

Circuit Court for Anne Arundel County
Case No. C-02-CV-23-002595

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 778

September Term, 2024

IN THE MATTER OF MARY BETH LEAF

Tang,
Kehoe, S.
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: July 17, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Mary Beth Leaf, the appellant, was formerly employed by the Maryland Transportation Authority (“MDTA”), an agency within the Maryland Department of Transportation (“MDOT”).¹ After receiving notice of her termination, the appellant appealed, and a hearing on the merits was held before an administrative law judge (“ALJ”) with the Office of Administrative Hearings (“OAH”). The ALJ concluded that the appellant had not met her burden to demonstrate that the MDTA had illegally or unconstitutionally terminated her employment. She then sought review in the Circuit Court for Anne Arundel County, which affirmed the ALJ’s decision. The appellant then noted this timely appeal, presenting a single question, which we rephrase as follows:²

Did the ALJ err in determining that the appellant had not met her burden of showing that the MDTA had illegally or unconstitutionally terminated her employment?

For the reasons discussed below, we affirm the judgment of the circuit court.

STATUTORY & REGULATORY OVERVIEW

Pursuant to statutory authority, the Secretary of the MDOT has established a human resources department separate from the system governing employment of State employees generally. *See* Md. Code Ann., Transp. Art. (“TA”) § 2-103.4(a). The Secretary is required

¹ *See* Md. Dep’t of Transp., *About MDOT*, <https://www.mdot.maryland.gov/tso/pages/Index.aspx?PageId=5> (last visited July 15, 2026) [<https://perma.cc/5XQW-DYEN>]. The MDTA “has general supervision over all transportation facilities projects,” and it “shall finance, construct, operate, repair, and maintain in good order all transportation facilities projects,” i.e., tolling facilities. Md. Code Ann., Transp. Art. § 4-204(b)–(c).

² In her brief, the appellant phrased the question as follows: “Whether the ALJ erred in failing to find that the actions of the [MDTA] below were illegal and unconstitutional?”

to adopt regulations governing its human resource management system, which include the appointment, hiring, removal, and termination of employees. TA § 2-103.4(d)(1), (2). The Secretary is further required to establish appeal procedures through regulations and policy. TA § 2-103.4(d)(8).

Title 11, Subtitle 2, Chapter 8, Regulation 7 of the Code of Maryland Regulations (“COMAR”) and Section 7G of the Transportation Service Human Resources Policy (the “Policy”) govern disciplinary actions for Executive Service employees. Disciplinary actions include termination. Policy § 1.2.5.

An “Executive Service employee” is “an employee of the Transportation Service who . . . [s]erves at the pleasure of the appointing authority.” COMAR 11.02.01.02.B(16).³ It is undisputed that the appellant was an Executive Service employee.

“Appointing authority” means “the Secretary or the Secretary’s designee.” COMAR 11.02.01.02.B(3). The Secretary during the relevant time was Paul J. Wiedefeld. It is undisputed that William Pines, who was the Executive Director of the MDTA during the relevant time, served as an “appointing authority.”

Procedure for Discipline or Termination

COMAR 11.02.08.07 provides the general framework for disciplining or terminating an Executive Service employee:

An appointing authority may recommend to the Secretary of Transportation the discipline or termination of an Executive Service . . . employee. The

³ An “Executive Service employee” differs from a “Career Service employee,” “who has been selected competitively and who, after completion of probation, may be dismissed only for cause.” COMAR 11.02.01.02.B(5)(a).

Secretary shall review the request and, at the Secretary's discretion, approve or disapprove the recommended discipline or termination. After approval by the Secretary, the appointing authority shall send the employee written notice of the discipline or termination, and the appropriate appeal route, including the time frame for appeal to the [OAH].

COMAR 11.02.08.07.A.

Subsection 4 of the Policy outlines specific procedures before imposing any disciplinary action against an Executive Service employee. It provides, in relevant part:

- 4.1 The Appointing Authority *or designee* is responsible for addressing an employee's misconduct or unacceptable performance.
- 4.2 Before imposing any disciplinary action related to employee misconduct, the Appointing Authority *or designated representative* shall:
 - 4.2.1 Investigate the alleged misconduct;
 - 4.2.2 Meet with the employee;
 - 4.2.3 Consider mitigating circumstances;
 - 4.2.4 Determine the appropriate disciplinary action, if any, to be imposed; and
 - 4.2.5 Give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

(Emphases added).

The Policy also outlines the procedure for disciplining or terminating an Executive Service employee in Subsection 10:

- 10.1 The Appointing Authority shall send to the Secretary the request to discipline or terminate an Executive Service . . . employee.
- 10.2 The Secretary shall review the request and at the Secretary's discretion approve or disapprove the recommended action.
- 10.3 Upon approval, the Appointing Authority shall provide the employee with written notice of the discipline or termination, and the appeal route, including time frame for appeal to the [OAH].

Appeal Procedure

An Executive Service employee may appeal his or her discipline or termination in writing to the OAH within fifteen days of receipt of such notice. COMAR 11.02.08.07.B(1); Policy § 11.1. “However, the employee has the burden of proof at the [OAH], and the hearing is limited to the legal and constitutional basis for the discipline or termination.” COMAR 11.02.08.07.B.(1), 11.02.08.10.K(3)(e); Policy § 11.2. “Decisions shall be based upon a preponderance of the evidence.” COMAR 11.02.08.10.K(1).

An ALJ must hear the appeal within ninety calendar days of the appeal and render a final decision within forty-five calendar days of the hearing. Policy § 12.1.1. An employee may seek judicial review of the final decision. *Id.* § 12.2.

BACKGROUND

Since the parties are well acquainted with the facts and generally do not dispute the ALJ’s factual findings, a detailed recitation of all the evidence is unnecessary. Instead, we provide a summary of key facts relevant to the discussion below.

In 2019, the appellant, who was in her mid-sixties, was employed as an Executive Service Employee by the MDTA, specifically, a project portfolio manager in the Division of Information Technology. When she was hired, the appellant reported to Kaushik Dutta, who served as the assistant director of the project management office (“PMO”). Mr. Dutta reported to David Goldsborough, the director of Information Technology, and Mr. Goldsborough reported to Percy Dangerfield, the chief administrative officer.

In the spring of 2022, the appellant directed several communications to Mr. Goldsborough and PMO employees that were described as hostile, condescending, and inappropriate. On June 2, 2022, Mr. Goldsborough issued the appellant a letter of counseling advising her, among other things, of her “unprofessional behavior exhibited in email and voicemail communications with myself and other staff.” He observed that her emails “have an aggressive posture, and [her] choice of wording, language, and content can be received [sic] as condescending, which does not foster a good work environment.” Mr. Goldsborough stated in the letter that the appellant would be expected to “[c]ompose short, professional, and courteous emails and refrain from using aggressive language or wording.” He presented the letter of counseling to the appellant in person, and he met with her and Mr. Dutta for about forty-five minutes to discuss it.

From August 29 through December 15, 2022, the appellant temporarily left her duties at the PMO to attend the Procurement Academy, a training program run by the MDTA. While a participant in the academy, the appellant was expected to focus only on academy work. During that time, however, the appellant sent various emails observing that reports were not being filed by a certain employee and expressing to Mr. Goldsborough irritation about not being able to access work-based applications while at the academy. On November 15, 2022, Mr. Goldsborough explained to the appellant, via email, that her access to these applications would be restored upon her return, and he reminded her about avoiding “repeated e-mails that start to become aggressive in nature or give the appearance of an aggressive posture.”

On November 17, 2022, Mr. Goldsborough issued the appellant a second letter of counseling. This letter highlighted the expectation that while attending the academy, the appellant should focus only on that work and should limit communications to general administrative issues.

Mr. Goldsborough and other employees continued to experience difficulties with the appellant. By mid-December 2022, Mr. Dutta had left his position, and Mr. Goldsborough changed the reporting structure such that employees would report directly to him. In addition, Mr. Goldsborough removed the appellant’s supervisory responsibilities and asked her to take on direct project management work. The appellant stated that she had no interest in handling projects directly, since she had done so for a long time and was “completely burnt out on that.” Mr. Goldsborough informed the appellant that her job description was “50% project management,” and that if she did not want to take on any projects, that was a “major issue because that is what I am expecting.”

In March 2023, Lisa Arthur, an employee who had previously been involved in conflict with the appellant, was promoted to Mr. Dutta’s former position as the PMO’s assistant director. Mr. Goldsborough attempted to coordinate a meeting with the appellant and Ms. Arthur to discuss the appellant’s DTS-3.⁴ The appellant ultimately declined to meet, explaining to Mr. Goldsborough that updates or revisions to her DTS-3 were “a non-starter.” She later emailed him expressing frustration with Ms. Arthur’s work performance

⁴ Mr. Goldsborough indicated that a DTS-3 is essentially a “position description,” completed by the employee, that “gives a complete layout of what your responsibilities are within your job, very detailed.”

and explaining that she did not want to engage with Ms. Arthur. Mr. Goldsborough encouraged the appellant to speak with Ms. Arthur and conveyed that Ms. Arthur would be happy to sit with her. However, the appellant accused Ms. Arthur of being aggressive and requested that Mr. Goldsborough “work with [Ms. Arthur] to modify her behavior.”

When Ms. Arthur attempted to schedule a meeting with the appellant to discuss a project, the appellant informed Ms. Arthur that she wanted the meeting either recorded or attended by a neutral third-party. The appellant also requested mediation, in which Ms. Arthur declined to participate.

On April 5, 2023, Ms. Arthur emailed the appellant explaining that the appellant’s timecard needed to be corrected. The appellant responded by asking whether she should be doing something differently. Ms. Arthur then sent her timekeeping guidelines previously sent by Mr. Goldsborough, to which the appellant replied, “Spare me. Just answer the question.” Mr. Goldsborough emailed the appellant requesting that she adhere to the timekeeping guidelines when filling out her timecard, to which the appellant responded, in part:

Please don’t patronize me on this subject or treat me as if I’m abusing either the system, the rules, or management. I am not. I’m a grown up. I don’t play games or politics, am probably older than both of you and I have been doing all of this for a long time.

Appellant’s Termination

On March 28, 2023, Mr. Goldsborough submitted a memorandum to the MDTA’s employee relations officer summarizing the ongoing issues with the appellant and requesting that she be terminated from employment. A personnel action committee

(“PAC”) was convened, which asked Mr. Goldsborough multiple questions about his request. The PAC then voted that termination was appropriate.

As mentioned, William Pines, then-Executive Director of the MDTA, served as the “appointing authority.” Mr. Pines met with Mr. Goldsborough and Mr. Dangerfield to discuss whether the appellant should be terminated before accepting their recommendation for termination.

On April 24, 2023, Mr. Pines sent a memo to Secretary Wiedefeld summarizing why the appellant’s termination was recommended, which included examples of unprofessional behavior such as harsh, aggressive, and condescending communications; resisting performing the project management duties of her job; refusing meetings with supervisors unless on her terms; and demonstrating a lack of boundaries and situational awareness.

On May 8, 2023, Secretary Wiedefeld approved the termination recommendation. Mr. Pines informed the appellant of the termination decision the next day.

Administrative Hearing

On May 24, 2023, the appellant appealed her termination to the OAH. The ALJ held a pre-hearing conference on July 28, 2023. The parties agreed that, pursuant to statutory and regulatory authority *supra*, the sole issue for the ALJ to decide was whether the MDTA illegally or unconstitutionally terminated the appellant. The parties further agreed that under the relevant authority, the employee (not the employer) had the burden of proving by a preponderance of the evidence that the termination was illegal or unconstitutional.

A three-day hearing on the merits began September 26, 2023. The appellant testified and presented three witnesses, two of whom previously worked directly below the appellant, and one of whom worked below one of the appellant’s direct subordinates. All three witnesses testified that the appellant was professional, supportive, and respectful.

Several exhibits were admitted into evidence, including the appellant’s email communications and performance appraisals. In 2020, 2021, and 2022, the appellant received ratings of “exceeds expectations” on her performance appraisals. In February 2023, she received a rating of “achieves expectations.” However, Mr. Goldsborough noted that the appellant needed to focus on improving communication skills with team members, especially in emails.

The MDTA presented testimony from six witnesses, including Mr. Pines, Mr. Goldsborough, and Jillian Cathey, the MDTA employee relations officer. Mr. Pines described the process of reviewing the appellant’s separation request, noting that although he never met with the appellant, as the appointing authority, he “rel[ied] on others” to assess the employee’s conduct, stating, “I don’t—I’m not doing this directly myself.”

Both Mr. Goldsborough and Ms. Cathey understood that Mr. Goldsborough had acted either as the appointing authority or in a representative capacity. Mr. Goldsborough thought he was acting as the appointing authority for the Division of Information Technology, given that he had the power to update the appellant’s job duties and modify work assignments. Additionally, Ms. Cathey explained that the appointing authority

typically attends the PAC meeting where termination decisions are made, and that Mr. Goldsborough “would have been representing for the administrators.”

Appellant’s Closing Argument

At the conclusion of the case, the appellant’s counsel argued that her termination was an unconstitutional violation of her rights, asserting it was both retaliatory and discriminatory based on age and sex. The appellant contended that the MDTA fabricated a false narrative to justify the termination and that the documents relied upon contained lies. She also emphasized that several witnesses testified they had no issues with her.

Additionally, the appellant contended that the record contained no evidence showing Mr. Goldsborough had been formally designated in writing by Mr. Pines, the appointing authority, to investigate any alleged misconduct and to meet with the employee, as required under § 4.2 of the Policy. She referenced COMAR 11.02.01.02.B(14), which defines “designee” as “the representative of an appointing authority who has been delegated *in writing* certain powers of the appointing authority.” (Emphasis added.) The appellant argued that if Mr. Pines had formally delegated such authority to Mr. Goldsborough, then Mr. Pines could have properly relied on the findings of Mr. Goldsborough’s investigation. However, in the absence of a formal delegation, she asserted that Mr. Pines himself was responsible for carrying out those required functions. Because the agency had “fail[ed] to follow its own procedures in terminating an employee,” she maintained that she had met her burden of proving that her termination was illegal and unconstitutional.

ALJ's Decision

On November 27, 2023, the ALJ issued a thirty-nine-page opinion, affirming the MDTA's decision to terminate the appellant. As to the appellant's primary contention that her termination was unconstitutionally retaliatory and impermissibly based on her age and/or sex, the ALJ found that:

[T]here is not even an inkling of credible evidence that demonstrates that the [appellant] was terminated based on her being a sixty-seven-year-old female with a disability. Nor is there any credible evidence that the [appellant] was terminated in retaliation for reporting that the MDTA was a hostile and threatening work environment.

The ALJ also rejected the appellant's argument that the MDTA illegally concocted a false narrative on which it based its termination decision. The ALJ concluded that the argument lacked merit because the request for separation was vetted and subject to a "rather lengthy and arduous process" before the Secretary approved the termination recommendation.

The ALJ next addressed the appellant's contention that there was no evidence in the record that Mr. Goldsborough was designated in writing to be a designated representative of Mr. Pines, the appointing authority. The ALJ explained that:

It was not the MDTA's responsibility to produce such a document or demonstrate that any such document exists. The [appellant] had the opportunity but did not question Mr. Goldsborough about this document. Therefore, I am unable to find that the [appellant] demonstrated that Mr. Goldsborough was the improper person to perform these prerequisites.

The ALJ concluded that the evidence demonstrated that the appellant engaged in harsh, aggressive, inappropriate, and condescending verbal and written communication

with MDTA staff members, listing several examples drawn from the email exchanges in evidence. The evidence also established that the appellant resisted performing the project management duties of her job, and the ALJ’s opinion went on to list instances in which the appellant did so. For these reasons, the ALJ concluded that the MDTA did not illegally or unconstitutionally terminate the appellant.

The appellant sought judicial review of the ALJ’s decision. On May 20, 2024, the Circuit Court for Anne Arundel County affirmed the ALJ’s decision. The appellant timely noted this appeal.

STANDARD OF REVIEW

A court’s role in reviewing an administrative agency’s adjudicatory decision is narrow. *United Parcel Serv., Inc. v. People’s Couns. for Balt. Cnty.*, 336 Md. 569, 576 (1994). We determine “if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions,” and look to whether the administrative decision was premised upon an erroneous conclusion of law. *Md. Aviation Admin. v. Noland*, 386 Md. 556, 571 (2005) (citations omitted). In doing so, we defer to the agency’s fact-finding and drawing of inferences if they are supported by the record. *Motor Vehicle Admin. v. Usan*, 486 Md. 352, 363 (2024) (citation omitted).

In applying the substantial evidence test, we decide “whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.” *Noland*, 386 Md. at 571 (citation omitted). “The agency’s decision is *prima facie* correct and presumed valid, and it is the agency’s province to resolve conflicting evidence and to draw inferences

from that evidence.” *Id.* (citation modified). Our task is not to substitute our judgment for the agency’s where we disagree—and even as to legal issues, an administrative agency’s interpretation and application of a statute which it administers should ordinarily be given considerable weight by the reviewing court. *Id.* at 571–72. On the other hand, we accord no deference to administrative constructions of a statute where the statutory provision is entirely clear and unambiguous. *Macke Co. v. Comptroller of the Treasury*, 302 Md. 18, 22–23 (1984).

DISCUSSION

The appellant argues that the ALJ erred in affirming her termination on two grounds. First, she argues that Mr. Pines, as the appointing authority, was “required to actually meet with [her], to consider circumstances which would mitigate against termination, and to actually make an informed decision regarding the disciplinary action being imposed.” Second, she contends that the ALJ’s decision was not supported by substantial evidence.

A.

Appointing Authority

The appellant contends that her termination was illegal because Mr. Pines, as the appointing authority, failed to adhere to the prerequisites to disciplinary action required by the Policy.

Notably, the appellant does not raise in the argument section of her brief the argument she made during closing before the ALJ—that the record lacks any evidence showing Mr. Goldsborough was formally designated in writing by Mr. Pines, the

appointing authority, to perform the prerequisites under Subsection 4 of the Policy. *See Anderson v. Litzenberg*, 115 Md. App. 549, 570 (1997) (“[A]rguments not raised in a brief are deemed waived.”). Instead, the appellant makes a different argument on appeal.

In her brief, the appellant attempts to analogize the language of the Policy to the statutory framework in § 11-106 of the State Personnel & Pensions Article, which requires that, “[b]efore taking any disciplinary action related to employee misconduct, an *appointing authority shall . . . meet with the employee.*” Md. Code Ann., State Pers. & Pens. § 11-106(a)(2) (emphasis added); *cf.* Policy §§ 4.2, 4.2.2 (“Before imposing any disciplinary action related to employee misconduct, *the Appointing Authority or designated representative shall . . . [m]eet with the employee[.]*” (emphasis added)). She contends that only Mr. Pines, who testified that his role “was to be the appointing authority,” could fulfill the prerequisites under Subsection 4 of the Policy—not Mr. Goldsborough—and that, by “rel[ying] solely on the conclusions of Mr. Goldsborough,” Mr. Pines “fail[ed] to fulfill his obligations under the applicable policy.” However, this argument was neither raised before the ALJ nor decided by the ALJ, and therefore it was not preserved. *See Dep’t of Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123 (2001) (explaining that a reviewing court “may not pass upon issues presented to it for the first time on judicial review and that are not encompassed in the final decision of the administrative agency”).

Even if preserved, we reject the appellant’s assertion that this case is governed by the State Personnel and Pensions Article. Notably, Title 11 of the State Personnel and Pensions Article does not apply to MDOT employees, including MDTA employees. In

1992, the General Assembly explicitly granted the Secretary the authority to establish a separate personnel management system for MDOT. *See* 1992 Md. Laws Ch. 168. As mentioned, TA § 2-103.4(a) grants the Secretary authority to create a human resources management system for MDOT and its units “[w]ithout regard to the laws of this State relating to other State employees.”

Our research into the legislative history indicates that the creation of a separate human resources management system for the MDOT arose out of a desire to accommodate the “specialized needs” of MDOT’s various specialized units, which demanded “a wide range of flexibility in the recruitment of personnel.” Testimony of Theodore E. Mathison, Adm’r, Md. Aviation Admin., before the House Appropriations Comm., at 4 (Feb. 27, 1992). “[O]ut of necessity,” the existing state personnel system was “geared to meet a broad range of generalized requirements and consequently focuse[d] on generic classifications and generalist skills,” whereas the agencies comprising the MDOT had “specialized needs which c[ould] not be met by a generically oriented system.” *Id.* Accordingly, Title 11 of the State Personnel and Pensions Article does not apply to this case; the Policy governs this matter.

Subsection 4 of the Policy does not permit only the appointing authority to investigate the alleged misconduct, meet with the employee, consider mitigating circumstances, and determine the appropriate disciplinary action. Instead, it alternatively permits the appointing authority’s “designated representative” to carry out these responsibilities. Policy § 4.2. The evidence indicated that Mr. Pines, as the appointing

authority, relied on others to assess an employee’s conduct, and that Mr. Goldsborough served as such a designated representative. Mr. Goldsborough testified that he believed himself to be acting as the appointing authority, and Ms. Cathey explained that he “would have been representing the administrators” at the PAC meeting, where the appointing authority typically participates.

For the reasons stated, the ALJ did not err in concluding that the appellant failed to meet her burden of proving that her termination was illegal.

B.

Substantial Evidence

The appellant contends that the ALJ improperly sustained the MDTA’s determination that her behavior was unprofessional, hostile, aggressive, and disruptive without reconciling the contradictory testimony of her witnesses who testified favorably for her and her positive performance evaluations. We are not persuaded.

Contrary to the appellant’s assertion, the ALJ thoroughly considered all testimony and carefully reconciled any allegedly conflicting evidence. The ALJ explained in the written opinion:

The [appellant] argued that she presented the testimony of three former employees who worked for the [appellant], . . . all of whom testified that they liked the [appellant] and had no issues with her. While I do not doubt that these individuals thought that the [appellant] was a good manager and had no issues with the way the [appellant] interacted with them, their testimony did not assist the [appellant] in meeting her burden of demonstrating that the MDTA illegally or unconstitutionally terminated her from her position.

* * *

The evidence demonstrates that Mr. Goldsborough either had personal knowledge due to his own involvement, or was informed by individuals with whom he worked, about the details surrounding the [appellant]’s misconduct. Mr. Goldsborough reviewed emails and had conversations with Human Resources to substantiate the allegations contained within his request for separation.

The MDTA does not dispute that the [appellant] performed aspects of her job in a manner that at the very least met expectations. This is all well documented in the [appellant]’s performance appraisals. . . . However, the [appellant] served at the pleasure of the Appointing Authority who had the authority to terminate the [appellant] for any reason that is not illegal or unconstitutional.

The ALJ detailed several instances documented in emails and other communications that demonstrated a “lack of boundaries and situational awareness,” as well as “inappropriate, harsh word choices.” Additionally, the ALJ identified occasions where the appellant “resisted performing the Project Management duties of her job and demonstrated insubordinate behavior by becoming combative when assigned tasks.” In applying the substantial evidence test, we conclude that a reasoning mind reasonably could have reached the factual conclusion the ALJ reached. *Noland*, 386 Md. at 571.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. APPELLANT TO PAY COSTS.**