

BEFORE THE  
DEPARTMENT OF SOCIAL SERVICES  
STATE OF CALIFORNIA

In the Matter of:

PEBBLE THOMAS  
dba Thomas Family Child Care  
3911 Pierce Street, #454  
Riverside, CA 92505

Respondent.

Case No. 6702148001

OAH No. L2002060071

10 CDSS 09

**PROPOSED DECISION**

On July 2, 2002, in Riverside, California, Stephen E. Hjelt, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Rebecca Phillip Freie, Staff Attorney, represented the complainant (hereafter Department).

Respondent Pebble Thomas was present and represented herself.

The parties entered into certain stipulations at the outset of the hearing. The parties agreed that paragraphs 1-9 were without substantial controversy and would be deemed true for the purpose of any findings made in the case.

The matter was submitted on July 2, 2002.

**FACTUAL FINDINGS**

1. On June 27, 2002, Martha Lopez, the Deputy Director, Community Care Licensing Division, California Department of Social Services, pursuant to Government Code section 11503, filed Accusation No. 6702148001 in her official capacity. Respondent Pebble Thomas filed a timely Notice of Defense.

2. The Department issued facility license number 334810139 to respondent Pebble Thomas to operate a family day care at 3911 Pierce Street, #454, Riverside,

California 92505 in December 2001. The license allowed respondent to serve up to six clients. The maximum capacity was six children with no more than three infants, or four infants only, or a capacity of eight children when two are at least six years of age with a maximum of two infants.

3. The charges against the respondents are simple and straightforward and are recited verbatim as follows:

“10. On or about May 22, 2002, Respondent was cited for violating Vehicle Code section 15620(a)(1) as she left Children Nos. One through Six in her vehicle without an adult being present. The oldest child, Child No. One, was nine years of age. Children No. Two through Six ranged from thirteen months to three years six months of age. When law enforcement arrived, the windows of the vehicle were closed and the temperature inside the vehicle exceeded 87 degrees F. Respondent was absent from the vehicle for at least twenty minutes.

11. On or about May 22, 2002, Respondent transported a child in her vehicle who was not properly restrained in an appropriate seat belt.”

4. The incident of May 22, 2002 is not disputed by respondent. It happened, she candidly admits, and she is shamed and embarrassed by it. In the aftermath, the Department exercised its powers under Health and Safety Code sections 1596.885 and 1596.886 and summarily suspended respondent’s license to operate a family child care home pending the outcome of an administrative hearing. Such orders are made when the Department determines that suspension is necessary to protect children in care at the facility from substantial threat to their health and safety.

5. On May 22, 2002, respondent had spent an extended period of time with her nine-year-old daughter and five children in care at a local McDonald’s restaurant. She was driving home when she remembered that she needed to make a deposit at her bank. It was a warm day in Corona although not boiling hot the way it generally is in August or September. She stopped at the bank, which is on the third floor of an office building located at 255 E. Rincon, Corona around 2:00 p.m. The five children in care were all asleep in the van and respondent’s nine-year-old daughter was awake. Respondent left her daughter in charge and went into the building to do her banking. When she left, the windows of the van were rolled down. Her daughter rolled them up.

6. At approximately 2:00 p.m., Stephen Longard entered the parking lot of the office building and parked near respondent’s van. He exited his vehicle and was on his cell phone when he noticed the van and activity within it. Something about it made him uncomfortable. There appeared to be children left alone in a van and the weather was warm. Out of an abundance of caution, he called the Corona Police Department. Corona police units and a fire department unit responded immediately. The children were removed from the vehicle. They felt warm and were sweaty. The temperature inside the van was warm and

potentially unsafe for its occupants. Fortunately, the children were removed before they suffered harm.

7. Respondent exited the building while the police investigation was taking place. She cooperated fully with the police and in no way attempted to deceive them.

8. Respondent was gone from her vehicle for somewhere between 15 and 20 minutes. She felt it was safe to leave her nine-year-old daughter in charge since she would be gone such a short period of time and the five children in care were asleep.

9. The issue here is not whether a violation occurred. The simple fact is that two violations occurred here. The issue is what is the appropriate discipline that is required based upon the totality of the circumstances.

10. The violations committed by respondent are most serious. She left children in care unattended in a car with a nine-year-old in charge. She also transported a child in her vehicle without the necessary car seat. Leaving five young children in a car unattended by an adult (a nine-year-old in no way substitutes for the judgment expected of an adult) exposed those children to a most unacceptable level of risk of harm and demonstrates a severe lack of judgment on the part of respondent. It is clear that respondent meant no harm in leaving the children with her daughter. However, good intentions or honorable motives are not the yardsticks by which such conduct must be evaluated.

11. Respondent is 34 years old and the mother of three children ages nine, 12 and 14. She received her bachelor's degree from Washington State University in Pullman, Washington, in 1999. She is devoted to her children and their well being. She was abused as a child and is committed to giving any child she comes in contact with a better chance at life than she experienced. She is contrite and accepts responsibility for her actions. She does not sugar-coat them in any way. She knows that she exercised poor judgment.

12. Respondent did not present as a clueless individual who blamed others for her difficulties. She quite maturely acknowledged her poor judgment and offered to do anything the court might reasonably ask her to do in terms of probation or monitoring of her license. She would like another chance to justify the trust of the Department. She feels she has learned a very valuable lesson and wants to devote her future efforts to serving children through a license with the Department.

13. This is a most unfortunate situation with a very serious violation that exposed children in care to the risk of grave harm. At the same time the respondent exhibits some exceptional qualities that make her potentially a very quality care giver. Because the violation is so serious and because she has been licensed for a very short time, public protection requires that she demonstrate rehabilitative efforts in a non-licensed status to begin with. This is clearly not a person who demonstrates unfitness for the job in such a manner that she should never be re-licensed. Despite the exercise of very poor judgment, this is not the type of action that should disqualify her in perpetuity.

14. Respondent exhibits a sincere and devoted commitment to children. In order to demonstrate that she has learned the necessary lessons from this event she must show a track record of future conduct that is consistently appropriate and law abiding. Rehabilitation is normally demonstrated on the basis of evaluating two different aspects. The first is a state of mind. It involves an appreciation of the gravity of the harm done, remorse for the actions, and a commitment to learning from one's mistakes. This the respondent appears to have grasped already. The second is a state of facts. This involves a track record of consistently appropriate conduct over a period of time from which the Department might conclude that there is a new level of maturity and awareness, thus justifying re-licensure. This is what respondent must do if she is interested in re-licensure in the future.

### LEGAL CONCLUSIONS

1. This matter arises under the California Child Day Care Facilities Act, Health and Safety Code section 1596.70 et seq, which governs the licensing and operation of family child care homes.

2. The regulations, which govern the licensing, and operation of child care family homes are contained in Title 22, California Code of Regulations, Chapter 12, section 102351.1 et seq. The term "family child care home" as used in regulation section 102352(f) is the same as the term "family day care home" as used in Health and Safety Code section 1596.78.

3. Administrative proceedings before the Department of Social Services must be conducted in conformity with the provisions of the California Administrative Procedures Act, Chapter 5, commencing with Government Code section 11500 et seq.

4. By virtue of Health and Safety Code section 1596.854, the Department may institute or continue a disciplinary proceeding against a licensee following the suspension, expiration, or forfeiture of a license.

5. The standard of proof to be applied in these proceedings is the preponderance of evidence by virtue of Health and Safety Code sections 1551(b) and 1558.

6. Cause to impose discipline against the facility license of Thomas Family Child Care issued to respondent Pebble Thomas pursuant to Health and Safety Code sections 1596.885(a)(b) and (c) and Title 22 California Code of Regulations 102402, 102417 and 102423, neglect and lack of supervision, was established by reason of Factual Findings 1-14.

7. Cause to impose discipline against the facility license of Thomas Family Child Care issued to respondent Pebble Thomas pursuant to Health and Safety Code section 1596.885(c) and Title 22, California Code of Regulations, sections 102402, 102417 and 102423, conduct which is inimical to the health, morals, welfare, or safety of either an

individual in or receiving services from the facility or the people of the State of California, was established by reason of Factual Finding 1-14.

### ORDER

The license issued to respondent Pebble Thomas to operate a family child care home is revoked.