

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

TERRY SYLVESTER,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D02-2846

FLORIDA DEPARTMENT OF  
CHILDREN AND FAMILIES,

Appellee.

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Opinion filed December 31, 2003.

An appeal from an order of the Department of Children and Families.

Megan Wall of Jacksonville Area Legal Aid, Inc., Jacksonville, for Appellant.

Roger L. D. Williams of Department of Children and Families, Jacksonville, for Appellee.

PER CURIAM.

The Department of Children and Families hearing officer erred in ruling that she did not have jurisdiction to hear this case. The controlling regulation states: "No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been

imposed." 7 C.F.R. §273.16(f)(2)ii (2002). Because a disqualification penalty has not been imposed in this case, the Appellant did not lose her right to an administrative appeal and the hearing officer has jurisdiction to determine the limited issue of whether the waiver of disqualification hearing was properly obtained. See Bourne v. Dep't of Social Welfare, 591 A.2d 79, 80-81 (Vt. 1991).

Therefore, we REVERSE and REMAND for further proceedings.

KAHN, WEBSTER and VAN NORTWICK, JJ., CONCUR.