

**BEFORE THE  
DEPARTMENT OF SOCIAL SERVICES  
STATE OF CALIFORNIA**

In the Matter of the Accusation:	)	
Against:	)	No. 7897007002
	)	
THURMAN F. DODD	)	OAH No. L-9702201
P.O. Box 7299	)	
San Bernardino, CA 92411	)	<b>99 CDSS 07</b>
	)	
Respondent.	)	
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PROPOSED DECISION

On April 18, 1997, in Riverside, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Gilbert Reynaga, Staff Attorney, represented complainant.

Thurman F. Dodd represented himself.

Evidence was received, the record was closed, and the matter was submitted.

FINDINGS OF FACT

I

Martha Lopez, Deputy Director, Community Care Licensing Division, Department of Social Services, State of California, (hereafter, "Department") filed Accusation (Criminal Record Exemption Denial) number 7897007002 in her official capacity on February 6, 1997, and filed First Amended Accusation (Criminal Record Exemption Denial) on April 10, 1997, Respondent filed a Notice of Defense.

## II

Respondent was a non-client resident of an adult residential facility doing business as Dodd's Adult Residential Facility, located at 1576 W. 8th Street, San Bernardino, California, licensed to Norma E. and Elizabeth D. Dodd. The facility was licensed in 1983. Norma Dodd is respondent's mother; Elizabeth Dodd (Sneed) is respondent's sister and the administrator of the facility. Respondent no longer lives at the facility, but desires to visit his mother and sister.

On July 5, 1996, respondent signed a criminal record statement requesting a criminal record exemption to permit him to be present in a facility licensed by the Department. It was submitted to the Department, which denied the exemption on December 20, 1996. The licensees were notified of the denial and were informed respondent could not continue to have contact with clients in a licensed facility pending an appeal. By letter dated January 1, 1997, respondent appealed the Department's decision.

## III

On December 22, 1993, in the Superior Court California, County of San Bernardino, in the case of People v. Thurman Fletcher Dodd, Jr., case number FSB02617, respondent was convicted upon his plea of guilty to violating Vehicle Code sections 10851(a) (unlawful driving or taking of a vehicle [a felony]), 10752 (possession or sale of counterfeit VIN number [a felony]) and 10750(a) (stamping improper vehicle number [a misdemeanor]). On February 2, 1994, respondent was sentenced to state prison for three years, eight months, execution of the sentence was suspended, and respondent was placed on probation for three years, on condition, among others, he serve 270 days in the county jail. This was a felony sentence. On August 8, 1994, respondent's probation was revoked and he was committed to state prison for the three year, eight month term which had been previously stayed, with credit for 171 days. The court found respondent was a narcotics addict and remanded respondent to the California Rehabilitation Center (CRC) with the order that if he is excluded from the civil commitment at CRC, he was to complete his prison sentence.

Respondent was admitted into the civil commitment program at CRC, completed it, and was released on May 11, 1995. He did not serve any time in state prison. He is presently on parole.

#### IV

On April 10, 1991, in the San Bernardino County Municipal Court, in the case of People v. Thurman Dodd, case number TSB79953, respondent was convicted upon his plea of guilty to one count of violating Health and Safety Code section 11377(a) possession of a controlled substance (methamphetamine), a misdemeanor. He was placed on probation for one year and ordered to serve 30 days in the county jail.

#### V

On January 9, 1991, in the San Bernardino County Municipal Court, in the case of People v. Thurman Dodd, case number MSB61867. respondent was convicted upon his plea of guilty to one count of violating Health and Safety Code section 11377(a) possession of a controlled substance (methamphetamine), a misdemeanor, and one count of violating Business and Professions Code section 4149, possession of a hypodermic needle or syringe, a misdemeanor. He was ordered to serve 30 days in the county jail.

#### VI

On January 28, 1986, in the San Bernardino County Municipal Court, in the case of People v. Thurman Dodd, case number MSB33725. Respondent was convicted upon his plea of guilty to one count of violating Penal Code section 666, petty theft with a prior, a misdemeanor. He was ordered to serve 30 days in the county jail.

#### VII

On February 6, 1985, in the San Bernardino County Superior Court, in the case of People v. Thurman Dodd, Jr., case number CR41938, respondent was convicted upon his plea of guilty to one count of violating Penal Code section 12303, possession

of explosives, a felony. He was placed on probation for three years and ordered to serve ten days in county jail and was fined. On March 24, 1986, probation was revoked, then reinstated, with an order that respondent serve 36 days in the county jail. On June 18, 1987, probation was again revoked and reinstated on condition he serve 270 days in county jail.

#### VIII

On June 8, 1983, in the San Bernardino County Municipal Court, in the case of People v. Thurman Fletcher Dodd, case number TSB45004. respondent was convicted upon his plea of guilty to one count of violating Penal Code section 12025(b), carrying a concealed weapon on his person, a misdemeanor. He was placed on probation for two years.

#### IX

On November 19, 1990, April 10, 1991, and April 9, 1992, respondent was convicted of violating Vehicle Code section 14601.1, driving with a suspended or revoked license. On July 24, 1996, he was convicted of speeding.

#### X

On July 5, 1996, respondent signed a criminal record statement under penalty of perjury in which he admitted he had been convicted of various crimes but wrote that he had no felony offenses on his record. This statement is false in that respondent has been convicted of three felonies.

Respondent testified in his own behalf and claimed he did not believe he had been convicted of any felonies. He testified his parole officer told him his last commitment was a civil commitment in a drug rehabilitation program, not a state prison commitment, so there was no felony conviction. He has never been to state prison. Respondent has been convicted of three felonies at two different times, and even though he has not been to prison, he would have learned through his extensive involvement in the criminal justice system that a felony conviction does not require time in state prison. Moreover, it is doubtful his parole officer would have told him his last

commitment was not a felony when in fact it was, and surely the parole officer knew that. The parole officer did not testify to corroborate respondent. Respondent's claim he was unaware of his conviction status is not credible and adversely affects his assertion he has become rehabilitated.

## XI

Respondent admitted he had been a long time drug user, and most of his criminal behavior had involved drugs in one way or another. After his probation was revoked and he was committed to CRC, respondent entered a drug rehabilitation program. He stayed at CRC for a few months and was then transferred to the Adelanto Community Correctional Facility where he completed the C.H.O.I.C.E. program. It is in three phases and consists of a 90 day, 270 hour substance abuse treatment program based upon the 12 step AA/NA model, and includes attending daily classroom sessions, one-on-one counseling sessions with an instructor on a weekly basis, attending group therapy meetings weekly and attending a minimum of 24 AA/NA meeting. Respondent completed the program on March 31, 1995, and he was released from Adelanto about a month later.

Since his release, respondent has not used drugs. He lived with his mother for a short time at the licensed facility. He then moved out and lives alone in San Bernardino. He presently works for Trak Auto, going from store to store to help remodel existing stores or build new ones. His work there has been satisfactory.

Respondent attends church about three times a week and considers the church his support group. He is well liked by others in his church.

Before respondent began the drug rehabilitation program, his sister would not let him come to her home for more than a few minutes. When he was using drugs, she did not know where he lived. But since his release, she has found him to be a different person. He has made a great effort to change, to get a job, and hold it. She would let him visit her, her 15 year old son, and her mother at the licensed facility more often.

## XII

Respondent has apparently taken the first steps on the way to rehabilitating his life. He has admitted his drug problems, admitted it has affected his life in a substantially negative way, and has done something about it. He completed the drug rehabilitation program, has apparently stayed away from drugs since then, and is working in a productive capacity.

Respondent faces a long road. Less than two years have elapsed since his release from Adelanto. He is still on parole. While his efforts to improve his life should be and are commended, it is still too early in the rehabilitation process for the Department to conclude he would pose no risk to clients in care at a licensed facility operated by his mother and sister. Respondent's confident assertion he is rehabilitated is no substitute for a track record of accomplishment.

### DETERMINATION OF ISSUES

#### I

Cause to prohibit a licensee from employing, or continuing the employment of respondent, or allowing respondent in a licensed facility, or allowing respondent contacts with clients of a licensed facility, pursuant to Health and Safety Code section 1558(a)(3), was established by Findings III through XIII, X, XI, and XII.

#### II

Cause to deny respondent an exemption from disqualification for employment, residence, or presence in a community care facility pursuant to Health and Safety Code section 1552(g)(1) was established by Findings III through XIII, X, XI, and XII.

ORDER

I

The denial of respondent's request for a criminal record exemption and the order made by the Department of Social Services on December 20, 1996, to Dodd's Adult Residential Facility which prohibited the licensees from employing respondent, continuing his employment, allowing him in a licensed facility, or allowing him contact with clients of a licensed facility, is affirmed.

II

Respondent Thurman F. Dodd is prohibited from being employed in, residing in, being present in, or having contact with the clients of any facility subject to licensure by the Department of Social Services.