

Appeal No. 18Y0147 PS

APPEAL HEARING SUMMARY

PREPARED BY:

Dana Phillips, LBSW
Prevention and Protection Services Supervisor

January 31, 2018

Wichita Regional Office

APPELLANT'S NAME:

Michael Capps

APPELLANT'S ADDRESS:

[REDACTED]

STATEMENT of APPELLANT: Michael Capps contests the Affirmed finding of emotional abuse of [REDACTED] and [REDACTED]. See attached Appeal Request.

CHRONOLOGY:

On November 17, 2017, this agency received a report of alleged emotional abuse of [REDACTED] ([REDACTED] years old; dob [REDACTED]) and [REDACTED] ([REDACTED] years old; dob [REDACTED]) by Michael "Mike" Capps ([REDACTED] CASA worker). Per the report, Mike had inappropriate contact with the [REDACTED] and [REDACTED], is overinvolved with the children, has been seen carrying the children, petting hair, hugging, kissing, and having them sit on his lap. Additionally, the foster parent believes Mike has been grooming the kids and is trying to get [REDACTED] into his own home. Mike has reportedly been saying he has extra beds at his home for any of the foster parent's kids. Additionally, all agencies involved have concerns about Mike's boundaries.

This worker spoke with foster mother, who stated that ever since [REDACTED] came into her home, his CASA worker, Michael Capps, has told her that having five boys is too much, and he has another home lined up for [REDACTED]. Foster mother stated that [REDACTED]'s previous foster mother told her to keep an eye on Mike, because he was wanting to see [REDACTED] every 3 days, whereas the other CASA workers only visit once a month. [REDACTED] stated that Mike wanted to be involved in family activities, and he gave the kids gifts and food often. Foster mother stated that Mike would come over and hug and kiss [REDACTED] and carry him around. She reported that one time, Mike was sitting in the bleachers at a football game, and had his legs wide open with [REDACTED] standing between his legs facing him, and he was letting [REDACTED] put his hands-on Mike's breasts. She stated that on another day, Mike was sitting in her living room on the couch, and he had [REDACTED] on his lap, and [REDACTED] was laying his head-on Mike's chest and rolling Mike's nipples with his fingers. She stated that Mike calls and texts her constantly, and since Mike and [REDACTED] came into

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her life, [REDACTED] has started to have sexualized behaviors. She stated that every day, she would receive multiple texts from Mike about how [REDACTED] and [REDACTED] did at school.

When this worker interviewed [REDACTED], he stated that Mike always gave them ice cream, and he came to visit all of the kids, not just [REDACTED]. He stated that Mike has kissed him on the forehead. He stated that he remembered that Mike was big and fat, and that he sat on Mike's lap. He stated that he and [REDACTED] were both usually with Mike together. He did remember Mike letting him touch Mike's belly and his chest. He remembered sitting on Mike's lap and playing with Mike's nipples, and foster mother got mad, but Mike just got frustrated.

This worker spoke with [REDACTED]'s therapist, [REDACTED]

[REDACTED] was interviewed and said that Mike is his friend. He stated that Mr. Mike lets him play on his phone or tablet, and when [REDACTED] and Mr. Mike play they hug. [REDACTED] stated that he used to hug Mike and jiggle his belly. [REDACTED] reported that Mike "loves me and stuff." Mike told [REDACTED] he loves him when Mike visited him at school. [REDACTED] stated that Mike visits him at home and at school and everywhere he goes on Fridays.

This worker interviewed Michael "Mike" Capps. Mike denied that he had ever offered himself as an adoptive resource for [REDACTED]. He stated that he planned to visit [REDACTED] at least once a week, but he visited more than that, since there were 4 other children craving contact. He stated that he also visited [REDACTED] twice a week for lunch at school. He denied having inappropriate touch with any [REDACTED] or [REDACTED]. When asked if [REDACTED] grabbed Mike's nipples, Mike responded, "I do not believe so." He stated that the kids like to pat his pot belly. He stated that on [REDACTED] 17, he came to foster mother's for a visit, and she said there were new rules, and Mike could not have [REDACTED] sit on his lap or hug him. He stated that on this night, he had brought travel buckets for all the kids to take on their trip to Disneyland. He stated that he and [REDACTED] had planned about 1 ½ weeks prior to this that Mike would watch the kids while [REDACTED] went to a meeting. He stated that he could spend some time with the kids before their trip this way, so they agreed that Mike would babysit that night. He reported that he had brought his Disney pins and lanyards to the home for the kids to take to Disneyland. He stated that soon after [REDACTED] left, Mike got a phone call that the kids were going to be removed that evening.

On 1-3-18, this worker spoke with CASA Advocacy Director. Director stated that the standard for frequency of contact with a child is a minimum of once a month, but as often as is necessary to determine the child's well-being. She stated that the volunteer provides monthly reports to

CASA and to the court. Director stated that she and the senior peer coordinator review those reports to determine if there is enmeshment happening that involves a conflict of interest or a bias. She stated that they only check in with the volunteer if there are red flags. Regarding affectionate behaviors which are deemed appropriate, she stated that fist bumps, side-hugs, and sitting beside the child are all appropriate. Director stated that it is not appropriate for a volunteer to babysit their assigned child, and that this would be cause for immediate de-certification and rescinded appointment. Director stated that she was not aware that Mike had babysat for ■■■'s kids two times or that they had previously planned for him to babysit her kids on the day of removal on ■■■17. However, she stated that Mike did call her about the removal as it was in motion. Director stated that volunteers are also not allowed to give large gifts to the kids, and they have a rule that it can only be up to \$5, or it can come from community donations received by CASA. She stated that a large gift, like the Disney pins, from a CASA worker is not appropriate. Regarding the incident with ■■■ rubbing Mike's chest, Director stated that Mike should tell CASA about it, but it would not be placed in ■■■'s case file. She stated that Mike did disclose the bear hug with ■■■, because Respite placement brought it to CASA, and Mike's court report includes this incident. She stated that she was told that Mike and ■■■ went to the kitchen to get ■■■'s Halloween candy, and it appeared that they were hugging. Director stated that Respite placement didn't see the hug, but said it looked like they had just parted ways really quick.

STATEMENT OF AGENCY DECISION:

Mental or Emotional Abuse: Infliction of mental or emotional harm or the causing of a deterioration of a child, and may include, but shall not be limited to, maltreatment or exploiting a child to the extent the child's health or emotional wellbeing is endangered. This term may include any act, behavior, or omission that impairs or endangers a child's social or intellectual functioning. This term may include the following: 1) terrorizing a child, by creating a climate of fear or engaging in violent or threatening behavior toward the child or toward others in the child's presence that demonstrates a flagrant disregard for the child; 2) emotionally abandoning a child, by being psychologically unavailable to the child, demonstrating no attachment to the child, or failing to provide adequate nurturance of the child; and 3) corrupting a child, by teaching or rewarding the child for unlawful, antisocial, or sexually mature behavior. K.S.A. 38-2202 and K.A.R. 30-46-10. Based on the evidence gathered during the investigation, the fact and circumstances support an affirmed finding by preponderance of evidence. Despite knowing ■■■'s propensity for inappropriate affection and ■■■ having been on the receiving end of it, Mike admitted to allowing ■■■ to rub his belly and chest and to giving ■■■ a frontal hug that lifted ■■■ off the ground. Additionally, Mike admitted to having given the boys gifts and allowing the boys to sit on his lap regularly. Further, Mike set himself up to be an inappropriate source of affection and caregiver for the ■■■, which rewarded the children for sexually mature behavior which Mike was allowing and/or initiating, and led to regression and emotional instability on the part of the children. Therefore, the alleged emotional abuse of ■■■ and ■■■ by Michael Capps will be affirmed.

APPLICABLE REFERENCE: Kansas Administrative Regulations 38-2202.

STAFF REPRESENTING DEPARTMENT FOR CHILDREN AND FAMILIES:

Gina Rounbehler, PPS Social Worker Specialist

Dana Phillips, PPS Unit Supervisor

Roger B. McDaniel, Staff Attorney

OTHER WITNESSES:

Respectfully submitted by,

Gina Rounbehler L.M.S.W.

Dept. for Children and Families
Prevention & Protection Services