

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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T/hr

_____AD3d_____

Argued - March 16, 2018

JOHN M. LEVENTHAL, J.P.
ROBERT J. MILLER
COLLEEN D. DUFFY
HECTOR D. LASALLE, JJ.

2016-02041

DECISION & JUDGMENT

In the Matter of Josephine Faponnle, petitioner,
v New York State Office of Children and Family
Services, et al., respondents.

(Index No. 12564/15)

Gail M. Blasie, Garden City, NY, for petitioner.

Eric T. Schneiderman, Attorney General, New York, NY (Anisha S. Dasgupta and
Matthew W. Grieco of counsel), for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of the designee of the respondent Acting Commissioner of the New York State Office of Children and Family Services, dated March 20, 2015, which, after a hearing, affirmed a prior determination of the New York State Office of Children and Family Services dated November 5, 2014, to revoke the petitioner's license to operate a group family day care home.

ADJUDGED that the determination dated March 20, 2015, is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with costs.

The petitioner commenced this proceeding pursuant to CPLR article 78 seeking review of the determination of the designee of the Acting Commissioner of the New York State Office of Children and Family Services (hereinafter OCFS), which affirmed a prior determination of OCFS to revoke the petitioner's license to operate a group family day care home.

In a proceeding of this nature, this Court must determine whether the determination is, on the entire record, supported by substantial evidence (*see* CPLR 7803[4]; *Matter of*

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Occhiogrosso v New York State Off. of Children & Family Servs., 72 AD3d 1092, 1092; *Matter of Bauer v New York State Off. of Children & Family Servs., Bur. of Early Childhood Servs.*, 55 AD3d 421, 422).

Here, the determination of the designee of the Acting Commissioner of OCFS is supported by substantial evidence (*see Matter of Liddell v New York State Off. of Children & Family Servs.*, 117 AD3d 742, 743; *Matter of Simpson v New York State Off. of Children & Family Servs.*, 94 AD3d 1008, 1008). Further, the penalty imposed did not constitute an abuse of discretion (*see Matter of Simpson v New York State Off. of Children & Family Servs.*, 94 AD3d at 1009; *Matter of Occhiogrosso v New York State Off. of Children & Family Servs.*, 72 AD3d at 1092). Accordingly, the determination should be confirmed, the petition denied, and the proceeding dismissed on the merits.

LEVENTHAL, J.P., MILLER, DUFFY and LASALLE, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court