



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

IN THE MATTER OF:

MAHS Docket No.: 16-013030

████████████████████
Petitioner

Agency Case No.: ██████████

v

Case Type: Expunction

████████████████████ **DHHS,**
Respondent

_____ /

**Issued and entered
this 8th day of June 2017
by Vicki L. Armstrong
Administrative Law Judge**

DECISION AND ORDER

PROCEDURAL HISTORY

This proceeding commenced with the issuance of a Notice of Hearing on ██████████, based on notification from the ██████████ County Department of Health and Human Services (Department), Respondent that it would not expunge the name or identifying information of ██████████, Petitioner, from the Michigan Child Abuse and Neglect Central Registry (Central Registry) for referral or complaint dates of ██████████; ██████████; ██████████; and ██████████. The action concerned Petitioner's alleged violation of the Child Protection Law, 1975 PA 238, as amended, MCL 722.621 *et seq.* (Act).

On ██████████, the hearing was held as scheduled. Respondent called Children's Protective Services (CPS) Investigators, ██████████, and ██████████, to testify as witnesses. (Note: ██████████ testified by telephone.) Respondent offered the following exhibits, which were admitted into the record as evidence:

1. Respondent's Exhibit 1A is a copy of Children Protective Services Complaint, dated ██████████.
2. Respondent's Exhibit 1B is a copy of the Children's Protective Services (CPS) Investigation Report, dated ██████████.

3. Respondent's Exhibit 1C is a copy of the Family Risk Assessment of Abuse/Neglect, dated [REDACTED].
4. Respondent's Exhibit 1D is a copy of a [REDACTED] Police Department Case Report Summary, dated [REDACTED].
5. Respondent's Exhibit 1E is a copy of a [REDACTED] Police Department Case Report Summary, dated [REDACTED].
6. Respondent's Exhibit 1F is a copy of the CPS Notice of Action and Rights, dated [REDACTED].
7. Respondent's Exhibit 1G is a copy of Petitioner's Request for Expungement from CPS Central Registry, received [REDACTED].
8. Respondent's Exhibit 1H is a copy of an email from CPS Supervisor [REDACTED] to Petitioner, dated [REDACTED].
9. Respondent's Exhibit 1I is a copy of the Child Abuse/Neglect Action, dated [REDACTED].
10. Respondent's Exhibit 1J is a copy of the undated Central Registry screen print.
11. Respondent's Exhibit 1K is a copy of the Hearing Summary, dated [REDACTED].
12. Respondent's Exhibit 2A is a copy of the CPS Complaint, dated [REDACTED].
13. Respondent's Exhibit 2B is a copy of the CPS Investigation Report, dated [REDACTED].
14. Respondent's Exhibit 2C is a copy of the Family Risk Assessment of Abuse/Neglect, dated [REDACTED].
15. Respondent's Exhibit 2D is a copy of the [REDACTED] Township Police Department Detail report, dated [REDACTED].
16. Respondent's Exhibit 2E is a copy of the CPS Notice of Action and Rights, dated [REDACTED].
17. Respondent's Exhibit 2F is a copy of the Request for Expungement from CPS Central Registry, received [REDACTED].

18. Respondent's Exhibit 2G is a copy of an email from CPS Supervisor [REDACTED] to Petitioner, dated [REDACTED].
19. Respondent's Exhibit 2H is a copy of the Child Abuse/Neglect Action, dated [REDACTED].
20. Respondent's Exhibit 2I is a copy of the undated Central Registry screen print.
21. Respondent's Exhibit 2J is a copy of the Hearing Summary, dated [REDACTED].
22. Respondent's Exhibit 3A is a copy of the CPS Complaint, dated [REDACTED].
23. Respondent's Exhibit 3B is a copy of the CPS Investigation Report, dated [REDACTED].
24. Respondent's Exhibit 3C is a copy of the Family Risk Assessment of Abuse/Neglect, dated [REDACTED].
25. Respondent's Exhibit 3D is a copy of the [REDACTED] City Police Department Case Report Summary, dated [REDACTED].
26. Respondent's Exhibit 3E is a copy of the Request for Expungement from CPS Central Registry, received [REDACTED].
27. Respondent's Exhibit 3F is a copy of an email from CPS Supervisor [REDACTED] to Petitioner, dated [REDACTED].
28. Respondent's Exhibit 3G is a copy of the Child Abuse/Neglect Action, dated [REDACTED].
29. Respondent's Exhibit 3H is a copy of the undated Central Registry screen print.
30. Respondent's Exhibit 3I is a copy of the Hearing Summary, dated [REDACTED].
31. Respondent's Exhibit 4A is a copy of the CPS Complaint, dated [REDACTED].
32. Respondent's Exhibit 4B is a copy of the CPS Investigation Report, dated [REDACTED].

33. Respondent's Exhibit 4C is a copy of the Family Risk Assessment of Abuse/Neglect, dated [REDACTED].
34. Respondent's Exhibit 4D is a copy of a Petition (Child Protective Proceedings), Case No. [REDACTED], filed [REDACTED].
35. Respondent's Exhibit 4E is a copy of the Ex Parte Order to Take Child(ren) into Protective Custody, Case No. 1 [REDACTED], dated [REDACTED].
36. Respondent's Exhibit 4F is a copy of the Order After Preliminary Hearing, Case No. [REDACTED], dated [REDACTED].
37. Respondent's Exhibit 4G is a copy of the [REDACTED] County Child Advocacy Center Forensic Interview Summary of Child A, dated [REDACTED].
38. Respondent's Exhibit 4H is a copy of a letter to [REDACTED], from [REDACTED], Medical Director of the UMHS Child Protection Team, dated [REDACTED].
39. Respondent's Exhibit 4I is a copy of the [REDACTED] Police Department Case Report Summary, dated [REDACTED].
40. Respondent's Exhibit 4J is a copy of the Request for Expungement from CPS Central Registry, received [REDACTED].
41. Respondent's Exhibit 4K is a copy of an email from CPS Supervisor [REDACTED] to Petitioner, dated [REDACTED].
42. Respondent's Exhibit 4L is a copy of the Child Abuse/Neglect Action, dated [REDACTED].
43. Respondent's Exhibit 4M is a copy of the undated Central Registry screen print.
44. Respondent's Exhibit 4N is a copy of the Hearing Summary, dated [REDACTED].

Petitioner testified on her own behalf. The record was closed at the conclusion of the hearing.

ISSUES AND APPLICABLE LAW

The issue presented is whether Petitioner's record of abuse or neglect should be amended or expunged from the Child Abuse and Neglect Central Registry on the

grounds that the report or record is not relevant or accurate evidence of abuse or neglect.

Section 2 of the Child Protection Law, *supra*, includes the following relevant definitions:

Sec. 2. (f) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy. MCL 722.622(f).

Sec. 2. (j) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

- (i) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.
- (ii) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk. MCL 722.622(j).

Section 7 of the Child Protection Law, *supra*, provides in pertinent part:

Sec. 7.

(1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.

(2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following: * * *.

(4) If the department classifies a report of suspected child abuse or child neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or child neglect. * * * The notice shall set forth the person's right to request expunction

of the record and the right to a hearing if the department refuses the request. * * *.

(5) A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record by requesting a hearing under subsection (6). * * *. MCL 722.627.

FINDINGS OF FACT

Based upon the entire record in this matter, including the testimony and the exhibits, the following findings of fact are made:

1. Petitioner, [REDACTED] (DOB [REDACTED]), currently resides in [REDACTED], Michigan. At times relevant to the investigation in this matter, Petitioner lived in [REDACTED], Michigan. [Resp. Exh. 1A].
2. Petitioner is the mother of three children, daughter "Child A" (DOB [REDACTED]), son "Child B" (DOB [REDACTED]), and daughter "Child C" (DOB [REDACTED]). [Resp. Exh. 1A].
3. On [REDACTED], Officer [REDACTED] of the [REDACTED] Police Department was dispatched to a report of two young girls standing at the intersection of [REDACTED] and [REDACTED] Street. The children were later identified as Child A and Child C. Officer [REDACTED] noted that the children were improperly dressed for the weather conditions. Officer [REDACTED] was eventually able to locate Petitioner's home and made contact with Petitioner, almost 40 minutes after finding the children on the corner. Petitioner had no idea why Child A and Child C were at the intersection and she was not even aware that her children were gone. At that time, CPS was contacted. Officer [REDACTED] noted that the apartment was in complete disarray. There were clothes everywhere, dirty dishes in the kitchen, as well as lots of junk and garbage that had not been taken out. CPS informed Officer [REDACTED] that Petitioner's would be filed and completed in order for permanent removal of Petitioner's children. [Resp. Exh. 1E, pp 2-3].
4. On [REDACTED], CPS received a complaint with allegations that Petitioner was unaware that the children had left the home because she was sleeping when the children left. There were also allegations that Child B was unsupervised while Petitioner slept. The Department did find a preponderance of evidence at Improper Supervision, which resulted in a Category III open and closed case. No referrals were made and there was no removal. [Resp. Exh. 1A, p 3; Resp. Exh. 1B, p 2].

5. On [REDACTED], CPS received a complaint that a sex offender, named [REDACTED], was living with Petitioner and there were four young children in the home. The reporting source (RS) reported that [REDACTED] had been living with Petitioner for a month and they had just discovered that [REDACTED] was on the Sex Offender Registry. The RS noted that Petitioner was aware that [REDACTED] was on the Sex Offender Registry. The RS also indicated the residence was next door to an elementary school. CPS completed the investigation and it was a Category IV denial. [Resp. Exh. 1A, p 3; Resp. Exh. 1B, p 2].
6. On or about [REDACTED], CPS received a complaint from a RS, indicating two families were living in a third-floor apartment where there are no screens, bars, or other protection on the windows. The RS reported the children were constantly hanging out the windows and throwing stuff from the windows. The RS indicated they saw the children straddling the windowsill and riding it like a horse. The RS also reported seeing a toddler sitting on the windowsill with his legs hanging out. The RS reported that the windows were high enough that if a child were to fall, they would die. The RS reported that the older child was seen removing the children from the windowsill more than the adults. [Resp. Exh. 1A, p 2].
7. On or about [REDACTED], the RS reported that Petitioner liked to smoke crack in the home. The RS indicated that they knew this because Petitioner had asked them if they knew where to buy crack. After Petitioner asked the RS about where to buy crack, Petitioner then told them how she smokes crack in the house. [Resp. Exh. 1A, p 2].
8. On or about [REDACTED], the RS reported that Petitioner's home is an absolute pig sty and that it reeked. The RS stated that they would not enter Petitioner's home due to the filthy conditions and that Petitioner's children constantly have head lice and are filthy. [Resp. Exh. 1A, p 2].
9. On or about [REDACTED], the RS reported that there were constantly strange men in and out of Petitioner's home. [Resp. Exh. 1A, p 2].
10. On [REDACTED], the case was assigned with alleged maltreatments of Improper Supervision – Neglect and Drug Residence Use. [Resp. Exh. 1A, p 1; Resp. Exh. 1B, p1].
11. On [REDACTED], on-call CPS Worker [REDACTED], accompanied by Sergeant [REDACTED] of the [REDACTED] Police Department, made an unannounced visit to Petitioner's home. Present in the home were Petitioner, Child A, Child B, Child C, a friend of Petitioner's, named [REDACTED] (DOB [REDACTED]), [REDACTED] daughter, "Child D" (DOB [REDACTED]), and son "Child E" (DOB [REDACTED]). Petitioner and [REDACTED] were informed of the allegations and agreed to talk to CPS. Petitioner admitted the screen was ripped out of the window upstairs and that it had already been reported to maintenance. Petitioner stated the window was in the children's bedroom and that it was always kept locked. The window

was closed on inspection. Petitioner admitted to previous drug use and stated she had been clean for the past three years. [Resp. Exh. 1B, p 5].

12. On [REDACTED], 11-year-old Child D was forensically interviewed. Child D reported that Child B tried to get out the window and the neighbors would come and tell her mother and Petitioner. Child D stated that when her mother and Petitioner are told, they get mad and come and get Child B out of the window. Child D reported that this had happened a few times when her mother and Petitioner were downstairs. Child D reported that the window had been broken for a while. Child D also indicated that the house was usually cleaner than it was that day and the kids and grown-ups clean the house. [Resp. Exh. 1B, pp 5-6].
13. On [REDACTED], 7-year-old Child C was forensically interviewed. Child C reported that Child A had recently gone into the road and that when she told her mom, her mom told her to go and get her. Child C stated that she rushed to get Child A and that she was scared when it happened. Child C reported that Child B tries to get out the window every day, and that when he gets halfway out the window, he puts his leg over the edge. Child C stated that her mom would be downstairs when this happened. Child C stated that her mom's friend does drugs and that she kicked him out a few weeks ago. Child C reported that he used a needle when doing this and acted kind of weird after he used it. Child C said that everyone was "freaking out" and that she was scared. Child C stated that the home was usually cleaner. [Resp. Exh. 1B, p 5-6].
14. On [REDACTED], 6-year-old Child E could not be forensically interviewed because he could not understand that he should say "I don't know," instead of guessing when asked about a question he was unsure about. [Resp. Exh. 1B, p 5-6].
15. On [REDACTED], 4-year-old Child A could not be forensically interviewed because she could not distinguish between the truth and a lie. [Resp. Exh. 1B, p 5-6].
16. On [REDACTED], 2-year-old Child B was unable to be forensically interviewed based on his age. [Resp. Exh. 1B, p 5].
17. On [REDACTED], after the forensic interviews, Sgt. [REDACTED] realized there was a white male in one of the upstairs bedrooms. Sgt. [REDACTED] asked Petitioner the male's name and Petitioner said his name was [REDACTED]. Sergeant [REDACTED] went upstairs and asked the man his name and he stated his name was [REDACTED] (DOB [REDACTED]). Sergeant [REDACTED] ran his name and found [REDACTED] had an outstanding warrant out of [REDACTED] County for dangerous drugs and a probation violation. Before [REDACTED] could be taken into custody, he fled the scene. Petitioner denied knowing his real name or that he had a warrant. [Resp. Exh. 1B, p 5-7].

18. On [REDACTED], the home conditions were observed to be cluttered, but not unsafe. There were not enough beds for the children in the home and proper linens were not on the bed. There appeared to be an adequate supply of food in the home. [Resp. Exh. 1B, p 5-7].
19. On [REDACTED], an unannounced visit by CPS was conducted. The window had been fixed earlier that day and was observed to have screens that lock and unlock. The windows were unlocked and Petitioner stated she would lock the windows, which she did. [Resp. Exh. 1B, p 7].
20. On [REDACTED], the Family Risk Assessment of Abuse/Neglect showed a total Neglect score of 7 and a total Abuse Risk Score of 3, indicating a High Risk Level. [Resp. Exh. 1C].
21. On [REDACTED], CPS contacted [REDACTED]. [REDACTED] stated that she and her children had been staying at her boyfriend's and when she returned home to Petitioner's residence for more clothes, there were three random men in Petitioner's home that she did not know. [REDACTED] stated that Petitioner was hanging out with shady people. [REDACTED] stated that she is getting out of Petitioner's home as soon as possible. [Resp. Exh. 1B, p 9-10].
22. On [REDACTED], Forensic Fluids Documentation confirmed that Petitioner tested negative for drug use. [Resp. Exh. 1B, p 10].
23. On [REDACTED], CPS conducted a Family Team Meeting at Petitioner's residence. Petitioner, Petitioner's biological mother, Child A, Child B, and Child C were in attendance. Families First social worker, [REDACTED], was also in attendance. Petitioner committed to finishing the services with Families First. Petitioner was informed she would be placed on Central Registry. [Resp. Exh. 1B, p 10].
24. On [REDACTED], Petitioner was placed on Central Registry. [Resp. Exh. 1F].
25. On [REDACTED], Officer [REDACTED], of the [REDACTED] Police Department, was dispatched to Petitioner's resident based on a report of a possible 2-year-old who cut the screen out of an upper level window of a duplex and was hanging out the window. Upon arrival, Officer [REDACTED] made contact with numerous juveniles in the residence who all appeared to be under the age of seven. Officer [REDACTED] entered and asked that they get a person in charge or an adult, but the children just giggled and ran to another room. At the top of the stairs, Officer [REDACTED] saw what appeared to be a young child, later identified as a 1-year-old female. Officer [REDACTED] went up the stairs and there was nobody else around. Officer [REDACTED] found a lady's razor in the bathroom area with blood on it and blood on the sink. The bathtub had running water in it, turned only to hot, and was extremely hot to the touch. Another juvenile was located in the residence, who said he was just watching television. The juvenile advised that the person in

charge had stepped out of the residence. An adult emerged from the basement approximately five minutes later. The adult said he had been sleeping downstairs and thought the male who stepped out was watching the kids. CPS contacted Petitioner who was advised to come home and take possession of her children. It was learned later that 2-year-old Child B had actually been playing with the razor in the bathroom and had cut out one of the screen windows. Child B had also nicked one of his fingers and had turned the water on in the bathtub to clean his finger. CPS told Officer [REDACTED] that they would wait for Petitioner to come home and take possession of the children and then complete their investigation. [Resp. Exh. 1D, pp 2-3].

26. During the hearing in the above captioned matter, Petitioner testified that Child B had Autism and he did not start walking until he was almost two. She stated that Child B was six inches shorter than the window. [Testimony of [REDACTED]].

27. Petitioner's testimony was less than credible based on the record evidence.

28. On [REDACTED], CPS received a complaint that Petitioner's children, Child A, Child B and Child C, were playing outside while Petitioner was in the home. Child A and Child C were down the street playing. Child B was 20 minutes away from home with an unknown male. The police encountered the male with Child B and took Child B back to Petitioner. It was unknown how the unknown male contacted Child B or what he was doing with Child B. There was concern about the supervision of Petitioner's children because there were six sex offender's living in the same neighborhood as Petitioner and her children. [Resp. Exh. 2A, p 3].

29. On [REDACTED], Petitioner was process through Central Registry and showed as being on the registry for the Category II Improper Supervision case. There appeared to be a trend of allegations, based on the previous four rejected complaints at intake. [Resp. Exh. 2B, p 2].

30. On [REDACTED], CPS Investigator [REDACTED] forensically interviewed Child C. Child C reported that Child B got lost yesterday, because Child A left him. Child C reported that Child A followed Child C into the office which was located at the front of the mobile home community and Child A told Child C that she had left Child B by a tree and told him to stay. Child C reported that Petitioner was inside doing laundry and making dinner. Child C stated that she knew this because Petitioner told her. [Resp. Exh. 2B, p 4].

31. On [REDACTED], CPS Investigator Raleigh interviewed Petitioner's mother. Petitioner's mother reported that the day before, Child B was picked up by Officer [REDACTED] and returned to the home. Petitioner's mother reported that she was in the house with Petitioner when Petitioner allowed Child A and Child B to go play in the yard unsupervised. Petitioner's mother stated that Petitioner told the

children to stay in the yard. Petitioner was doing laundry and making dinner. After 10-15 minutes, Petitioner's mother did not hear any noise coming from outside and told Petitioner to go check on her children. Petitioner told her mother that she found Child A and Child C at the office and that Child A reported she left Child B by a tree. Petitioner drove around the mobile park looking for Child B. Petitioner's mother reported that Officer [REDACTED] returned Child B to the residence and spoke with Petitioner. [Resp. Exh. 2B, p 4].

32. On [REDACTED], CPS Investigator [REDACTED] interviewed Child A. Child A reported that Petitioner said that Child B had been stolen and returned by the police. Child A did not see Child B with anyone because she left him outside alone to go ride her bike. Child A stated that Petitioner never goes outside with her to watch her and she is outside all the time without an adult. [Resp. Exh. 2B, p 5].
33. On [REDACTED], CPS Investigator [REDACTED] interviewed Petitioner. Petitioner reported that [REDACTED] Police Officer [REDACTED] returned Child B last night after Petitioner had noticed him missing. Petitioner stated that the children were all told to stay in the yard and she did not check on them for about ten minutes. Petitioner went to look in the yard after ten minutes because her mother stated that she could not hear the children playing. Petitioner was starting laundry and dinner at the time. Petitioner went outside and began looking for Child B on foot, then returned for her car and drove around the mobile home park looking for Child B. Petitioner believed that Child B was purposefully walked away from the residence by a stranger. [Resp. Exh. 2B, p 5].
34. On [REDACTED], CPS Investigator [REDACTED] observed Child B with skin missing from his nose and face. CPS Investigator [REDACTED] asked Petitioner about the marks on Child B's face. Petitioner stated that Child B fell down the neighbor's stairs while she was not watching him. [Resp. Exh. 2B, p 5].
35. On [REDACTED], Officer [REDACTED] contacted CPS Investigator [REDACTED] and stated that Child B was found with [REDACTED] and [REDACTED] at their residence. Officer [REDACTED] reported that the distance from where Child B was found and his home were just over .3 miles. [Resp. Exh. 2B, p 6].
36. On [REDACTED], CPS Investigator [REDACTED] interviewed [REDACTED] who had found Child B. [REDACTED] reported that he found a minor child walking down [REDACTED] Road toward [REDACTED] Road. His girlfriend and he call the police and the child played in his yard until the police arrived approximately 15 minutes later. [REDACTED] went with police to locate the child's parents. [REDACTED] stated that he did not know Child B or the parents and had never seen them before that day. [Resp. Exh. 2B, p 7].
37. On [REDACTED], a preponderance of evidence to support the allegations of Improper Supervision against Petitioner was found. The case was opened at a Category II, High Risk Level. [Resp. Exh. 2B, p 8].

38. On [REDACTED], Petitioner was placed on Central Registry for Improper Supervision. [Resp. Exh. 2E].
39. On [REDACTED], CPS received a complaint that Petitioner was living with her boyfriend, [REDACTED], and her children, Child A, Child B, and Child C. [REDACTED] allegedly stole Petitioner's phone and charger because he was mad about something she said to a coworker, but he would eventually give it back. On a different day, he broke into the house and stole the plug to the television so they could not watch television. On [REDACTED], Petitioner served [REDACTED] with an eviction notice on the front porch and told him he would have to wait for the police to get there before he could get his things. [REDACTED] pushed Petitioner up against the railing, almost causing her to fall off, and then ran up the stairs to get his stuff. Petitioner followed him upstairs where [REDACTED] punched and slapped Petitioner. Petitioner had bruises on her right arm, right leg, and right hip. The domestic violence occurred in front of Petitioner's children. The children were not involved or injured in the fight. Child A and Child C disclosed that [REDACTED] used to squirt soap into their mouths to make them throw up and slap them when he was babysitting them. He would also make them sit in the corner all day and not feed them. [REDACTED] left the residence on [REDACTED]. [Resp. Exh. 3A, p 2].
40. On [REDACTED], CPS Worker [REDACTED] interviewed Petitioner. Petitioner reported the allegations were true and that she and [REDACTED] had gotten into a physical altercation in the presence of the children. [Resp. Exh. 3B, p 6].
41. On [REDACTED], Child C was forensically interviewed by CPS Worker [REDACTED]. Child C disclosed that [REDACTED] made her swallow soap and that he would hit her with a closed fist. Child C also stated that [REDACTED] threatened to kill her family. Child C said that she told Petitioner about [REDACTED] disciplining her and that Petitioner told [REDACTED] not to touch her children. [Resp. Exh. 3B, pp 6-7].
42. On [REDACTED], CPS Worker [REDACTED] forensically interviewed Child A. Child A stated that she had observed her mother and [REDACTED] get into a fight and that [REDACTED] took the television cord from their house. Child A disclosed that [REDACTED] made her swallow soap as punishment. Child A also disclosed sexual abuse and stated that her mother failed to protect her from the sexual abuse. Law enforcement was immediately contacted and took the children into protective custody. [Resp. Exh. 3B, p 7-8].
43. On [REDACTED], CPS Worker [REDACTED] interviewed [REDACTED]. [REDACTED] admitted he put soap in Child A and Child B's mouths. He also admitted that there had been a domestic violence incident between himself and Petitioner that the children witnessed. When [REDACTED] was asked about the sexual abuse allegations, [REDACTED] denied them all. [Resp. Exh. 3B, p 12].

44. On [REDACTED], Petitioner was placed on Central Registry. [Resp. Exh. 3H].
45. On [REDACTED], CPS received a complaint that Child A disclosed that [REDACTED] touched her private area while Petitioner was at work. Child A had told [REDACTED] to stop and he said no. Child A informed Petitioner of this and Petitioner advised her not to tell their active CPS Worker because she does not want to go to jail. Child A and Child C reported that they do not feel safe at home because [REDACTED] could return at any time. Child A reported that she feels most safe at her grandmother's residence. Child A stated that she felt more comfortable knowing that [REDACTED] could never come back to the home. [Resp. Exh. 4A, p 2].
46. On [REDACTED], CPS on-call worker [REDACTED] was interviewing Child A regarding concerns of a previous investigation and Child A spontaneously disclosed that she was being sexually abused by [REDACTED]. Child A reported that the abuse occurred when Petitioner was at work and that Petitioner found out about the abuse and told Child A not to tell CPS because Petitioner would go to jail. [Resp. Exh. 4B, p 5-6].
47. On [REDACTED], Child A disclosed the same allegations of sexual abuse by [REDACTED] to Officer [REDACTED] of the [REDACTED] Police Department. [Resp. Exh. 4B, p 7].
48. On [REDACTED], [REDACTED] Police Department Officer [REDACTED] and CPS on-call worker [REDACTED], interviewed Petitioner regarding the allegations. Petitioner stated that a friend of [REDACTED] told her the he would not be surprised if [REDACTED] had been touching the children. Petitioner stated that she asked the children about this and that they denied being touched. Petitioner denied telling her children to lie. [Resp. Exh. 4B, p 7].
49. On [REDACTED], as a result of the sexual abuse concerns and the failure to protect from sexual abuse, police took protective custody of the children. An Order was obtained, removing the children from Petitioner's care. [Resp. Exh. 4B, pp 7-8; Resp. Exh. 4D; Resp. Exh. 4E].
50. On [REDACTED], Petitioner's children were placed with DHHS for care and supervision. [Resp. Exh. 4f, p 4].
51. On [REDACTED], Petitioner pled to the Petition and adjudication was granted. [Resp. Exh. 4B, p 9].
52. On [REDACTED], Child A was forensically interviewed at the Child Advocacy Center. During the interview, Child A revealed that [REDACTED] "did something," but she would not discuss it in further detail. [Resp. Exh. 4B, p 11].

53. On [REDACTED], documentation was received by CPS from [REDACTED] of the [REDACTED] Child Protection Team. The documentation indicated that the physical examinations of the children were normal. However, Child C disclosed to [REDACTED] that Child A and Child B were sexually abused by [REDACTED] and that she was also sexually abused by him. [REDACTED] noted that Child C would be reluctant to disclose any potential abuse she may have suffered due to the fact that Child C stated that [REDACTED] threatened to harm Petitioner if the children told anyone of the abuse. Dr. [REDACTED] could not rule out sexual abuse for any of the children. [Resp. Exh. 4B, p 12; Resp. Exh. 4H].
54. On [REDACTED], Child A was interviewed again at the Child Advocacy Center and disclosed multiple incidents of sexual abuse by [REDACTED]. [Resp. Exh. 4B, p 12; Resp. Exh. 4E].
55. Petitioner testified in the above captioned matter. Petitioner stated she did not know about the sexual abuse because when she asked Child A and Child C about it, the both said, "no." Petitioner stated that she may have left her children with horrible babysitters, so she was not arguing the improper supervision. [Testimony of [REDACTED]].
56. When Petitioner was questioned on cross-examination about Child A's spontaneous admission, during the hearing in this matter, Petitioner replied that you "can't trust that it was a spontaneous admission." [Testimony of [REDACTED]].
57. Petitioner was placed on Central Registry as a perpetrator of failure to protect, and neglect of her children. [Resp. Exh. 4B, 14; Resp. Exh. 4M].

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. The burden of proof is on the Respondent to prove, by a preponderance of the evidence, that relevant and accurate evidence of abuse or neglect exists and that the placement of Petitioner's name on the Central Registry was appropriate.

As a trier of fact, the Administrative Law Judge must determine the weight, the effect and the value of the evidence. The Administrative Law Judge must consider and weigh the testimony of all witnesses and evidence.

The protective services hearing process is a quasi-judicial, contested case proceeding required by law to determine if a petitioner's name must remain on the Central Registry as a perpetrator of abuse and/or neglect.

When a hearing is requested, the presiding Administrative Law Judge conducts a *de novo* review, in which the Respondent has the threshold burden to prove, by a preponderance of the evidence, that a petitioner has committed child abuse and/or child

neglect as defined by the Child Protection Law, *supra*. If this threshold burden is met, then the Respondent must also prove that the matter has been properly placed on the Central Registry in conjunction with the provisions of the Child Protection Law, MCL 722.628d.

A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it. *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

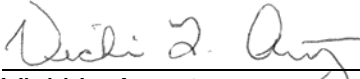
Based on the above findings of fact and record evidence, Respondent has proven by a preponderance of the evidence that it was legally appropriate to list Petitioner's name on Michigan's Central Registry for Case Number [REDACTED], with Complaint Dates of [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED].

Accordingly, after reviewing the hearing record in full and applicable law, it is the ruling of this Administrative Law Judge that Petitioner's name was properly placed on the Central Registry. Therefore, Respondent's refusal to remove Petitioner's name from the Central Registry is upheld.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Petitioner's name shall not be expunged from the Child Abuse and Neglect Central Registry for referral or complaint dates of [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED].

Accordingly, Respondent's decision is **AFFIRMED**.



Vicki L. Armstrong
Administrative Law Judge

APPEAL NOTICE: Within sixty (60) days after the date of mailing of this Decision and Order, a petition for review may be filed in a court of proper jurisdiction. The Michigan Administrative Hearing System (MAHS), on its own motion or on request of a party, may order rehearing or reconsideration. A written request for rehearing or reconsideration must be filed within sixty (60) days after the date of mailing of this Decision and Order with the Michigan Administrative Hearing System, P.O. Box 30763, Lansing, MI 48909 (fax 517-373-4147), with a copy to all parties to the proceeding.

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 8th day of June 2017.

Brianna Beck _____

Brianna Beck

Michigan Administrative Hearing System

[REDACTED]

[REDACTED]

[REDACTED]