Circuit Court for Baltimore City
Case No. 24--19-005597

UNREPORTED

IN THE APPELLATE COURT OF

OF MARYLAND*

No. 477

September Term, 2020

MOTOR VEHICLE ADMINISTRATION.

v.

ARIELLE CRUDUP

Fader, C.J.,*
Kehoe,
Leahy,

JJ.

Opinion by Kehoe, J.

Filed: April 10, 2023

*Chief Justice Matthew J. Fader, now serving on the Supreme Court of Maryland, participated in the hearing and conference of this case while an active member of the Appellate Court of Maryland. He did not participate in the adoption of this opinion.

At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

On June 26, 2019, the Motor Vehicle Administration of the Maryland Department of Transportation notified Arielle Crudup that: (1) she was suspended indefinitely from her position as a Customer Agent II, (2) her employment by the MVA was terminated for misconduct, and (3) she was disqualified from reemployment by MDOT for five years. At the time these sanctions were imposed, Ms. Crudup was a Career Service employee. Ms. Crudup challenged each of these employment decisions. The matter was referred to the Office of Administrative Hearings. After a hearing, an administrative law judge affirmed each employment action. Ms. Crudup filed a petition for judicial review. The Circuit Court for Baltimore City, the Honorable Jeffrey M. Geller presiding, reversed the administrative decision and ordered Ms. Crudup's reinstatement with back pay. The MVA has appealed and presents two issues:

> 1. Did the administrative law judge correctly hold that Ms. Crudup's termination complied with the requirements of COMAR 11.02.08.01 and was therefore timely?
>
> 2. Did the circuit court err in directing the administrative law judge to rescind Ms. Crudup's termination, without remanding the case for findings consistent with the circuit court's determination of errors of law?

Because our answer to these questions is no, we will affirm the judgment of the circuit court.

INTRODUCTION

By statute, MDOT has the authority to promulgate its own human resources management system for all employees within its various units, including the MVA. *See* Md. Code, Transp. § 2-103.4; § 2-107(a)(5); COMAR 11.02,01.01A. Pursuant to that

authority, the Secretary of Transportation has adopted regulations relating to a wide variety of personnel matters, including disciplinary actions. These regulations, titled the Transportation Service Human Resources System, and generally referred to by its acronym, "TSHRS," are codified as Chapters 1 through 13 of Title 11, Subtitle 2 of the Maryland Code of Regulations ("COMAR").

The parties are in agreement that the outcome of the first issue in this appeal depends upon the proper interpretation and application of COMAR 11.02.08.01 to Ms. Crudup's case. The regulation states in pertinent part (emphasis added):

> A. In the case of Career Service employees, disciplinary action may include, as appropriate:
>
> * * *
>
> (5) Suspension, with or without pay, pending charges for termination; [or]
> (6) Termination under charges from a Career Service position;
>
> * * *
>
> B. *Before imposing any disciplinary action,* the appointing authority or designated representative shall:
> (1) Investigate the alleged misconduct;
> (2) Meet with the employee;
> (3) Consider any mitigating circumstances;
> (4) Determine the appropriate disciplinary action, if any, to be imposed; and
> (5) Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.
>
> * * *
>
> D. An appointing authority or designated representative may impose any disciplinary action for a Career Service employee *no later than 30 days after the appointing authority or designated representative acquires knowledge of the misconduct for which the disciplinary action is imposed*. The 30-day period includes the time necessary for the appointing authority or designated representative to conduct its investigation and meet the other requirements in §B of this regulation.

"Appointing authority" is defined as "the Secretary [of MDOT] or the Secretary's designee." COMAR 11.02.08.B(3). A "designee" is a "representative of an appointing authority who has been delegated in writing certain powers of the appointing authority." COMAR 11.02.08.B(14). The designees that are relevant to this appeal are those to whom the Secretary delegated the authority to discharge Career Service employees like Ms. Crudup for work-related misconduct. The primary issue in this appeal is whether the MVA complied with the thirty-day deadline imposed by COMAR 11.02.08.01D.

The language of COMAR 11.02.08 is very similar to Md. Code, State Pers. & Pens. § 11-106, which pertains to disciplinary actions for employees in the State Personnel Management System. Section 11-106 states in pertinent part (emphasis added):

> (a) Before taking any disciplinary action related to employee misconduct, an appointing authority shall:
> (1) investigate the alleged misconduct;
> (2) meet with the employee;
> (3) consider any mitigating circumstances;
> (4) determine the appropriate disciplinary action, if any, to be imposed; and
> (5) give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.
>
> (b) Except as provided in subsection (c) of this section,[1] *an appointing authority may impose any disciplinary action no later than 30 days after the appointing authority acquires knowledge of the misconduct for which the disciplinary action is imposed.*
>
> * * *

[1] Section 11-106(c) pertains to suspensions without pay. Neither party asserts that subsection (c) is relevant to the issues raised in this appeal.

There are no reported opinions of the Supreme Court of Maryland[2] or of this Court that address COMAR 11.02.08.01D's thirty-day requirement.[3] In contrast, there is a well-developed body of Maryland appellate caselaw interpreting and applying the thirty-day limitation in the context of State Pers. & Pens. § 11-106. The landmark decision is *Western Correctional Inst. v. Geiger*, 371 Md. 125, 143–51 (2002). The parties differ as to the degree to which *Geiger* and later decisions applying its teachings are relevant to the present case. It is the MVA's position that COMAR 11.02.08 and State Pers. & Pens. § 11-106 are so different from one another that Maryland appellate decisions interpreting the statute are essentially irrelevant. Ms. Crudup, on the other hand, urges us to look to *Geiger* and its progeny for guidance in interpreting COMAR 11.02.08.

[2] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

[3] COMAR 11.02.08 is mentioned in passing in *Maryland Transp. Authority v. King,* 369 Md. 274, 279 (2002); *Maryland Aviation Admin. v. Noland*, 386 Md 556, 563 (2005); and *Maryland Dept. of Transp. v. Maddalone*,187 Md. App. 549, 555 n.3 (2009). None of these cases involved issues relevant to those presented in this appeal.

BACKGROUND

In 2017, Ms. Crudup was employed by the MVA at its Essex Branch Office as a Customer Agent II. In that capacity, she had access to certain MVA records, including the photographs that are shown on driver's licenses and personal identification cards. On February 19, 2019, John C. Poliks, an investigator for the MVA's Office of Investigations and Security Services, read an article in the *Baltimore Sun* that described a murder-for-hire plot against a government witness in a federal drug-trafficking case. The article stated that the conspirators had obtained a picture of the intended victim "through a contact at the Motor Vehicle Administration." Poliks informed his supervisors of the article and began an investigation shortly thereafter.

After obtaining the identity of the intended victim, Poliks reviewed the relevant MVA records on March 4, 2019. He learned that four MVA employees, including Ms. Crudup, had accessed the photograph of the intended victim in 2017.[4] After reviewing a timeline of the intended victim's visits to MVA branches and other information, Poliks concluded that three of the four employees who accessed the photograph did so for legitimate business reasons. But Poliks was unable to discover a business reason for Ms. Crudup to access the intended victim's photograph. On March 5, 2019, Poliks concluded that Ms. Crudup had violated MVA regulations and work rules in accessing the photograph.

[4] Although the record isn't entirely clear as to this issue, it appears that 2017 was the time in which the murder-for-hire scheme was active.

Shortly thereafter, someone from the Office of Investigations and Security Services contacted John Dear, the Assistant Manager for the Essex branch of the MVA, to set up a time for Ms. Crudup to be interviewed by Poliks. This interview took place on April 30, 2019. During the interview, Poliks told Ms. Crudup that someone using her employee identification number, VBA03C, had accessed the intended victim's photograph on December 22 and 26, 2017. Ms. Crudup acknowledged that her employee number was VBA03C but denied knowing the intended victim or recognizing his photograph. Ms. Crudup also told Poliks that she neither remembered accessing the photograph nor why she would have done so. At the hearing before the administrative law judge, Poliks testified that, for all practical purposes, his investigation ended at that point.[5]

On June 6, 2019, Poliks completed a written report which concluded that Ms. Crudup had accessed the photograph of the intended victim of the murder-for-hire plot on December 22 and December 26, 2017, without having a business reason for doing so. On June 7, 2019, this report was forwarded to Leslie Dews, the MVA's Deputy Administrator of Operations.

[5] At the hearing, Poliks testified that, after his interview of Ms. Crudup, he attempted to locate and interview a woman whom he suspected contacted Ms. Crudup on behalf of the conspirators. These efforts were unsuccessful.

On June 18, 2019, three MVA officials, including Melissa Nizer ("M. Nizer"), the manager of the MVA's Essex branch, conducted an investigatory interview of Ms. Crudup.

On June 20th and 21st, various MVA officials conducted two mitigating circumstances conferences with Ms. Crudup. Elizabeth Kreider, MVA's Deputy Administrator, conducted the second mitigating circumstances conference and provided the results to Christine Nizer ("C. Nizer"), the Administrator of the MVA.

It is undisputed that C. Nizer was the appointing authority for the MVA, and that Dews and Kreider were designated representatives authorized to impose the sanctions of indefinite suspension, termination, and disqualification for reemployment.

On June 26, 2019, C. Nizer presented written notices to Ms. Crudup that her employment with the MVA was terminated because accessing the photograph of the

intended victim violated sections (3), (6), (8), (12), and (20) of COMAR 11.02.08.06B.[6] On the same day, Ms. Crudup was suspended indefinitely and disqualified from seeking re-employment with the Department for a period of five years.

Ms. Crudup appealed each of these disciplinary sanctions. The appeals were consolidated for purposes of administrative review. On October 1, 2019, an administrative law judge held a contested hearing. Although there were other issues in the hearing, the question that is relevant for our purposes is whether the June 26, 2019

[6] COMAR 11.02.08.06 sets out twenty grounds for terminating a career service employee like Ms. Crudup. They include:

(3) The employee has performed the job duties in a careless, negligent, or willful manner, including causing damage to, or waste of, State property, State resources, or property of a member of the public;

* * *

(6) The employee has violated any statute, regulation, executive order, written policy, written directive, or written rule;

* * *

(8) The employee has committed an act of misconduct or a serious breach of discipline;

* * *

(12) The employee's action or inaction has caused or reasonably could be expected to result in loss or injury to the State or members of the public; [and]

* * *

(20) The employee has engaged in conduct that has brought the Department into public disrepute.

In his decision, the administrative law judge concluded that the Department had met its burdens of production and persuasion as to the first three charges but had failed to do so regarding the COMAR 11.02.08.06(12) and (20) charges.

notices were presented to Ms. Crudup "no later than 30 days after the appointing authority or designated representative acquires knowledge of the misconduct for which the disciplinary action is imposed." *See* COMAR 11.02.08.01D.

As to this issue, the administrative law judge concluded:

> The Employee contends the investigation began on April 30, 2019 when Dear [the deputy manager of the MVA's Essex Branch] arranged for her to meet with Poliks. . . .[7]
>
> Therefore, the Employee contends the MDOT had thirty days from that point to complete all of the steps set forth in COMAR 11.02.08.01B. In support, the Employee argues that Dear is considered an "appointing authority" and, therefore, had knowledge of the alleged misconduct as of April 30, 2019. However, a review of the definitions set forth in COMAR 11.02.01.02B reveals that the "appointing authority" is defined as the Secretary or the Secretary's designee. The appointing authority for the MVA is C. Nizer, the Administrator of the MVA. "Designee" is defined as the representative-of an appointing authority who has been delegated in writing certain powers of the appointing authority. . . . Dews and C. Nizer were designees of the appointing authority [for the purposes of terminating employees for disciplinary reasons].
>
> * * *

[7] We read the administrative record differently. In closing argument at the administrative hearing, Ms. Crudup's counsel asserted that an investigation was already underway on April 30th, 2019, when Dear, the Deputy Manager of the Essex Branch, arranged for Poliks to interview Ms. Crudup. Hearing Transcript at 140–41. This was so, said counsel, because "once the investigation has begun, that began their [thirty-day] clock." Hearing Transcript at 136–37. To this Court, she asserts that the thirty-day deadline was triggered on March 5, 2019, which was the date that Poliks identified Ms. Crudup as the target of his investigation. The MVA does not assert that this contention is not properly before us.

> The evidence shows that Poliks did not complete and submit his report to his supervisor until June 6, 2019. Even if Dews had become aware of it that day, the MDOT would have had thirty days from that point to complete the required steps outlined in COMAR[.] The discipline (charges for termination) was imposed on June 26, 2019, several days prior to the thirty-day deadline. The evidence before me shows that the MDOT followed the required procedural steps between receiving the Report and imposing the discipline. . . . I find no merit to the Employee's assertion that the discipline was not timely imposed.

Ms. Crudup filed a petition for judicial review. As we have explained, the circuit court reversed the administrative law judge's decision. The MVA has appealed that judgment.

THE STANDARD OF REVIEW

This is a "contested case" subject to Md. Code, State Gov't §§ 10-201–223. The role of the Appellate Court of Maryland in such cases is well-established:

> In an appeal from a judgment entered in a judicial-review proceeding, we bypass the judgment of the circuit court and look directly at the challenged administrative decision. In other words, we perform precisely the same role as the circuit court, deciding for ourselves whether the administrative agency erred. The scope of our review is limited, however. *See* Md. Code, § 10-222(h)(3) of the State Government Article[8] (listing the limited bases for reversing or modifying an administrative decision). We accord significant

[8] State Gov't § 10-222(h) states that in a judicial review proceeding, a reviewing court may:

* * *

> (3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:
>
> * * *
>
> (iv) is affected by any other error of law[.]

> deference to an agency's findings of fact, affirming if there is substantial evidence in the record as a whole to support the agency's findings and conclusions. We exercise *de novo* review an agency's legal conclusions, except that we give some degree of deference to an agency's interpretation of ambiguity in a statute that it regularly administers. *Blue Buffalo Company, Ltd. v. Comptroller of Treasury*, 243 Md. App. 693, 702 (2019).

Merryman v. Univ. of Baltimore, 246 Md. App. 544, 553–54 (2020), *aff'd on other grounds*, 473 Md. 1 (2021) (quotation marks and some citations omitted).

On appeal, Ms. Crudup does not argue that the administrative law judge's findings of fact were unsupported by substantial evidence. The dispositive issue in this appeal, i.e., whether the administrative law judge properly interpreted COMAR 11.02.08.01.B. and D., is a legal one. COMAR 11.02.08.01 is not a regulation administered by the Office of Administrative Hearings in the sense that term was used by this Court in *Blue Buffalo* and similar cases. We exercise *de novo* review in the present case.

In interpreting the COMAR provisions at issue in this appeal, we focus on the plain language of the regulation because "a regulation's plain language is the best evidence of its own meaning. . . . [Courts] conduct this plain language inquiry within the context of the regulatory scheme, and "our approach is a commonsensical one designed to effectuate the purpose, aim, or policy of the enacting body." *Board of Liquor License Commissioners v. Kougl*, 451 Md. 507, 515 (2017) (citations omitted).

THE PARTIES' CONTENTIONS

The MVA asserts that:

(1) the administrative law judge properly focused on the language of COMAR 11.02.08.01, rather than the caselaw interpreting State Personnel and Pensions § 11-106, which does not apply to MDOT employees like Ms. Crudup.

(2) The term "appointing authority," is defined differently in TSHRS and the State Personnel and Pensions Article. COMAR 11.02.08.01B(3) defines "appointing authority" as "the Secretary or the Secretary's designee," while State Pers. & Pens. § 11-101(b) defines the term as "an individual or unit of government that has the power to make appointments and terminate employment."

(3) COMAR 11.02.01.02B(3) states that the thirty-day time period begins when "the appointing authority or designated representative acquires knowledge of the [alleged] misconduct." In contrast, according to the MVA, the thirty day period under § 11-106 begins to run when someone with a duty to report to the appointing authority learns that misconduct has occurred.

From these premises, the MVA contends:

> Unlike State Personnel and Pensions § 11-106(b), which has been interpreted to include knowledge gained during an investigation by anyone with a duty to report to the appointing authority, the TSHRS regulation requires that the triggering investigation must be conducted, and the knowledge of the misconduct acquired, by "the appointing authority or designated representative" to trigger the start of the 30-day period for imposing discipline. COMAR 11.02.08.01D mandates that the "investigation" at issue is to be conducted by the appointing authority "or

> designated representative," not an agent of the appointing authority. That requirement means that, unlike in the State Personnel System, an investigation unknown to the Secretary or Secretary's designee cannot begin the 30 day clock.

(Some citations omitted.)

The MVA argues that the thirty-day clock began to run in the present case when Dews, who was unquestionably a designee for purposes of terminating employment for misconduct, received a copy of Poliks' report, which the parties agree was on June 6, 2019, and Ms. Crudup's employment was terminated and the other sanctions were imposed on June 26, 2019.

In response, Ms. Crudup contends:

> This case presents a solely legal question for review: whether MDOT's 30-day rule means the same thing as the 30-day rule that applies to other executive branch employees. Because the courts have already determined that the meaning of substantially identical text [in State Pers. & Pens. § 11-106] unambiguously starts the 30-day clock when the agency—including agency internal investigators—gains knowledge of the allegations against the employees, the circuit court correctly ruled in favor of Ms. Crudup. MVA's argument that the regulation hides a new alternative meaning in its substantially identical language is hollow. Further, because there is no evidence and no factual pathway to support a finding that MVA's attempts to discipline Ms. Crudup were timely under the correct application of the 30-day rule, the circuit court's order is legally correct, and must be affirmed.

ANALYSIS

A

We will begin by addressing the MVA's assertion that the relevant text of COMAR 11.02.08.01D is substantively different from the corresponding language in § 11-106.

COMAR 11.02.08.01D requires designated representatives to impose disciplinary sanctions "no later than 30 days after the appointing authority or designated representative acquires knowledge of the misconduct for which the disciplinary action is imposed." The regulation also states that the thirty-day period "includes the time necessary for the appointing authority or designated representative to conduct its investigation and meet the other requirements in §B of this regulation."[9] The MVA interprets this to mean that COMAR 11.02.08.01D provides for two investigations, the first by the agency's staff, and the second by the appointing authority or their designated representative.

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[9] COMAR 11.02.08.01B states:

> Before imposing any disciplinary action, the appointing authority or designated representative shall:
> (1) Investigate the alleged misconduct;
> (2) Meet with the employee;
> (3) Consider any mitigating circumstances;
> (4) Determine the appropriate disciplinary action, if any, to be imposed; and
> (5) Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

The MVA's contention is not persuasive because it focuses exclusively on the phrase "no later than 30 days after the appointing authority or designated representative acquires knowledge of the misconduct for which the disciplinary action is imposed" and ignores the fact that the regulation also states that the thirty-day period "includes the time necessary for the appointing authority or designated representative to conduct its investigation and meet the other requirements in §B of this regulation." We agree with Ms. Crudup that the appropriate way to resolve the tension between the two parts of the regulation is to look to how Maryland courts have addressed the corresponding provisions of State Pers. & Pens. § 11-106, which applies to employees of other State executive agencies.

We will start with the statute. State Pers. & Pens. § 11-106 states (emphasis added):

> (a) Before taking any disciplinary action related to employee misconduct, an *appointing authority shall*:
> (1) investigate the alleged misconduct;
> (2) meet with the employee;
> (3) consider any mitigating circumstances;
> (4) determine the appropriate disciplinary action, if any, to be imposed; and (5) give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

> (b) Except as provided in subsection (c) of this section,[10] an *appointing authority may impose any disciplinary action no later than 30 days after the appointing authority acquires knowledge of the misconduct for which the disciplinary action is imposed*.
>
> * * *

The only material difference between the regulation and the statute is that COMAR 11.02.08.01D adds the phrase "or designated representative" after "appointing authority." Both the regulation and the statute make it clear that the disciplinary sanction must be imposed "no later than 30 days" after the official imposing the sanction (either the appointing authority or the designated representative, as the case may be) "acquires knowledge of the misconduct for which the disciplinary action is imposed." There is no textual basis for the MVA's contention that COMAR 11.02.08.01D contemplates two separate investigations, one by MVA staff and the other by an appointing authority or its designated representatives.

The phrase "acquires knowledge of the misconduct for which the disciplinary action is imposed" appears in both the statute and the regulation. The meaning of this phrase in the context of § 11-106 was established by the Court in *Western Correctional Inst. v. Geiger*, 371 Md. 125 (2002). The Court explained (emphasis added):

> The phrase . . . "when the appointing authority acquires knowledge of the misconduct," is not defined and no guidance, beyond its context in the

[10] State Pers. & Pens. § 11-106(c) pertains to suspensions without pay. The equivalent provision in TSHRS is found in COMAR 11.02.08.01A. Neither party asserts that the differences between the statute and the regulation regarding suspension without pay is relevant to the issues raised in this appeal.

> statutory scheme, has been provided. . . . *Viewed in context, however, the phrase is not ambiguous and, in fact, clearly pinpoints when the time limit for imposing disciplinary action starts*. . . .
>
> It is significant that one of the prerequisites for the imposition of discipline is the conduct of an investigation of the alleged misconduct. To be sure . . . there is an important distinction between (1) information that indicates the necessity for an investigation, and (2) the completion of an investigation required by § 11–106(a)(1). . . .
>
> Section 11–106(b) does not, by its terms, state a distinction between the amount of knowledge necessary to initiate an investigation and that required to discipline. It simply prohibits the imposition of discipline more than thirty days after knowledge of the misconduct for which the disciplinary action is imposed is acquired. *Knowledge sufficient to order an investigation is knowledge of the misconduct for which discipline was imposed*, if discipline ultimately is imposed for that misconduct. It is not at that stage in the process, to be sure, proof as to who is the responsible person and may not even be knowledge as to who that person is. Section 11–106, however, is not person specific; it is situation and fact based. Thus, the knowledge that triggers the running of the thirty day period need not, and may not, although it generally will, identify the employee ultimately disciplined.
>
> *We hold that, viewed in context, § 11–106 gives the appointing authority 30 days to conduct an investigation, meet with the employee the investigation identifies as culpable, consider any mitigating circumstances, determine the appropriate action and give notice to the employee of the disciplinary action taken.*

371 Md. 125, 143–45.

In addition to its analysis of the language of § 11-106, the *Geiger* Court also reviewed the statute's legislative history. *Id.* at 145–47. The Court explained that § 11-106 was enacted at the recommendation of a task force established by Governor Parris Glendening to undertake a "comprehensive review" of the Maryland State Personnel

Management System. *Id.* at 145. One recommendation by the task force "had the clear purpose of limiting the time in which disciplinary action could be imposed by an appointing authority" to thirty days. *Id.* at 146–47. That recommendation was subsequently enacted as § 11-106. *Id.* at 146–47.[11]

Consistent with *Geiger*, this Court has held that § 11-106 does not require appointing authorities "to personally conduct an investigating interview or even review recordings or transcripts of them and . . . is entitled to have others gather relevant information" for them. *Ford v. Dep't of Pub. Safety & Corr. Servs*., 149 Md. App. 488, 498–99 (2003).

McClellan v. Dep't of Pub. Safety & Corr. Servs., 166 Md. App. 1 (2005), is an application of the teachings of *Geiger* and *Ford* to facts that are analogous to those in the case before us. In *McClellan*, the Internal Investigations Unit (the "IIU") of the Bureau of Special Operations (the "Bureau") of the Department of Public Safety and Correctional Services learned that McClellan, an employee of the Department's Division of Pretrial Detention and Services (the "Division"), might have been involved in a shooting that had taken place in Baltimore several days earlier. The Bureau opened an investigation into the matter and two IIU officers interviewed McClellan. He denied any wrongdoing. On

[11] Ms. Crudup points out in her brief that the act amending § 11-106 was approved by Governor Glendening and became law on October 1, 1996, *see* 1996 Laws Ch. 347 § 21, and COMAR 11.02.08.01D was amended to its current form on October 7, 2019. *See* 23:20 Md. Reg. 1424. We agree with her that "MVA's arguments fail to create any daylight between the statute and the regulation."

December 20, 2001, the Bureau informed the Commissioner of the Division that Baltimore City Police detectives were "develop[ing]" a case against McClellan and that the police investigators' assessment would be provided to the Bureau in due course. On March 15, 2002, the police obtained the results of a gunshot residue test performed on McClellan's hands on the night of the shooting. The result was positive. On April 10, 2002, the Bureau informed the Division that the test results were inconsistent with McClellan's earlier statements to the IIU investigators. On April 30, 2002, he was terminated.

McClellan filed a petition for judicial review asserting, among other things, that his termination violated § 11-106 because it was imposed after the statute's thirty-day deadline had expired. The administrative law judge concluded that the termination was timely because "the alleged misconduct did not occur in the workplace and 'the authority and ability to conduct a full investigation of the events in question resided with a different governmental entity[,]'" namely, the Baltimore City Police Department. 166 Md. App. at 23. This Court reversed that decision, explaining first that in *Geiger*, our Supreme Court "finding the language of SPP section 11–106 unambiguous, and looking also to the supporting legislative history, held that the General Assembly intended to create, and did create, a bright-line rule making uniform what must be done by the agency before taking disciplinary action related to employee misconduct and when disciplinary action must be taken." *McClellan*, 166 Md. App. 144–45 (citing *Geiger*, 371 Md. at 569–70). We further explained that:

> *An appointing authority may acquire knowledge of misconduct of an employee directly, i.e., personally, or indirectly, through imputation of the knowledge of an agent*. . . ..
>
> In the case at bar, the evidence . . . was uncontroverted that the Bureau was a part of the Division; that one of the Bureau's functions was to conduct investigations of employee misconduct; and that Major Richardson, who was in charge of the Bureau's investigations, including those by IIU, "work[ed] for" Commissioner Flanagan. This evidence established, and it was not contested, that Major Richardson and the Bureau employees who were working directly for him on the matter of the appellant's conduct were acting as agents of Commissioner Flanagan at all relevant times in this case. Accordingly, *we hold that the evidence established that the knowledge acquired by Major Richardson and these particular Bureau agents was imputed to Commissioner Flanagan, who was the appellant's appointing authority.*

Id. at 24.

This reasoning applies to the present case: The MVA's Office of Investigations and Security Services is an integral part of the MVA and Poliks, through the chain of command, reported to the appointing authority as well as to the designated representatives. The evidence is undisputed that on March 5, 2019, Poliks concluded that Ms. Crudup had violated MVA regulations and work rules in accessing the photograph of the target of the murder-for-hire conspiracy. It was at this point that the Department, through its investigator, was aware of sufficient facts to warrant an investigation of Ms. Crudup. Poliks' knowledge was imputed to the appointing authority and its designated representative. The only remaining loose end was an interview with Ms. Crudup herself, and that took place on April 30, 2019. But it was not until June 26th that Ms. Crudup was terminated.

We conclude that COMAR 11.02.08.01D imposes the same obligations upon MDOT's appointing authority and its designated representative that § 11-106 imposes upon the appointing authorities governed by that statute. In the context of the present case, the thirty-day deadline for sanctioning Ms. Crudup began to run when the appointing authority and/or its designated representatives learned of the violation of the workplace rule or policy. Those officials may acquire such knowledge either "directly, i.e., personally, or indirectly, through imputation of the knowledge of an agent" of the appointing authority or the designated representative. *McClellan,* 166 Md. App. at 24. The undisputed evidence in this case is that Poliks had such knowledge either on March 5, 2019 (when his investigation focused on Ms. Crudup), or at the very latest, on April 30, 2019 (when Poliks interviewed Ms. Crudup, found that she could not establish a business reason for accessing the photo, and concluded his investigation). But Ms. Crudup was not disciplined until June 26, 2019. By either measure, imposition of the sanctions was untimely and must be reversed.

B

The MVA argues that the circuit court erred when it rescinded Ms. Crudup's termination and ordered her to be reinstated with back pay. It asserts (citation omitted):

> If the ALJ improperly applied the law, there is evidence in the record for the ALJ to make findings. Thus, the appropriate remedy is to remand the case for findings consistent with the law.
>
> Accordingly, when the court ordered reinstatement and back pay it exceeded its authority. Instead, the court should have directed the ALJ to apply the appropriate legal framework to the evidence before the ALJ and

> then make a new determination as to the issues regarding the termination and related prohibition against future employment.

The principle of law that the MVA relies upon is inapplicable in this case. As Ms. Crudup points out in her brief, the evidence relating to "the issues regarding the termination" was undisputed. There is no evidentiary basis for the administrative law judge to conclude that the disciplinary sanctions were somehow timely. The MVA points to no authority for the proposition that, if Ms. Crudup's termination was untimely, she would still not be entitled to reinstatement and back pay. "The court need not remand, however, if the remand would be futile." *County Council of Prince George's County v. Zimmer Dev. Co*., 444 Md. 490, 581 (2015). This is such a case.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. APPELLANT TO PAY COSTS.