

Circuit Court for Charles County
Case No. C-08-CV-20-000579

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND**

No. 469

September Term, 2022

IN THE MATTER OF PARDEEP DHILLON

Graeff,
Beachley,
McDonald, Robert N.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: March 17, 2023

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

**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.

Appellant Pardeep Dhillon appeals the decision of the Circuit Court for Charles County, which upheld the action by the appellee, Maryland Transportation Authority (“MDTA” or “Agency”), to terminate Dhillon’s employment as an MDTA officer for violations of MDTA’s Code of Conduct. Dhillon presents the following questions for our review,¹ which we have rephrased as:

1. Did the Agency err when it found Dhillon’s off-duty conduct violated § I.23.2 (Submitting False Reports/Statements) of the MDTA’s Code of Conduct?
2. Did the Agency err when it found Dhillon violated § I.7.1 (Conformance to Laws) of the MDTA’s Code of Conduct when he allegedly violated another state’s law?

For the reasons that follow, we reverse the judgment of the circuit court.

FACTS AND PROCEEDINGS

This case involves Dhillon’s allegedly inappropriate conduct toward Hirkirat Sidhu (“Mrs. Sidhu”). Dhillon’s friend, Neeti Sharma, was dating Navreet Sidhu, who is married

¹ Dhillon raised the following questions for our review:

1. Did the trial court err in affirming the Agency’s decision?
 - was the Agency clearly erroneous in sustaining Charge 4--did the Code of Conduct section encompass off duty activities?
 - was the Agency clearly erroneous in sustaining Charge 5—did the Agency have the authority to interpret another State’s law, did the Code of Conduct section encompass violation of another State’s law, and was there sufficient evidence in the record for the Agency to find a violation, especially as to criminal intent?
 - did the Agency act in an arbitrary or capricious manner in terminating [a]ppellant?

to Mrs. Sidhu. Mrs. Sidhu, who lives in Texas, was apparently harassing Ms. Sharma, who lives in Virginia, with various phone calls and text messages.

On June 29, 2019, Dhillon, while off duty, called Mrs. Sidhu from a blocked number. During the call, Dhillon represented himself to be “Corporal David of the Hunt County, Texas, Sheriff’s Office.” Dhillon hoped he could “convince [Mrs.] Sidhu[] to leave his friend alone” by representing himself as a Texas law enforcement officer and instructing her to stop harassing Ms. Sharma. The call was dropped, and Mrs. Sidhu called her husband. Dhillon called back and Mrs. Sidhu answered, but this time Mr. Sidhu was also on the call. During this second call, Mr. Sidhu recognized Dhillon’s voice. Mr. Sidhu told Mrs. Sidhu that it was Dhillon on the phone and that he worked for the police in either Virginia, Maryland, or Washington, D.C. Mrs. Sidhu, who did not know Dhillon, began calling law enforcement agencies and ultimately learned that Dhillon worked as an officer for the MDTA.

Thereafter, Mrs. Sidhu filed a complaint against Dhillon with the MDTA. The Agency opened an internal affairs investigation. As part of that investigation, Dhillon admitted during a July 31, 2019 interview that he called Mrs. Sidhu and falsely represented that he was a member of Texas law enforcement. On December 13, 2019, the Agency filed charges against Dhillon for the following violations of MDTA’s Code of Conduct: § I.6.1 Conduct Unbecoming, § I.8.1 Discourtesy, § I.18.2 Insubordination, § I.23.2 Submitting False Reports/Statements, and § I.7.1 Conformance to Laws. Dhillon was suspended with pay pending a hearing. An Administrative Hearing Board convened a hearing on August

11, 2020, to consider the charges against Dhillon. The Hearing Board dismissed the charge alleging “insubordination,” but sustained the other four charges. The Hearing Board recommended a suspension without pay for the “conduct unbecoming” and “discourtesy” violations, but termination of employment as a result of Dhillon’s violation of § I.23.2 (submitting false reports/statements) and § I.7.1 (conformance to laws).

On September 1, 2020, MDTA’s Chief of Police adopted the Hearing Board’s findings and recommendations, and terminated Dhillon’s employment as an MDTA officer. Dhillon then filed a petition for judicial review in the circuit court. In his petition, Dhillon challenged only the sustained findings for violations of § I.23.2 and § I.7.1 that resulted in his termination. On April 7, 2022, the circuit court issued an opinion affirming the Agency’s decision. Dhillon timely appealed.

STANDARD OF REVIEW

“On appellate review of the decision of an administrative agency, this Court reviews the agency’s decision, not the circuit court’s decision.” *Halici v. City of Gaithersburg*, 180 Md. App. 238, 248 (2008) (citing *Anderson v. Gen. Cas. Ins. Co.*, 402 Md. 236, 244 (2007)). Thus, “[o]ur review is limited generally to the administrative record.” *Kor-Ko Ltd. v. Md. Dep’t of the Env’t*, 451 Md. 401, 409 (2017). “An agency decision based on regulatory and statutory interpretation is a conclusion of law.” *Id.* at 412 (quoting *Carven v. State Ret. & Pension Sys. of Md.*, 416 Md. 389, 406 (2010)). Even though an agency’s statutory interpretation is reviewed *de novo*, “an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be given

considerable weight by reviewing courts.” *Halici*, 180 Md. App. at 261 (quoting *Miller v. Comptroller of Md.*, 398 Md. 272, 281 (2007)). Nevertheless, an agency’s interpretation is not controlling if “it is plainly erroneous or inconsistent with the regulation.” *Md. Transp. Auth. v. King*, 369 Md. 274, 288-89 (2002) (quoting *Ideal Fed. Sav. Bank v. Murphy*, 339 Md. 446, 461 (1995)).

DISCUSSION

I. THE AGENCY ERRED WHEN IT FOUND DHILLON VIOLATED § I.23.2 OF MDTA’S CODE OF CONDUCT

Dhillon argues that the Agency incorrectly found that he violated § I.23.2 of MDTA’s Code of Conduct. Section I.23.2 of MDTA’s Code of Conduct states:

Submitting False Reports/Statements: All reports submitted and statements made by personnel will be truthful. Personnel shall not knowingly submit or cause to be reported, any false information. To prove by a preponderance of the evidence that one has submitted a false report or information, evidence must be presented for consideration that such report or information is designedly untrue, deceitful, or made with intent to deceive the person to whom it was directed.

[E159]. “We begin ‘with the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology.’” *Blackstone v. Sharma*, 461 Md. 87, 113 (2018) (quoting *Schreyer v. Chaplain*, 416 Md. 94, 101 (2010)). We note that “the principles governing our interpretation of a statute apply when we interpret an agency rule or regulation.” *Christopher v. Montgomery Cnty. Dep’t of Health & Hum. Servs.*, 381 Md. 188, 209 (2004). When interpreting a regulation, “[i]f the language is ‘unambiguous and its meaning is plain and definite,’ this Court’s ‘inquiry as to the . . . intent will end and [we] will not venture outside the words of the [regulation].’”

Couret-Rios v. Fire & Police Emps.’ Ret. Sys. of City of Balt., 468 Md. 508, 528 (2020) (third alteration in original) (quoting *Marsheck v. Bd. of Trs. of Fire & Police Emps.’ Ret. Sys. of City of Balt.*, 358 Md. 393, 402-03 (2000)). “The meaning of the plainest language is controlled by the context in which it appears.” *Kranz v. State*, 459 Md. 456, 475 (2018) (quoting *Allen v. State*, 402 Md. 59, 74 (2007)). Thus, “[w]hen the [regulation] is part of a larger [regulatory] scheme, it is axiomatic that the language of a provision is not interpreted in isolation; rather, we analyze the [regulatory] scheme as a whole considering the ‘purpose, aim, or policy of the enacting body[.]’” *Int’l Ass’n of Fire Fighters v. Mayor of Cumberland*, 407 Md. 1, 9 (2008) (quoting *Serio v. Baltimore County*, 384 Md. 373, 390 (2004)).

Section I.23.2 establishes the evidentiary burden to prove a violation: “To prove by a preponderance of the evidence that one has submitted a false report or information, evidence must be presented for consideration that such report or information is designedly untrue, deceitful, or made with the intent to deceive the person to whom it was directed.” Dhillon asserts that § I.23.2 is clear that “[a] police officer must be alert that any report or information submitted must be the truth.” In his view, a “police officer who is not on duty could not file a report or a statement” in violation of § I.23.2 and, accordingly, his off-duty statements to Mrs. Sidhu are not sanctionable under that regulation.

Citing Maryland caselaw involving police discipline, the Agency submits that the regulations make no distinction between off-duty and on-duty misconduct. According to the Agency, Dhillon’s interpretation of § I.23.2 improperly “add[s] the words ‘when on

duty’ to the unambiguous language of Section I.23.2 in an effort to limit the policy’s applicability.” Finally, the Agency argues that “even assuming that the mandates of Section I.23.2 were limited to conduct in an official capacity, the false statements that the Board found to have violated the Code were made under color of police authority—albeit the false police authority of another jurisdiction.”

The Agency’s brief principally focuses on its contention that § I.23.2 applies to both on- and off-duty conduct, essentially ignoring Dhillon’s argument that his statements to Mrs. Sidhu are not proscribed by the regulation because he did not “*submit or cause to be reported, any false information.*” (Emphasis added). At the administrative hearing the following exchange occurred between defense counsel and Sergeant Aileen Pratt, a witness for the Agency:

[COUNSEL FOR DHILLON]: And in fact, the title of this policy as we’ve established is Submitting False Reports and Statements, correct?

[SERGEANT PRATT]: Correct.

[COUNSEL FOR DHILLON]: What statement or report did Corporal Dhillon submit in this instance?

[SERGEANT PRATT]: Not a report, but the statement that he did make over the phone conversation with Ms. Sidhu.

[COUNSEL FOR DHILLON]: Who did he submit that statement to?

[SERGEANT PRATT]: He submitted it in a telephone recording with Ms. and Mr. Sidhu.

[COUNSEL FOR DHILLON]: So he made a false statement to the Sidhus, correct?

[SERGEANT PRATT]: Correct.

[COUNSEL FOR DHILLON]: But he did not submit that statement to anybody else; is that a fair statement?

[SERGEANT PRATT]: That would be fair.

This exchange unequivocally demonstrates that Dhillon did not “submit or cause to be reported, any false information.”² Looking to the plain language of the regulation, § I.23.2 is titled “Submitting False Reports/Statements” and reiterates the words “submit” or “submitted” three times. Merriam-Webster defines the transitive verb “submit” as “to present or propose *to another* for review, consideration, or decision” or “to deliver *formally*.” *Submit*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/submit> (last visited Mar. 9, 2023) (emphasis added). Under the Code of Conduct’s regulatory scheme, we note that § I.23.2 is located under the general header “Reports.” *See Mayor of Rockville v. Rylyns Enters., Inc.*, 372 Md. 514, 555 (2002) (“It is ‘well settled’ that ‘the title of an act is relevant to ascertainment of its intent and purpose[.]’” (quoting *MTA v. Balt. Cnty. Revenue Auth.*, 267 Md. 687, 695-96 (1973))). Moreover, § I.23.2 appears between two sections designated as “Submitting Late Reports” and “Submitting Inaccurate Reports.” Section I.23.1 provides: “Submitting Late Reports: Personnel shall submit all reports, both *verbal and written*, on time and in accordance with established policies.” (Emphasis added). Similarly, § I.23.3, titled “Submitting Inaccurate

² We note that in his arguments before the Board, Dhillon argued that he did not violate § I.23.2 because the regulation “refers specifically to the submission of false reports and statements” and “[t]here’s no submission of a false report or a statement in this case.” The Board, however, failed to address Dhillon’s argument on this issue.

Reports,” unequivocally focuses on the submission of reports (“All reports submitted by personnel will be accurate.”). Thus, the plain language of § I.23.2 and its contextual placement in the regulatory scheme convince us that its purpose is to proscribe officers from submitting false reports, either verbal or written, under circumstances where the report would reasonably be reviewed, considered, or relied on by others. Assuming without deciding that the regulation applies to both on- and off-duty false reports, the Agency erred by finding Dhillon violated § I.23.2 “Submitting False Reports/Statements” where Dhillon’s false statement was made to Mrs. Sidhu by telephone, and the false statement was never included in any report submitted by Dhillon.

II. THE AGENCY ERRED WHEN IT FOUND DHILLON VIOLATED § I.7.1 OF MDTA’S CODE OF CONDUCT

Dhillon argues that the Agency erred in finding he violated § I.7.1 of MDTA’s Code of Conduct because this regulation does not “apply to the laws of any other State.” Section I.7.1 states, in pertinent part:

Personnel shall not violate his/her Oath of Office and trust or any other condition of their employment with the State of Maryland. Personnel shall not commit any civil violation or criminal offense punishable under the laws of the United States, any sovereign nation, the State of Maryland, public local laws or ordinances.

The Agency found Dhillon violated § I.7.1 because he violated Texas Penal Code § 37.11, which states:

- (a) A person commits an offense if the person:
 - (1) impersonates a public servant with the intent to induce another to submit to the person’s pretended official authority or to rely on the person’s pretended official acts; or

- (2) knowingly purports to exercise, without legal authority, any function of a public servant or of a public office, including that of a judge and court.³

Again, when interpreting a regulation,

[w]e begin our analysis by first looking to the normal, plain meaning of the language of the [regulation], reading the [regulation] as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory. If the language of the [regulation] is clear and unambiguous, we need not look beyond the [regulation's] provisions and our analysis ends.

Brown v. State, 454 Md. 546, 551 (2017) (quoting *Phillips v. State*, 451 Md. 180, 196-97 (2017)). Section I.7.1 provides that an officer may not violate “the laws of the United States, any sovereign nation, the State of Maryland, public local laws or ordinances.” In response to Dhillon’s argument that § I.7.1 does not address or encompass violations of the laws of other states, the Hearing Board summarily concluded that § I.7.1 “prohibits MDTA Police officers from violating the laws of other states.” In support of the Hearing Board’s conclusion, the Agency asserts that Dhillon’s proposed interpretation “requires this Court to engage in a forced or subtle interpretation to limit the plain language” of the regulation.

We construe the regulation’s plain language without adding or subtracting any words. *Md. Off. of People’s Counsel v. Md. Pub. Serv. Comm’n*, 226 Md. App. 483, 505 (2016). Moreover, “Maryland has long accepted the doctrine of *expressio (or inclusio) unius est exclusio alterius*, or the expression of one thing is the exclusion of another.” *Comptroller of Treasury v. Blanton*, 390 Md. 528, 537 (2006). Applied here, the Code of

³ Although this statute has been amended since 2019, the amendments are not material to the issues in this appeal.

Conduct’s explicit listing of the types of legal violations that may warrant discipline leads us to interpret this section to exclude violations of laws that are not so expressed.

Section I.7.1 proscribes civil violations or criminal offenses “punishable under the laws of the United States.” In that regard, the phrase “the laws of the United States” has been consistently held to mean federal laws and regulations. *See City of New York v. FCC*, 486 U.S. 57, 63 (1988) (“The phrase ‘Laws of the United States’ [as used in the Supremacy Clause] encompasses both federal statutes themselves and federal regulations that are properly adopted in accordance with statutory authorization.”); *Old Dominion Elec. Coop. v. PJM Interconnection, LLC*, 24 F.4th 271, 279 (4th Cir. 2022) (stating that “whether a claim ‘arises under’ the laws of the United States” typically means that it “has some basis in federal law”); *Alexis v. Bd. of Educ. for Balt. Cnty. Pub. Schs.*, 286 F.Supp. 2d 551, 560 (D. Md. 2003) (holding that “[t]o prevail on a § 1983 claim, the Plaintiff must show ... that he was deprived of a right secured by the Constitution or laws of the United States” and “[b]ecause the Plaintiffs have not shown that they were deprived of a right secured by the Constitution or by federal law, they cannot defeat summary judgment”). Thus, Dhillon’s alleged violation of Texas law does not constitute a violation of the “laws of the United States.”

It is equally clear that Dhillon’s violation of Texas law does not constitute a violation of the laws of “any sovereign nation” or “the State of Maryland.” Thus, the only question that remains is whether Dhillon’s violation of the Texas Penal Code constituted a criminal offense punishable under the Code of Conduct’s reference to “public local laws

or ordinances.” The Agency argues that the language “public local laws or ordinances” applies to all public local laws or ordinances, not just those in Maryland because “[t]here is no geographic qualifier[.]” Even if the Agency is correct in its interpretation, Texas Penal Code § 37.11 does not constitute a public local law or ordinance. As a general rule, “a ‘public local law’ is a statute dealing with some matter of governmental administration peculiarly local in character in which persons outside of that locality have no direct interest, [and is not] one which deals with a subject in which all the citizens of the state are interested alike[.]” *Tyma v. Montgomery County*, 369 Md. 497, 507 n.7 (2002) (quoting *Norris v. Mayor of Baltimore*, 172 Md. 667, 681 (1937)). If a municipality exercises express powers delegated by the General Assembly, “the legislative mode of enactment is by ordinance.” *K. Hovnanian Homes of Md., LLC v. Mayor of Havre de Grace*, 472 Md. 267, 297 n.18 (2021); *see also* MD. CODE ANN., LOCAL GOVERNMENT § 5-203 (stating that “the legislative body of a municipality may exercise the express powers provided in this subtitle by adopting ordinances[,]” but “an ordinance adopted by the legislative body of a municipality may not conflict with State law”). To the contrary, Texas Penal Code § 37.11, as a criminal statute enacted by the Texas Legislature, is a general law governing the conduct of its citizens. *Cf.*, *City of Baytown v. Angel*, 469 S.W.2d 923, 925 (Tex. Civ. App. 1971) (holding that a provision of the Texas Penal Code, as a general law enacted by the Texas Legislature, was superior to an inconsistent municipal ordinance). As such, it is not

a public local law or ordinance.⁴

Accordingly, Dhillon’s violation of the Texas Penal Code did not constitute a “civil violation or criminal offense punishable under the laws of the United States, any sovereign nation, the State of Maryland, [or] public local laws or ordinances.”⁵ The Agency therefore erred in determining that Dhillon violated § I.7.1 of the Code of Conduct.

**JUDGMENT OF THE CIRCUIT COURT
FOR CHARLES COUNTY REVERSED.
COSTS TO BE PAID BY APPELLEE.**

⁴ The Agency also argues that “the antecedent sentence prohibits officers from violating their oaths of office and trust.” At oral argument, the parties agreed that the “oath of office” is not in the record. Indeed, we note that the administrative record does not include any findings of fact concerning the “oath of office” provision of the regulation.

⁵ We note that if the MDTA intended to include the laws of other states “it could have clearly stated that intent[,]” but it did not. *Blanton*, 390 Md. at 539 (noting that the General Assembly could have included “both State and local income tax” but instead it decided to express “one narrow objective” by only including State income tax). We reject MDTA’s interpretation of § I.7.1 because it would require us to improperly add language to that provision.