]." (Exhibit 3, pp.7 and 8.) The Department believed the allegations were impacting upon the child's emotional stability and growth and were impacting the child's fragile mental health. (Testimony of MA.) The RW noted that "Grandparents are meeting the child's needs." (Id. at p.8.)
23. The DCF Response Supervisor concurred stating, "It is unclear what the prescription oxycodone use is in the home. A substance abuse consult is recommended." (Exhibit 3, p.8.) The Department opened a clinical case for the family thereafter to conduct a 45-day Assessment. (Id.) The Appellants cooperated fully with DCF during the Assessment process. (Testimony of MA.)
24. Unlike in the 2012 DCF investigation, the Department did not contact Grandmother's therapist in order to obtain her professional opinion of her client's current functioning and her abilities as a caretaker for the child. (Exhibit 3, p.8.)
25. Following the Department's decision, the Appellants' physician would no longer prescribe Grandmother's Oxycodone. (Exhibit 3, p.8.)
26. Based upon the DCF history and mother's relentless endeavors since 2007 to disparage the Appellants and interrupt their care of this child, the mother is deemed not credible. The mother is/was a negative influence on the child. The child's mental health and academics suffered when mother was living in the home.
27. This Hearing Officer found the Appellants' testimony at the Fair Hearing to be sincere and forthright. Considering their demeanor, the content of their testimony given under oath, along with consideration of the entire body of evidence in this matter, most importantly, the evidence of the lack of credibility of the mother, this Hearing Officer finds the Appellants to be credible with respect to the issues in this matter.

28. The Department did not have reasonable cause to believe that the Appellants failed to provide minimally adequate care for the child, and there was no credible evidence that any action or inaction on the part of the Appellants placed the child in danger or posed a substantial risk to her safety or well-being. DCF Protective Intake Policy #86-015, rev. 2/28/16. (See, Analysis.)

Applicable Standards

Reasonable cause to believe means a collection of facts, knowledge or observations which tend to support or are consistent with the allegations, and when viewed in light of the surrounding circumstances and credibility of persons providing information, would lead one to conclude that a child has been abused or neglected. 110 CMR 4.32(2). Factors to consider include, but are not limited to, the following: direct disclosure by the child(ren) or caretaker; physical evidence of injury or harm; observable behavioral indicators; corroboration by collaterals (e.g. professionals, credible family members); and the social worker's and supervisor's clinical base of knowledge. 110 CMR 4.32(2).

Reasonable cause implies a relatively low standard of proof which, in the context of 51B, serves a threshold function in determining whether there is a need for further assessment and/or intervention. *Care and Protection of Robert*, 408 Mass. 52, 63-64 (1990). "[A] presentation of facts which create a suspicion of child abuse is sufficient to trigger the requirements of s. 51A. *Id.* at 63. This same reasonable cause standard of proof applies to decisions to support allegations under s. 51B. *Id.* at 64; M.G.L. c. 119, s. 51B.

Caregiver

- (1) A child's parent, stepparent or guardian, or any household member entrusted with responsibility for a child's health or welfare; or
- (2) Any person entrusted with responsibility for a child's health or welfare, whether in the child's home, relative's home, a school setting, a child care setting (including babysitting), a foster home, a group care facility, or any other comparable setting.

As such, the term "caregiver" includes, but is not limited to school teachers, babysitters, school bus drivers, and camp counselors. Protective Intake Policy No. 86-015 (rev. 02/28/2016.).

Neglect is failure by a caregiver, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care; malnutrition; or a failure to thrive. Neglect cannot result solely from inadequate economic resources or be due solely to the existence of a handicapping condition. (Id.)

To Support a finding means:

- There is reasonable cause to believe that child(ren) was abused and/or neglected; and
- The actions or inactions by the parent(s)/caregiver(s) place the child(ren) in danger or pose substantial risk to the child(ren)'s safety or well-being . . . (Id.)

To prevail, an Appellant must show by a preponderance of all of the evidence presented at the hearing, that: (a) the Department's or Provider's decision was not in conformity with the Department's policies and/or regulations and/or statutes and/or case law and resulted in substantial prejudice to the Appellant, (b) the Department's or Provider's procedural actions were not in conformity with the Department's policies and/or regulations, and resulted in substantial prejudice to the aggrieved party, (c) if there is no applicable policy, regulation or procedure, that the Department or Provider acted without a reasonable basis or in an unreasonable manner which resulted in substantial prejudice to the aggrieved party; or (d) if the challenged decision is a supported report of abuse or neglect, that the Department has not demonstrated there is reasonable cause to believe that a child was abused or neglected and the actions or inactions by the parent(s)/caregiver(s) placed the child(ren) in danger or posed substantial risk to the child(ren)'s safety or well-being; or the person was responsible for the child(ren) being a victim of sexual exploitation or human trafficking. 110 CMR 10.23; DCF Protective Intake Policy #86-015, rev. 2/28/16.

Analysis

As the child's legal co-guardians, the Appellants are deemed "caregivers" pursuant to DCF Protective Intake Policy #86-015, rev. 2/28/16.

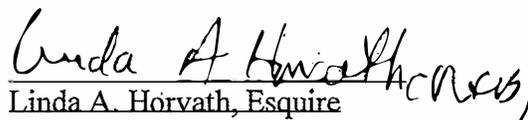
The Department's decision that the Appellants neglected the child was based solely upon the Department adopting as truth the mother's past allegations, which were found not to be credible years earlier. It is clear that the mother has been a negative influence on the child. The mother had been kicked out of the Appellants' home just three days prior to the subject allegations after a six-month stay, and as the subject allegations mirror those of the mother's and/or anonymous reporter's from the past. Evidence reflects that the mother likely incited the child to speak about the subject false allegations by praying upon the child's anxieties and fragile disposition as the child is very aware that the Appellants are the only family she has to care for her. Every provider contacted by the Department had nothing but positive feedback with respect to the Appellants' care of the child, and any subjective suspicions on the part of the medication prescriber were not confirmed.

In light of the totality of evidence in this case, as discussed above and in the detailed Findings of Fact, the Appellants have shown by a preponderance of the evidence, that the Department has not provided evidence that there is "reasonable cause to believe" that the Appellants neglected the child, nor is there credible evidence that any actions or inactions by the Appellants placed the child in danger or posed a substantial risk to her safety or well-being.

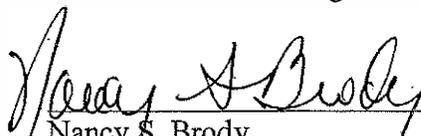
Conclusion

The Department's decision to support the 51A reports of February 14th and February 21st, 2017, for neglect on behalf of the subject child by Ms. TH is REVERSED.

The Department's decision to support the 51A reports of February 14th and February 21st, 2017, for neglect on behalf of the subject child by Mr. LC is REVERSED.


Linda A. Horvath, Esquire
Administrative Hearing Officer

Dated: 3-7-18


Nancy S. Brody
Supervisor, Fair Hearing Unit

Dated: _____

Linda S. Spears
Commissioner