

Circuit Court for St. Mary's County
Case No. 18-C-16-000946

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0648

September Term, 2017

OFFICE OF THE SHERIFF FOR
ST. MARY'S COUNTY

v.

SHANE CAMERON

Eyler, Deborah S.,
Fader,
Wilner, Alan M.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Fader, J.

Filed: April 24, 2018

* 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.

Former Deputy Sheriff Shane Cameron was found by an administrative hearing board to have intentionally provided false information to his employer, the Sheriff of St. Mary's County. Acting on the board's recommendation, the Sheriff terminated Cameron's employment. The Circuit Court for St. Mary's County reversed that decision, concluding that it was not supported by substantial evidence. Because we conclude that the hearing board's findings of fact are supported by substantial evidence and that the board made no legal error, we reverse the decision of the circuit court.

BACKGROUND

The facts, save only as to Cameron's intent, are undisputed. The St. Mary's County Sheriff's office keeps a log book to track all court appearances that deputies are required to attend. Deputies are notified of their obligation to attend court appearances in at least two different ways: (1) by receipt of "green sheets" that are routed to the Sheriff's office from the Maryland District Court; or (2) by being served with subpoenas. Upon receipt, Sheriff's office staff enters basic information from each green sheet or subpoena onto a page in a log book that is specific to that deputy, and then places the green sheet or subpoena in an associated folder that is also specific to that deputy. Each deputy is required to check the log book regularly for green sheets and subpoenas, and to acknowledge receipt of such documents by signing the relevant line in the log book.

On January 29, 2016, Sergeant Mark Porter notified Cameron that he had been asked to investigate Cameron's failure to appear at a court hearing on January 7, 2016, which followed a similar failure to appear the previous September. Sergeant Porter also informed Cameron that it appeared that Cameron had missed yet another court appearance, on

January 20, 2016. After speaking with Sergeant Porter, Cameron checked the log book, which reflected that he had not acknowledged receipt of three green sheets that were not then in the log book, one for the hearing he had missed on January 20 and two for hearings in March. At the suggestion of a lieutenant whom Cameron had informed that the green sheets were missing, Cameron recorded the words “No Green Sheet” on lines in the log book associated with those cases. Prior to January 29, 2016, Cameron had never noted or complained of any problem receiving green sheets.

One week later, Cameron made a similar entry regarding a green sheet for another upcoming case.

In reviewing Cameron’s log book again a few days later, Sergeant Porter discovered these “No Green Sheet” entries, all made after he had notified Cameron of his investigation, and concluded that Cameron may have been attempting to cover up his failure to appear. The investigation was then forwarded to internal affairs for further review, and was assigned to Sergeant Michael Gray.

During the ensuing review, Sergeant Gray identified four additional blank entries on Cameron’s log for which there were no associated documents in the log book (the defendants in the four cases were Mukiibi, Devine, Johnson, and Brooks). Sergeant Gray then interviewed the Sheriff’s office employee responsible for maintaining the log, who was certain that Cameron had been served with a subpoena in the Devine case (a fact subsequently confirmed by retrieving a copy of the executed subpoena from the district court) and all-but-certain that green sheets had been in the appropriate folder for the other three. Cameron was placed on administrative duties on February 29; later that same day,

his supervisor found green sheets for the Johnson and Brooks cases among paperwork on the passenger seat of Cameron’s official vehicle. Sergeant Gray retrieved a green sheet for the Mukiibi case from Cameron’s vehicle the following day. Also on March 1, apparently unaware of those discoveries, Cameron separately recorded “No Green Sheet” in the log book for the Johnson, Brooks, and Mukiibi cases and “No Subp” for the Devine case. Later that day, after Sergeant Gray confronted Cameron with the green sheets found in his vehicle, Cameron checked his cell phone for the first time and discovered that he had previously entered information in it from the green sheets and subpoena for seven of the eight cases at issue.

At his hearing, Cameron testified that it was his usual practice upon receiving a green sheet or subpoena to record the relevant information in his phone, which then became his sole source for knowing when he needed to be in court. He would then return or discard the green sheets. He also testified that, notwithstanding this nearly complete reliance, he did not once consult his cell phone to see if it had information relating to any of the cases at issue between January 29, when he was first notified of the investigation and first entered “No Green Sheet” as to three cases, and March 1, when he claimed to be missing documents for four other cases before being confronted with evidence that he had received them.

Cameron voluntarily agreed to a forensic examination of his cell phone to determine when he had entered the information regarding the seven cases at issue. The table below identifies the dates on which: (1) each green sheet and subpoena was recorded in the log; (2) Cameron entered the information from each document in his phone; and (3) he wrote “No Green Sheet” or “No Subp” as to each in the log book:

Case	Recorded in Log (by Staff)	Entered in Phone (by Cameron)	Identified as Missing (by Cameron)
Bowman	January 6	N/A	January 29
Brooks I	January 12	January 14	January 29
Graham	January 13	January 14	January 29
Raley	January 28	January 29	February 5
Mukiibi	February 17	February 19	March 1
Devine	February 17	February 19	March 1
Johnson	February 18	February 19	March 1
Brooks II	February 18	February 19	March 1

On June 7, 2016, St. Mary’s County Sheriff Timothy Cameron¹ convened an Administrative Hearing Board, pursuant to the Law Enforcement Officers Bill of Rights, § 3-107 of the Public Safety Article of the Maryland Code, to consider 12 charges against Cameron. Eight of the charges, one with respect to each of the cases listed in the table above, were for violations of a sheriff’s office rule mandating truthfulness. The rule requires that “[a]ll verbal communications and written reports submitted by employees of the agency will be truthful” and forbids employees from knowingly reporting false information or misrepresenting facts. The rule distinguishes between “reports which contain false information and those which contain inaccurate or improper information,” and provides that proving a violation by a preponderance of the evidence requires evidence that the “report is designedly untrue, deceitful, or made with the intent to deceive the person to whom it was directed.” The four remaining charges alleged violation of sheriff’s office rules regarding punctuality and reporting to duty, attending court appearances,

¹ We have not been informed of any familial relationship between Cameron and Sheriff Cameron, and so assume there is none.

implementation of directives, and conduct unbecoming/rudeness. Cameron pled guilty to the charges regarding punctuality and reporting to duty, attending court appearances, and implementation of directives. He pleaded not guilty to the eight truthfulness charges and the conduct unbecoming charge.

The hearing board, comprised of three sworn officers from the Riverdale Park Police Department, the Charles County Sheriff's Office, and the Montgomery County Sheriff's Office, heard testimony from eight witnesses, including Cameron, and accepted exhibits from both parties. The board issued a unanimous written opinion in which it expressly found all of the witnesses who testified to be credible with the exception of Cameron, whose testimony it found "non-credible as it differed from the evidence presented." The hearing board made detailed findings of fact regarding the investigation into Cameron's failures to appear, the fact that the log book entries at issue were entered only after Cameron was made aware of that investigation, the absence of any complaints about problems getting green sheets from Cameron until that time or from any other deputy at any time, the discovery of green sheets in Cameron's car, and the discovery of information on his phone which contained details that "could only be obtained from the 'green sheet' summons or a subpoena." The hearing board also noted Cameron's explanation that "he simply forgot he removed [the green sheets from the log book], forgot to sign receipt of them, forgot to check his phone for verification prior to writing 'no green sheet', and forgot he had been served the subpoena for the Devine case eleven days prior to entering 'No Subp 3-1-16' into the Summons Log Book."

The board found Cameron guilty of 11 of the 12 charged offenses. It found him guilty of seven of the eight truthfulness charges, concluding with respect to each that he entered false information into an official office document “with the intent to deceive the [office] that he was never in possession/receipt of” the green sheet or subpoena at issue. The Board found Cameron not guilty on the truthfulness charge related to the Bowman case, as to which no green sheet was ever located and no information was found in Cameron’s phone.² The Board also found Cameron guilty of the three charges as to which he pleaded guilty and to the conduct unbecoming charge, as to which the Board concluded that Cameron “entered a consistent course of conduct that reflected poorly on himself and the St. Mary’s County Sheriff’s Office when he consistently entered false information into an Official Sheriff’s Office document with the intent to deceive the [office] that he was never in possession/receipt of said summonses.” After Cameron declined to present any evidence or argument with regard to punishment, the board recommended termination of employment. Sheriff Cameron adopted that recommendation.

Cameron sought judicial review in the Circuit Court for St. Mary’s County, which reversed. The circuit court accepted the board’s factual findings, but concluded that “[t]he evidence fails to show that more likely than not the report was designedly untrue, deceitful, or made with the intent to deceive.” The court concluded that the facts instead

² Much of the evidence Cameron presented at the hearing was related to proving incorrect the office’s theory that he had claimed he never received a green sheet for the Bowman case because he was on vacation and never intended to attend trial that day. In fact, he had already returned from vacation and would have been available to be in court that day.

demonstrated “a clear and/or consistent carelessness by Deputy Cameron.” Analogizing this case to *VanDevander v. Voorhar*, 136 Md. App. 621 (2001), the court concluded that the evidence on which the Board relied was “inconsistent with the conclusion drawn” in four ways, which we discuss below. This appeal followed.

DISCUSSION

I. THE STANDARD OF REVIEW

“The scope of judicial review of a LEOBR case is the same as for an administrative appeal.” *Balt. Police Dept. v. Ellsworth*, 211 Md. App. 198, 207 (2013). On appeal, “we bypass the judgment of the circuit court and look directly at the administrative decision.” *Id.* (quoting *Salisbury Univ. v. Joseph M. Zimmer, Inc.*, 199 Md. App. 163, 166 (2011)). “In applying this standard, we review the decision of the administrative agency, rather than the determination of the lower court,” *Motor Vehicle Admin. v. Carpenter*, 424 Md. 401, 413 (2012).

When reviewing administrative decisions, “we are limited to determining if there is substantial evidence in the record as a whole to support the agency’s finding[s] and conclusions.” *Ellsworth*, 211 Md. App. at 207 (quoting *Mehrling v. Nationwide Ins. Co.*, 371 Md. 40, 57 (2002); see *Regan v. Bd. of Chiropractic Exam’rs*, 120 Md. App. 494, 508 (1998) (judicial review of an administrative decision “is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions”). “In applying the substantial evidence test, a reviewing court decides ‘whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.’” *Carpenter*, 424 Md. at 412 (quoting *Maryland Aviation Admin. v.*

Noland, 386 Md. 556, 571-72 (2005)). We must “defer to the agency’s fact-finding and drawing of inferences if they are supported by the record” and “review the agency’s decision in the light most favorable to it.” *Id.* at 413. However, we give “no deference to agency conclusions based upon errors of law.” *Coleman v. Anne Arundel Cty. Police Dept.*, 369 Md. 108, 121 (2002) (quoting *State Ethics v. Antonetti*, 365 Md. 428, 447 (2001)).

Critical to our analysis of the Board’s actions here, “[t]he heart of the fact finding process often is the drawing of inferences from the facts. The administrative agency is the one to whom is committed the drawing of whatever inferences reasonably are to be drawn from the factual evidence.” *Tipperly v. Montgomery Cty. Police Dept.*, 112 Md. App. 332, 339 (1996) (quoting *Snowden v. Mayor of Balt.*, 224 Md. 443, 448 (1961)). “We should accord deference to the agency’s fact-finding and drawing of inferences when the record supports them.” *Md. Dept. of Env’t v. Anacostia Riverkeeper*, 447 Md. 88, 120 (2016) (internal quotation marks and citation omitted). Additionally, it is for the agency to “resolve conflicting evidence” and draw any appropriate conclusions from “inconsistent inferences from the same evidence.” *Tipperly*, 112 Md. App. at 348 (quoting *Younkers v. Prince George’s Cty.*, 333 Md. 14, 19 (1993)); see *Carpenter*, 424 Md. at 413 (“[I]t is the agency’s province to resolve conflicting evidence and to draw inferences from that evidence.”) (quoting *Noland*, 386 Md. at 571-72).

Under the substantial evidence standard, a court “may not substitute its judgment on the question whether the inference drawn is the right one or whether a different inference would be better supported. The test is reasonableness, not rightness.” *Anacostia Riverkeeper*, 447 Md. at 120 (quoting *Mayor & Alderman of City of Annapolis v. Annapolis*

Waterfront Co., 284 Md. 383, 399 (1979)). If substantial evidence supports the agency's conclusions, it is immaterial whether we may have reached the same conclusion had we been the finder of fact.

II. THE HEARING BOARD'S DECISION WAS SUPPORTED BY SUBSTANTIAL EVIDENCE.

The hearing board's decision that Cameron presented false information with the intent to deceive was supported by substantial evidence. Before the board was evidence that on three separate occasions over the course of less than five weeks with respect to eight different court appearances, Cameron claimed not to have received green sheets and a subpoena. He made those claims even though he had been personally served with the subpoena, three of the green sheets were located on the passenger seat of his vehicle, and he had entered information from six of the green sheets and the subpoena into his phone within only a day or two of when the sheets and subpoena were first recorded in the log. His claims were thus indisputably untrue as to seven of the cases.

The board also received evidence from which it reasonably could have concluded that Cameron's conduct was intentional. First, his claim was initially made only after he was notified that he was under investigation for failures to appear in court. Second, although he testified that his cell phone was where he recorded information about court dates as soon as he received green sheets and subpoenas and was the sole source on which he depended for such information, he failed to check it before claiming never to have received the green sheets and subpoena. Third, his claims about the missing green sheets and subpoena were made fairly soon—as little as a week and no longer than 15 days—after

he had transferred information from those sheets and that subpoena into his phone. Fourth, all of the activity at issue appeared on a single page of the log book, which indicates that Cameron received only 22 total green sheets and subpoenas during the period from January 6 through February 18, 2016. Cameron’s untrue claims to have not received green sheets and a subpoena were thus made: (1) on three separate occasions; (2) when he knew he was under investigation for failing to appear in court; (3) with respect to almost one-third of the court notices he received in a span of approximately six weeks; (4) in each case, relatively soon after he had actually transferred information from the notices onto his phone; and (5) without ever checking his phone. Viewed in its totality, this evidence could reasonably be viewed as contradicting Cameron’s explanation that he had simply forgotten that he had received the green sheets and subpoena by the times he made the claims that he had never received them.³

From this evidence, and having had the opportunity to gauge the credibility of the witnesses,⁴ the hearing board inferred an intent to deceive. Although that is not the only

³ During oral argument, Cameron’s counsel disavowed his prior argument that Cameron’s statements about the absence of green sheets were literally true because, at the time the statements were made, the green sheets were no longer present in the log book. Of course, the reason at least three of the green sheets were no longer present in the log book is because Cameron had placed them in the passenger seat of his official vehicle. The hearing board was not unreasonable in failing to credit this hyper-technical argument, which also was inconsistent with at least certain parts of Cameron’s own testimony. (E.g., “Q: My question is are you testifying that 12 days later you don’t remember receiving something and you wrote down on an agency document no green sheet? A: Absolutely. That’s what I’m testifying.”)

⁴ Cameron contends that we should reject the board’s conclusion that his testimony was incredible because the board’s proffered explanation for that conclusion—that his testimony “differed from the evidence presented”—was manifestly incorrect as there was

inference that the board could have drawn, it certainly is a permissible one that is supported by substantial evidence. The substantial evidence test does not require us to find that the hearing board arrived at an irrefutably correct conclusion, or even the conclusion we would have reached had we been sitting in their chairs. It instead asks whether reasoning minds reasonably could have reached the conclusion that the hearing board reached.

Cameron argues, and the circuit court agreed, that the evidence more strongly suggested that Cameron was careless rather than intentionally deceitful. As an initial matter, even if true, that is irrelevant. Neither the circuit court nor we may reweigh the evidence. “The test is reasonableness, not rightness.” *Anacostia Riverkeeper*, 447 Md. at 120 (quotation omitted). “While, were we the finder of fact we might well have found to the contrary, there was substantial evidence supporting the examiner’s determinations. The weighing of the evidence and the assessment of witness credibility is for the finder of fact, not the reviewing court.” *Tippery*, 112 Md. App. at 340-41 (quoting *Terranova v. Bd. of Trustees of Fire & Police Employees Ret. Sys. of Baltimore City*, 81 Md. App. 1, 13 (1989)).

But we also do not agree that the evidence that Cameron contends, and the circuit court concluded, contradicts the board’s conclusion does so. Although it is undisputed that Cameron only started writing “No Green Sheet” in the log book after a lieutenant advised him to do so, it is also undisputed that Cameron had first stated in the lieutenant’s presence

no disagreement as to the basic facts. We disagree. The board could reasonably have determined, as it clearly did, that Cameron’s testimony that his conduct was merely careless differed from substantial evidence that his conduct was intentional.

that the green sheets were missing. Given that, we fail to see how this interaction contradicts the board’s conclusions in any way. And while it is also uncontroverted that Cameron did not read a supervisor’s e-mail containing instructions relating to handling court notices before deleting it, we fail to see how that fact even suggests, much less compels, the conclusion that his other conduct was unintentional. The circuit court also concluded that Cameron’s testimony that he often did not keep or sign green sheets after entering information from them in his phone “alone has the tendency to show that Deputy Cameron was careless and/or needs training in administrative procedures, but fails to show an intent or even a motive to deceive.” As discussed above, however, the evidence before the board was not that “alone.”

We do agree with Cameron and the circuit court that Cameron’s consent to having his phone’s calendar forensically examined could reasonably have been interpreted by the board as inconsistent with an intent to deceive. But the existence of some favorable evidence from which the board might have reached a different conclusion does not eradicate the substantial evidence on which the board relied for the conclusion it reached. Nor does it permit us to revisit the board’s determinations about witness credibility.

Finally, we reject Cameron’s contention that this case is controlled by *VanDevander v. Voorhar*. There, we found that a conclusion that an officer had been untruthful in reporting about a single use of force incident was not supported by substantial evidence. 136 Md. App. at 635. Here, by contrast, there is substantial evidence, as discussed. To the extent that Cameron reads *VanDevander* to suggest that evidence of an intent to deceive must be direct evidence in the form of, for example, a testimonial admission or a “smoking

gun” memorandum, *VanDevander* stands for no such proposition. The board was permitted to infer from the evidence before it that Cameron must have known that his statements were untrue at the time he made them and, therefore, intended to deceive.

**JUDGMENT OF THE CIRCUIT COURT
FOR ST. MARY’S COUNTY REVERSED.
CASE REMANDED TO THE CIRCUIT
COURT FOR ENTRY OF AN ORDER
CONSISTENT WITH THIS OPINION.
COSTS TO BE PAID BY APPELLEE.**