

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

VANESSA SHANNON)	
)	
Appellant,)	
)	
v.)	C.A. No. N11A-07-010 JRJ
)	
DELAWARE DEPARTMENT OF)	
HEALTH AND SOCIAL SERVICES,)	
DIVISION OF SOCIAL SERVICES)	
)	
Appellee.)	

ORDER

AND NOW, this day 17th of May 17, 2012 , the Court having duly considered Appellant’s appeal from the Delaware Department of Health and Social Services, Division of Social Services’ decision to close Appellant’s Temporary Assistance for Needy Families benefits, and Appellee’s opposition thereto, **IT APPEARS THAT:**

1. Vanessa Shannon reapplied to the Division of Social Services’ (“DSS) for Temporary Assistance for Needy Families (“TANF”) benefits. Before approval, DSS discovered that Ms. Shannon had a felony conviction. After a hearing, a DSS Hearing Officer determined that Ms. Shannon was not eligible to receive TANF

benefits because she had been convicted of a felony that has the element of possession, use, or distribution of controlled substances.¹

2. Pursuant to 21 U.S.C. § 862a (a):

[a]n individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 802(6) of this title) shall not be eligible for--

(1) assistance under any State program funded under part A of title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.], or

(2) benefits under the food stamp program (as defined in section 3(l) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977 [7 U.S.C.A. § 2011 et seq.].

Delaware's General Assembly enacted this law under 16 Del. Admin. C. § 5100-2027.² TANF is Delaware's main cash assistance program.³

3. On June 19, 2006, Ms. Shannon pled guilty to obtaining a controlled substance, a felony offense, and the Court sentenced her on July 11, 2006.⁴ 16

¹ See DSS' Opinion at 1; see also 16 Del. Admin. C. § 5100-2027 ("Individuals convicted under Federal or State law of any offense which is classified as a felony that has the element of possession, use or distribution of controlled substances shall not be eligible for cash assistance or benefits under the food stamp program.").

² *Id.* The Delaware General Assembly amended 16 Del. Admin. C. § 5100-2027 by passing 31 *Del. C.* § 605, which states: "Pursuant to the option granted the State by 21 U.S.C. § 862a (d)(1), an individual convicted under federal or state law of a felony involving possession, distribution or use or a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. § 862a (a) against eligibility for food stamp program benefits for such convictions."

³ Delaware Health and Social Services, Division of Social Services, <http://www.dhss.delaware.gov/dss/tanf.html>

⁴ Answering Brief of Appellee Delaware Health and Social Services at 2; see also Case No. 0604016786, Crim. DI 3, 5.

Del. C. § 4757(a)(3) makes it unlawful for anyone to knowingly or intentionally “acquire or obtain or attempt to acquire or obtain, possession of a controlled substance or prescription drug by misrepresentation, fraud, forgery, deception or subterfuge”

4. The Court reviews DSS decisions by examining “the record for substantial evidence to support the findings of fact made by the Hearing Officer and the absence of any errors of law.”⁵

5. Ms. Shannon’s conviction is an “offense which is classified as a felony that has the element of possession, use or distribution of controlled substances,” and thus, she is not eligible to receive TANF benefits.⁶

6. The Court finds that the Hearing Officer’s decision to affirm DSS’ decision to close Ms. Shannon’s TANF benefits is supported by substantial evidence in the record and is free from legal error.

WHEREFORE, DSS’ decision to close Ms. Shannon’s TANF benefits is **AFFIRMED**.

IT IS SO ORDERED.

⁵ *Zdziech v. Delaware Dept. of Health & Soc. Services*, 2000 WL 1211562, at *2 (Del. Super. 2000) (other citations omitted).

⁶ *See* 16 Del. Admin. C. § 5100-2027.

/s/Jan R. Jurden

Jan R. Jurden, Judge

cc: Prothonotary

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