

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
DEPARTMENT OF CHILDREN AND FAMILIES  
CENTRAL ADMINISTRATIVE OFFICE  
600 WASHINGTON STREET  
BOSTON, MASSACHUSETTS 02111

LINDA S. SPEARS  
Commissioner

Voice: 617-748-2000  
FAX: 617-261-7428

**IN THE MATTER OF**

**JT**

**2017-0786**

**FAIR HEARING DECISION**

**Procedural History**

The Appellant in this Fair Hearing is JT. The Appellant appeals the Department of Children and Families' (hereinafter "the Department" or "DCF") decision to terminate services and close the clinical case involving his ex-girlfriend, BR, and their children J and Jo.

On May 30, 2017, the Appellant received a notice from the Department informing him that the family case would close. Within this notice, the Department informed the Appellant of his right to appeal its determination. The Appellant made a timely request for a Fair Hearing under 110 C.M.R 10.06.

The Fair Hearing was held on August 24, 2017 at the Department of Children and Families' Area Office located in Lowell, MA. All witnesses were sworn in to testify under oath. The record officially closed on upon conclusion of the hearing.

The following persons appeared at the Fair Hearing:

Carmen Colón  
JT  
BG  
SB  
JC

Fair Hearing Officer  
Appellant  
DCF-Ongoing Social Worker  
DCF Area Program Manager  
Support for the Appellant/ Family  
friend

In accordance with 110 C.M.R. 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.

The Fair Hearing was recorded on a digital voice recorder, pursuant to 110 CMR 10.26

The following documentary evidence was entered into the record for this Fair Hearing:

For the Department:

Exhibit A: Case Closing letter of May 30, 2017

Exhibit B:

For the Appellant:

Exhibit 1: Request for Fair Hearing Letter

Exhibit 2: Case Closing letter of May 30, 2017

The Hearing Officer need not strictly follow the rules of evidence... Only evidence which is relevant and material may be admitted and form the basis of the decision. (110 CMR 10.21)

**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 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. 110 CMR 10.05

**Findings of Fact**

On the basis of my assessment of all the evidence, I make the following factual findings:

1. Appellant, JT, and BR were in a relationship for twelve years. This relationship ended seven years prior to the Department's involvement. The Appellant and BR have two sons, J and Jo. The children reside full time with their mother, BR. ( DCF testimony, Appellant testimony)
2. BR and the children were residing with BR's aunt, MW. The Department was notified via 51A reports that the children were being physically abused by MW, which prompted a response by the Department. This allegation was supported and the family case remained open at which time the Department completed a 45 day assessment. ( DCF testimony)
3. BR was notified by the Department of the safety concerns for the children while living in MW's home. BR immediately moved out the home as part of the family's safety plan. ( DCF testimony)
4. As the children's father, JT, became an open consumer in the family case who was visited on a monthly basis by DCF (DCF testimony)
5. The family clinical case was open from January 26, 2017 to May 30, 2017. During this time, the DCF ongoing social worker, met with BR, the children and contacted collaterals involved with the family. No concerns were reported by any collaterals (school, physician, therapists) for the children's

safety in the care of their mother. ( DCF testimony)

6. Upon completion of the Family Assessment, DCF made the decision to close the family case as the family did not appear to be in need of any service. ( Exhibit A)
7. On June 26, 2017, the Department received Appellant's request for a Fair Hearing. In his request, Appellant expressed concerns for the children as well as BR stating that they were all in need of Departmental services due to BR planning to move to the state of ██████████ with the children, and the children's basic care while with mother. (Exhibit 1)
8. Appellant was provided opportunity to state his concerns at the Fair Hearing, yet was unable to explain how BR was failing to provide minimally adequate care to their children while using his time to talk about their relationship with at times had been volatile with incidents of aggression. The discord between the Appellant and BR was such that Appellant petitioned the court for scheduled supervised visits (Appellant testimony)
9. In review of the evidence provided by both parties, I find that the Department's decision to close the Appellant's case the clinical case involving BR and the children was done in compliance with Departmental regulations.

### Applicable Standards and Analysis

#### 110 CMR 5.00: Assessment (10)

Following completion of the assessment, the social worker and supervisor determine if the case will remain open or be closed. . . For cases that will be closed after the assessment, the social worker verbally informs the family of the outcome of the assessment and proceeds in accordance with 110 CMR 9.00 et seq. and the Department's Case Closing Policy ( Department Policy # 86-007 ( R ))

#### 110 CMR 9.00 Case Closure :

##### 9.03: Procedures (1)

The Social Worker and His or her Supervisor Make the Case Closing Decision. Case closing is a clinical decision between a social worker and his / her supervisor, which decision is thereafter discussed with the client family. Case closing takes into consideration the stated goals of the case, the individual's or family participation in services, the reduction of risk to the child, legal issues, and the Department's responsibility to provide services. . . The Social Worker documents in writing in the case record the outcome of this consultation. If legal action is not warranted . . . the social worker proceeds to close the case , by following the procedures set forth in 110 CMR 9.00.

##### 9.04: Closing a Supported Case

The Department may close a case with a supported 51A at any time after completion of its investigation.

To prevail, an Appellant must show based upon all of the evidence presented at the hearing, by a preponderance of the evidence 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. 110 CMR 10.23

### Analysis

The matter in question at Fair Hearing is the Departmental decision to close a clinical case in which the Appellant's family (children and ex-partner, BR) were the primary consumers. Upon review of testimony provided at the Fair Hearing, the Department's decision to close the family case is **Affirmed**.

While at the Fair Hearing, the Department's argued that there had been no concerns provided by any collateral for the children while in the mother's care for at least four months. The Department was also explicit in stating that the reason for the case being opened was that BR and her children, J and Jo, were residing in the home of MW, who was physically abusive to the children. BR was said to have acted appropriately in moving out of the home "immediately" after the Department's involvement and ensuring the safety of the children.

The Appellant verbalized concerns for the children's hygiene, developmental needs, and medical needs. In addition, Appellant spent the majority of the hearing expressing his concern for BR and her alleged need of services. Appellant also expressed concerns for the possibility of BR moving out of the state with the children, yet failed in providing any examples of how BR was failing to provide minimal adequate care for the children or how the Department's closing would directly impact BR's ability to care for the children.

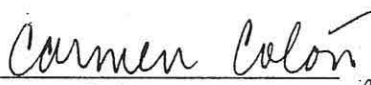
Upon thorough review of this case, it is undisputed that the Departmental staff in this matter did comply with the agency's policy and regulations. The Appellant was provided with written notice of the Department's case closing date and reason behind the closing.

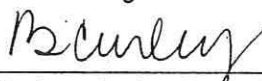
The Appellant was not able to provide a persuasive argument or reasons for the case to be reopened by the Department aside from his own concerns surrounding BR's possible move out of state.

### Conclusion and Order

In conclusion, I find that the Department's decision to close the clinical case involving the Appellant's children, J and Jo, and their mother, BR was made in conformity with Department regulations and was reasonable; therefore, the Department's decision is **AFFIRMED**.

This is the final administrative decision of the Department. If the Appellants wish to appeal this decision, they may do so by filing a complaint in the Superior Court for Suffolk County, or within the county in which they live, within thirty (30) days of the receipt of this decision. (See, M.G.L. c. 30A, s. 14.)

  
Carmen Colón *BC*  
Fair Hearing Officer

  
Barbara Curley, Supervisor  
Fair Hearing Unit

February 26, 2018  
Date