

Circuit Court for Harford County
Case No. C-12-CV-19-001032

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0924

September Term, 2020

SARAH AND PETER JUROVICH

v.

HARFORD COUNTY DEPARTMENT OF
SOCIAL SERVICES

Graeff,
Zic,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: August 6, 2021

* 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.

Peter Jurovich (“Father”) and Sarah Jurovich (“Stepmother”), appellants, appeal an order of the Office of Administrative Hearings (“OAH”) in which the Administrative Law Judge (“ALJ”) found there was a preponderance of the evidence in the record to support the appellee’s, Harford County Department of Social Services (the “Department”), finding of indicated child neglect. The ALJ denied Father and Stepmother’s Motion for Summary Decision, finding that the doctrine of collateral estoppel did not apply to the case. We agree with the ALJ’s determinations and affirm the decision of the OAH. We explain.

QUESTIONS PRESENTED

Father and Stepmother present two questions for appellate review,¹ which we have rephrased as follows:

¹ Father and Stepmother raised the following questions presented in their brief:

1. Did the ALJ err in refusing to give preclusive effect to a fully litigated finding in a CINA proceeding that I* and R* were CINA due to a mental disorder and not abuse or neglect?
2. Did the ALJ err in affirming the Local Department’s finding of indicated child neglect and its identification of the Jurovichs [sic] as the individuals responsible for that neglect?

The Department phrased the questions as follows:

1. Did the ALJ correctly determine that the juvenile court’s acceptance of the parties’ agreement that the girls were CINA based on a mental disorder did not collaterally estop the local department from litigating its child abuse and neglect findings?
2. Was the ALJ’s finding that the Juroviches had neglected the girls and caused them to be anxious, fearful, and

1. Was the ALJ correct in finding that, concerning the indicated neglect determination, the facts of the case do not satisfy the requirements of the common law doctrine of collateral estoppel?
2. Was there substantial evidence in the record to support the ALJ's affirmance of the Department's finding of indicated child neglect?

For the reasons outlined below, we answer both questions in the affirmative and shall affirm the judgment of the OAH.

FACTS AND PROCEEDINGS

Factual Background

Father married Pamela N. in 1995 and had three daughters, L*,² I*, and R*. I* was born in 2000 and R* was born in 2003. (We will sometimes refer to I* and R* as “the girls”). I* suffered from depression while living in Idaho, engaged in self harm, and attempted suicide. Father and Ms. N. divorced in 2009 and Father subsequently married Stepmother in 2015. Father obtained full custody of the girls in 2015. After Father married Stepmother, Father, Stepmother, and the girls moved to Maryland and temporarily stayed with Stepmother's parents in Baltimore County. Father, Stepmother, and the girls subsequently moved to their own home in Harford County in 2016. L* left

suicidal supported by substantial evidence, where the Juroviches refused to allow the girls to have contact with each other at home, acted to sabotage the girls' relationship with their older sister, called them vulgar names, removed the doors from their bedrooms, and forced them to wait hours after school rather than allowing them to come home?

² Although this appeal involves I* and R*, not L*, we nevertheless will not disclose L*'s full name.

the family home after her high school graduation and “did not leave on good terms with [Stepmother] and [Father].” Father “prevented L* from maintaining contact with I* and R*” after she left the home.

Stepmother was verbally abusive to the girls and threatened them with physical violence. She called them “bitches, sluts, brats, and, whores” and threatened to “smash their faces and rip their hair out.” Father did not threaten to physically harm the girls but “overheard abusive statements made by [Stepmother] to I* and R* and has done nothing.” R* stated that she overheard Stepmother telling Father that he “should have left those bitches in Idaho.” Stepmother mocked I* for her issues with low weight, “describing her as anorexic and a Holocaust victim.”

I* saw a therapist for “a few sessions” before discontinuing therapy because she “became concerned [Stepmother] and [Father] would learn what was happening in therapy.” After giving the girls cellphones as a gift in 2017, Father and Stepmother subsequently took the phones away because Father and Stepmother “discovered that R* and I* intended to attend a party in February 2018 where alcohol would be present,” “observed messages between R* and a boy discussing vaping,” and “found a photo of R* holding a bottle of vodka on her cellphone.” Father and Stepmother also ordered the girls to “refrain from speaking to one another in the home, including having them each eat separately and alone, because the girls stopped talking to [Stepmother] and [Father].” After I* and R* snuck out of the house to attend prom, Father and Stepmother removed the doors from the girls’ bedrooms. Additionally, “as punishment for the prom incident,”

Stepmother and Father took away the girls' summer jobs and their house keys "so they could not enter their home unsupervised." Not having a way to enter the home alone, the girls "remained at school after school hours and sat on benches waiting to be picked up or took the bus home and sat outside the house until [Father] or [Stepmother] returned home."

In May 2018, R* reported that she "contemplated suicide weekly, but did not want to leave I*." On May 31, 2018, I* graduated from high school. That same day, Father "took I*, with her belongings in trash bags, and left the home," and both Stepmother and Father "refused to tell R* where I* had been taken," which "frightened R*." Father took I* to live with Mr. and Mrs. Matthews (Stepmother's parents) and I* "had no prior knowledge that she would be leaving the home." While I* was living with Stepmother's parents, I* was not given the alarm code and was forced to stay in the house whenever she was there alone. In June 2018, Stepmother's mother, "suspected I* contaminated her almond milk with sunscreen lotion." I* was then taken and admitted to Sheppard Pratt Health System where I* was diagnosed with "[u]nspecified disruptive, impulse-control and conduct disorder" and "[d]isruptive mood dysregulation disorder."

On June 15, 2018, the Department removed I* and R* from the custody of Father. I* and R* were placed in the same foster home. The girls' foster mother noticed that they both "startle[d] easily." Their foster mother observed that these startle responses "lessened over time," noted that I* had gained weight, and described them as "pleasant and helpful."

Procedural History

On August 28, 2018, the Department notified Father and Stepmother that it found them responsible for indicated child abuse with mental injury and indicated child neglect of I* and R*. Father and Stepmother appealed the indicated findings, claiming the allegations were false. The OAH issued an Order for Stay of Administrative Proceedings pending the ruling on the Child in Need of Assistance (“CINA”) petition concerning the welfare of the girls. During the CINA hearing, the Harford County Circuit Court, sitting as a juvenile court, found the girls CINA due to mental disorder.

On April 15, 2019, the OAH issued two separate Orders Vacating Stays and Scheduling Further Proceedings, denying Father and Stepmother’s requests to modify the indicated child abuse and child neglect findings to “ruled out on the basis of collateral estoppel arising from the disposition in the CINA matter,” vacating the stays, and directing the OAH to schedule contested case hearings concerning the abuse and neglect findings made by the Department. Father and Stepmother subsequently filed a Motion for Summary Decision,³ again arguing that the Department was collaterally estopped from pursuing contested case hearings concerning the alleged child abuse and child neglect because the issues were fully litigated in the CINA hearing. The OAH permitted oral argument on the Motion for Summary Decision before holding a contested case

³ A motion for summary decision is analogous to a motion for summary judgment and on review “we are concerned with whether there was a dispute as to any material fact and, if not, whether the movant was entitled to judgment as a matter of law.” *I.B. v. Frederick County Dep’t of Soc. Servs.*, 239 Md. App. 556, 562 (2018) (quoting *Casey v. Grossman*, 123 Md. App. 751, 765 (1998)).

hearing concerning the abuse and neglect allegations. The ALJ denied the Motion for Summary Decision, finding collateral estoppel inapplicable. The ALJ found that there was not enough evidence in the record to support a finding of indicated child abuse with mental injury but upheld the Department’s finding of indicated child neglect. The Circuit Court for Harford County affirmed the ruling of the OAH. This appeal followed.

STANDARD OF REVIEW

“In an appeal from judicial review of an agency action, we look through the decision of the circuit court and review the agency’s decision directly.” *Chi. Title Ins. Co. v. Jen*, 249 Md. App. 246, 258 (2021) (quoting *W. Montgomery County Citizens Ass’n v. Montgomery County Plan. Bd. of the Maryland-Nat’l Cap. Park & Plan. Comm’n*, 248 Md. App. 314, 332-33 (2020)). “Our review of the [agency’s decision] is ‘limited to determining if there is substantial evidence in the record as a whole to support the [agency’s] findings and conclusions, and to determine if the [agency’s] decision is premised on an erroneous conclusion of law.’” *Chi. Title Ins. Co.*, 249 Md. App. at 258 (quoting *Clarksville Residents Against Mortuary Def. Fund, Inc. v. Donaldson Properties*, 453 Md. 516, 532 (2017)).

When an appellate court determines whether there is substantial evidence in the record to support the agency’s factual findings, it must “decide ‘whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.’” *Chi. Title Ins. Co.*, 249 Md. App. at 258 (quoting *W. Montgomery County Citizens Ass’n*, 248 Md. App. at 333). We review “*the agency’s final decision, not the ALJ’s decision, . . . for*

substantial evidence. . . . More precisely, *this Court’s “job” [is] not to assess the “rationality” of or evidentiary basis for the ALJ’s recommendation; it [is] to assess the rationality or evidentiary basis of the agency’s . . . final order.*” *Para v. 1691 Ltd. P’ship*, 211 Md. App. 335, 355 (2013) (alterations in original) (quoting *State of Maryland Comm’n on Hum. Rels. v. Kaydon Ring & Seal, Inc.*, 149 Md. App. 666, 692 (2003)).

An appellate court’s review of the agency’s legal conclusions, however, “is less deferential to the agency” and this Court may “decide the correctness of the agency’s conclusions and to substitute [its] judgment for that of the agency’s.” *Taylor v. Harford County Dep’t of Soc. Servs.*, 384 Md. 213, 222 (2004) (quoting *Charles County Dep’t of Soc. Servs. v. Vann*, 382 Md. 286, 295 (2004)). Even so, “an agency’s legal interpretation of [a] statute it administers or of its own regulations is entitled to some deference.” *Taylor*, 384 Md. at 222. Still, “[t]he application of collateral estoppel . . . is a separate legal question, subject to de novo review.” *Garrity v. Maryland State Bd. of Plumbing*, 221 Md. App. 678, 684 (2015) (reviewing the ALJ’s legal determination of collateral estoppel de novo).

DISCUSSION

I. THE ALJ WAS CORRECT IN DENYING FATHER AND STEPMOTHER’S MOTION FOR SUMMARY DECISION, FINDING THAT THE DOCTRINE OF COLLATERAL ESTOPPEL DOES NOT APPLY.

Father and Stepmother argue that the issue of neglect was fully litigated at the CINA hearing and the further litigation of the neglect claims in the contested case hearings was barred by the doctrine of collateral estoppel. Father and Stepmother make

the following relevant assertions: (1) the parties agreed the girls were CINA based on mental disorder; (2) the juvenile court checked the box for “has a mental disorder” on the CINA Disposition Findings Orders⁴ as a reason for finding the girls CINA; and (3) the juvenile court found the girls were not neglected by leaving those boxes unchecked on the CINA Disposition Finding Orders. Based on these assertions, they argue that collateral estoppel applies because: (1) the parties in both actions are the same (or in the case of the Juroviches, in privity with one another); (2) the issue of neglect was necessarily litigated in the CINA hearing due to the parties’ agreement and because the juvenile court checked the box for “has a mental disorder” but left the boxes for neglect unchecked; (3) the findings that the girls were CINA due to mental disorders but not abuse or neglect were essential to the CINA Disposition Finding Orders; and (4) there was a final judgment.

The Department, however, argues that the agreement to find the girls CINA based on mental disorder was sufficient for the juvenile court to find the girls CINA, allowing the court to bypass the determination of whether the girls were CINA due to neglect.

⁴ The CINA Dispositions Finding Order is a form with the following subtitles: I. Hearing, II. Findings, and III. Order. Under the subtitle “Findings” is a section entitled “Disposition,” under which there are pre-written options for the judge to check off concerning the reason for finding the child CINA. The form reads in pertinent part:

The child
 has been abused
 has been neglected
 has a developmental disability
 has a mental disorder

Thus, the Department argues that because the issue of neglect was not litigated nor essential to the judgment, it is not collaterally estopped from litigating its finding of indicated neglect.

The doctrine of collateral estoppel is a common law doctrine that “[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.” *Cosby v. Dep’t of Hum. Res.*, 425 Md. 629, 639 (2012) (alteration in original) (quoting *Murray Int’l Freight Corp. v. Graham*, 315 Md. 543, 547 (1989)). For the doctrine of collateral estoppel to apply, the following four questions must be answered in the affirmative:

1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
2. Was there a final judgment on the merits?
3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?
4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

Cosby, 425 Md. at 639 (quoting *Colandrea v. Wilde Lake Cmty. Ass’n*, 361 Md. 371, 391 (2000)). As explained in *Cosby*, the issue must have been actually litigated and must have been essential to the judgment. 425 Md. at 639, 642. The Court of Appeals further explained in *Cosby* that “a CINA finding does not act as a per se bar to an administrative appeal.” *Id.* at 652 (finding that a CINA hearing “can be preclusive where the elements of collateral estoppel are met”).

The parties here dispute whether the issue of allegations of child neglect was actually litigated in the prior adjudication. The parties claim that they came to an agreement to find the girls CINA based on mental disorder. Specifically, Father and Stepmother claim:

Prior to the Exceptions Hearing, counsel for all parties reached an agreement that the facts contained in the CINA Amended Petitions *did not* support a finding of *indicated child abuse with mental injury or indicated child neglect* as to either I* or R*. Rather, all counsel agreed that the girls were CINA based on mental disorder. At the Exceptions Hearing, [the juvenile court] accepted the parties' agreement and placed it on the record. On December 3, 2018, the [j]udge memorialized the parties' agreement and his resultant findings in separate CINA Disposition Findings Orders.

(second emphasis added). In contrast, the Department states in its brief that “[h]ere, the parties to the CINA proceeding all consented to CINA findings based on the girls having *mental disorders.*” (emphasis added).

Father and Stepmother's argument is not supported by the record. There is no evidence in the record indicating that the parties agreed that there was no support for a finding of indicated child abuse or indicated child neglect. While both parties agree that there was an agreement to find the girls CINA based on mental disorder, there was no agreement that there was no support for a finding of indicated child neglect. The juvenile court that conducted the CINA hearing did not need to make any further inquiries into other reasons why the girls may be found CINA. That the juvenile court did not check either “has been abused” or “has been neglected” as a reason for finding the girls CINA on the CINA Dispositions Finding Order form does not mean the court found that the

girls were not neglected. In fact, there is no evidence in the record to suggest that the court considered whether the girls were neglected at the CINA hearing at all.

Additionally, the ALJ found during the contested case hearings that:

[Father and Stepmother] argued that by agreeing *not* to pursue abuse or neglect at the CINA hearing, the local department is estopped from doing so here. I do not find such an argument is supported by *Cosby* because the issue of whether [Father and Stepmother] abused or neglected the children was not actually litigated and decided in the CINA proceedings.

We agree with the ALJ's determination. Because the issue decided at the CINA hearing is not identical to the issue presented at the contested case hearings before the ALJ, and there was no final judgment on the merits with regard to indicated neglect at the CINA hearing, we find that the doctrine of collateral estoppel does not apply.

II. THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT THE DEPARTMENT'S FINDINGS OF INDICATED CHILD NEGLECT.

Father and Stepmother argue that the ALJ's affirmance of the Department's finding of indicated child neglect was unsupported by substantial evidence. Specifically, they contend that the ALJ's decision was not supported by substantial evidence because they provided for the girls' physical needs, the girls were not credible, their discipline was appropriate, they sought counseling for one of the girls, and they did not harm the girls' health or welfare.

An appellate court's function on appeal "is not to retry the case or reweigh the evidence." *Kremen v. Md. Auto. Ins. Fund*, 363 Md. 663, 682 (2001). Our review of the ALJ's decision is a limited one and must focus on whether "there is substantial evidence

in the record” to support the agency’s decision. *Chi. Title Ins Co.*, 249 Md. App. at 258 (quoting *Clarksville Residents*, 453 Md. at 532). As explained above, we must “decide ‘whether a reasoning mind reasonably could have reached the factual conclusion the agency reached.’” *Chi. Title Ins. Co.*, 249 Md. App. at 258 (quoting *W. Montgomery County Citizens Ass’n*, 248 Md. App. at 333). Additionally, when reviewing issues of credibility, “[b]ecause the fact-finder possesses the unique opportunity to view the evidence and to observe first-hand the demeanor and to assess the credibility of witnesses during their live testimony, we do not re-weigh the credibility of witnesses or attempt to resolve any conflicts in the evidence.” *Redkovsky v. State*, 240 Md. App. 252, 262-63 (2019) (quoting *Tracy v. State*, 423 Md. 1, 12 (2011)); *Para*, 211 Md. App. at 355 (stating that “when the ALJ renders factual findings based on an assessment of credibility, “the agency should give appropriate deference to the opportunity of the [ALJ] to observe the demeanor of the witnesses,” and the agency should reject credibility assessments *only if* it gives “strong reasons”” (alteration in original) (quoting *Kaydon Ring & Seal, Inc.*, 149 Md. App. at 693)).

Maryland law defines neglect as:

[T]he leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

- (1) that the child’s health or welfare is harmed or placed at substantial risk of harm; or
- (2) mental injury to the child or a substantial risk of mental injury.

Md. Code Ann., Fam. Law § 5-701(s). Indicated child neglect and the criteria for such a finding are defined in Code of Maryland Regulations (“COMAR”) 07.02.07.12.

COMAR 07.02.07.12A states in pertinent part:

(1) Neglect with No Mental Injury. Except as provided in § A(2) of this regulation, the local department may make a finding of indicated child neglect when there is credible evidence, which has not been satisfactorily refuted, that the following four elements were present during the alleged neglect:

- (a) A failure to provide proper care and attention;
- (b) A child victim;
- (c) A parent or caregiver of the alleged victim responsible for the alleged child neglect; and
- (d) Circumstances including the nature, extent, or cause of the alleged neglect indicating that the alleged victim’s health or welfare was harmed or was at substantial risk of harm.

In her written opinion concerning Father and Stepmother’s Motion for Summary Decision and their appeal of the Department’s findings of child abuse with mental injury and child neglect, the ALJ determined that the evidence was not strong enough to support a conclusion of child abuse with mental injury but sufficient to uphold the Department’s finding of indicated child neglect. The ALJ determined that the Department met its burden of establishing that Father and Stepmother “failed to give proper care and attention to [the girls] under circumstances that indicated that their health or welfare was harmed or was at substantial risk of harm.” *See* Md. Code Ann., Fam. Law § 5-701(m), (s); COMAR 07.02.07.12A(1). The ALJ made several findings of fact of which we find the following to be particularly relevant:

11. I* and R* enjoy an extremely close relationship.

12. In approximately 2016, I* was prescribed fluoxetine 20 mg for depression.

13. On multiple occasions, [Father] and [Stepmother] woke I* and R* up from their sleep at night to yell at them, which caused I* and R* to experience difficulty sleeping.

....

17. On February 9, 2017, I* attended a medical appointment with Johns Hopkins Medicine nurse practitioner Kathryn Kloss, CRNP. She was accompanied by [Stepmother]. I* reported that she had seen a counselor approximately three years prior and would like to attend counseling again. Ms. Kloss provided them a list of counseling resources. [Stepmother] expressed concern that I* was too thin. Ms. Kloss assessed I* as having depression, unspecified depression type, and increased her dosage of fluoxetine from 20 mg to 30 mg. Ms. Kloss directed follow-up in four to six weeks due to the change in dosage.

....

19. On March 15, 2017, I* attended a follow-up appointment with Ms. Kloss. I* reported no difference with the increased dosage of fluoxetine. She approximated that about half the time, she continued to feel “down or depressed and [does not] find pleasure in the things she normally does.” Ms. Kloss increased I*’s dosage of fluoxetine from 30 mg to 40 mg, and she directed I* or [Stepmother] to contact her regarding any therapeutic effects from the dosage change. However, neither followed-up with Ms. Kloss.

20. Although Ms. Kloss provided counseling resources for I*, I* attended only a few sessions. I* did not connect with the therapist because she believed most of the time was spent with the therapist talking to [Father] and [Stepmother]. I* became concerned [Father] and [Stepmother] would learn what was happening in therapy.

21. When asked about I*'s counseling sessions by Dione White, CPS supervisor, [Father] referred to I* as a “master manipulator.”

22. On June 29, 2017, R* attended a medical appointment with Kathryn Kloss, CRNP. She was accompanied by [Stepmother]. Ms. Kloss found no mental health issues.

....

26. [Father] and [Stepmother] ordered I* and R* to refrain from speaking to one another in the home, including having them each eat separately and alone, because the girls stopped talking to [Father] and [Stepmother].

27. When the family attended a gym for exercise, [Father] and [Stepmother] did not permit I* and R* to work out together or use adjoining treadmills.

28. On or about May 2018, R* plugged a toaster into the same outlet [Stepmother] was using, and [Stepmother] responded by stating, “I will smash your face if you do that again.”

29. In mid-May 2018, I* snuck out of the house to attend prom while [Father] and [Stepmother] attended church. R* accompanied her sister and planned to stay at I*'s date's home. When [Father] and [Stepmother] returned home and discovered the girls were gone, [Father] drove to the location of the prom and retrieved I*, and then he drove to the date's home to retrieve R*.

30. As a result of the prom incident, [Father] and [Stepmother] removed the doors from I* and R*'s bedrooms. It was [Stepmother]'s idea because her parents had used this form of punishment on her sister.

31. As a punishment for the prom incident, [Father] and [Stepmother] took away I* and R*'s summer jobs at a local swim club which were scheduled to begin at the end of May.

....

34. On May 25, 2018, a high school staff member observed I* and R* outside at approximately 3:00 p.m. School had dismissed for an early dismissal at 11:00 a.m., and I* and R* rang the doorbell to come inside for water. It was approximately eighty-three degrees outside. The staff member observed that I* appeared to be sunburned and R* was wearing sweatpants. The staff member called [Father] twice, but there was no answer. At approximately 3:30 p.m., [Father] returned the call and advised he did not realize it was an early dismissal day, but also said he had told the girls to walk to the local library.

35. I* and R* attend school in the same school system which employs [Father].

36. [Father] would have been aware that May 25, 2018 was an early dismissal day.

....

38. A high school guidance office staff member described I* and R* to Ms. White, CPS supervisor, as “really good girls,” with no behavioral issues.

....

40. I* and R* became fearful and anxious to live in their home as a result of how they were treated by [Father] and [Stepmother].

41. I* and R* overheard [Father] and [Stepmother] argue in the home. R* overheard [Stepmother] threaten to divorce [Father]. On one occasion, R* observed [Stepmother] throwing [Father]’s belongings on the lawn during an argument.

....

43. I* and R*’s sister [L*] attended [I*’s] graduation ceremony.

44. R* asked [Father] whether she could sit with her sister [L*], and [Father] refused her request. R* joined her sister anyway, so they could sit together and visit with one another since they had not seen one another for at least one year.

45. [Father] asked a Harford County Sheriff’s Office deputy to tell R* to return to [Father] and sit with him. The deputy relayed the request, but R* stayed with her sister, [L*].

....

51. On June 1, 2018, Ms. White attempted to meet with I* at the Mathews’ residence. I* was home alone, but could not open the door for Ms. White because the house alarm was activated and she was not given the alarm code to disarm the system. This was done intentionally as a means ensuring I* did not leave the home. Ms. White had to communicate with I* through the glass.

52. During the week of June 3, 2018, [Stepmother] observed R* walking with a neighborhood friend outside of the house. [Stepmother] entered the home and locked R* outside.

53. On June 5, 2018, [Father] and the local department agreed to a safety plan.

54. On June 6, 2018, Linda Mathews, [Stepmother]’s mother, told the local department that I* had been working with a nurse practitioner who would talk to I* by herself and did not involve [Father] and [Stepmother] “which put a bad taste in their mouth.”

55. On June 13, 2018, Mrs. Mathews called mobile crisis because she suspected I* contaminated her almond milk with sunscreen lotion. Mrs. Mathews also reported I* was “snooping” in her bathroom and snuck out of the house through a window. Mobile crisis directed Mrs. Mathews to transport I* to Sheppard Pratt Health System (Sheppard Pratt).

....

61. Sheppard Pratt prescribed I* melatonin 3 mg for insomnia, aripiprazole 5 mg for mood, and fluoxetine 40 mg for depression.

62. On June 13, 2018, [Stepmother] screamed at R*, held a car ignition key close to R*'s face, and aggressively made stabbing gestures towards R*'s face with the ignition key.

63. On June 15, 2018, the local department removed I* and R* from the physical custody of [Father]. R* resides with a licensed foster care family. Upon discharge from Sheppard Pratt, I* lived with R* at the same foster family residence until she moved into her college dormitory and reached the age of eighteen.

64. On July 11, 2018, [Father] told CPS supervisor Leanda Welker that I* and R* “have made a distorted representation of their life in my home” and found a way to not have to live under his roof with his “basic” rules.

65. On August 7, 2018, Melissa M. Lenet, LCSW-C, completed a mental injury assessment of I* and R*.

66. At the time, Ms. Lenet did not have much experience with the mental injury assessment process.

67. [Father] stated to Ms. Lenet that during her senior year, I* developed anorexia and became increasingly passive and depressed.

68. [Stepmother] acknowledged to Ms. Lenet that she engaged in arguments with I* and R*, and felt frustrated and defeated.

69. Ms. Lenet found that I* and R* had developed anxiety and difficulty sleeping in their home, and I* had become increasingly more depressed.

70. Ms. Lenet opined that I* and R* both display observable, identifiable, and substantial impairments in their ability to function psychologically. Ms. Lenet found I* and R*'s

“preexisting, chronic conditions of mental illness were exacerbated by isolation.”

71. On August 9, 2018, Kim Parks-Bourn, LCSW-C, completed a mental injury assessment of I*. Ms. Parks-Bourn[] found I*’s abrupt loss and regaining of weight to be an “observable and identifiable impairment.” Ms. Parks-Bourn[] found notable depression and post-traumatic stress symptoms in I* to include suicidal ideation, hypervigilance, lack of appetite, sleep disruption, and anhedonia [(the inability to feel pleasure)]. Ms. Parks-Bourn’s clinical assessment was that “there could be an observable, identifiable, and significant psychological impairment due to lack of care and attention to I*’s needs.” She found that while I* was exhibiting a depressive episode, her symptoms “went untreated and ultimately led to hospitalization at the time of CPS intervention.” Ms. Parks-Bourn[] concluded her report by stating that mental injury occurred.

72. On August 15, 2018, Ms. Parks-Bourn completed a mental injury assessment of R* and opined that R* was experiencing post-traumatic stress related symptoms of hypervigilance, sleep disruption, recurring nightmares, and some history of suicidal ideation related to maltreatment. Ms. Parks-Bourn’s clinical assessment was that “mental injury could have occurred, but the ‘substantial’ nature of the impairment is not as apparent in specific life domain functioning.”

73. R* told Ms. Parks-Bourn that at one point, she “wanted to jump out a window but was afraid [she] would stay alive and worried about what [Father] would do to [her] for doing that.”

....

75. On August 15, 2018, a Harford County juvenile magistrate found I* and R* CINA; [Father] filed exceptions to the magistrate’s report and recommendation. At that time, I* and R* requested that their dogs reside with them in foster care. [Father] was not in agreement with their request. After inquiry by the magistrate, [Father] was ordered to give the dogs to I* and R*.

(footnote omitted).

There was substantial evidence in the record to support the ALJ's determination that Father and Stepmother failed to provide proper care and attention under the circumstances that the girls' health or welfare was harmed or placed at substantial risk of harm. Though Father and Stepmother focus on how they continually met the girls' basic physical needs, they seemingly ignore the fact that the ALJ found the girls were neglected because of Father and Stepmother's inability to provide for the girls' emotional and psychological needs. "Neglectful behavior toward a child may seem more passive in character, but a child can be harmed as severely by a failure to tend to her needs as by affirmative abuse." *In re Priscilla B.*, 214 Md. App. 600, 621 (2013) (interpreting Courts and Judicial Proceedings § 3-801(s) definition of neglect which is the same as the definition of neglect used in Family Law § 5-701(s)).

The ALJ relied on facts and record established by the Department to find that Father and Stepmother neglected the girls. The Department conducted a thorough analysis of the facts before coming to the decision to find Father and Stepmother responsible for indicated child neglect. The facts that the Department found persuasive included: (1) Stepmother called the girls "bitch[es], slut[s] . . . and brats" and threatened physical violence; (2) the forced isolation of the girls from each other; (3) Father did not make arrangements on an early dismissal day for the girls, causing the girls to be left outside in the heat for five hours; and (4) both I* and R* contemplated suicide.

The ALJ credited the girls' accounts of Father and Stepmother's behavior towards them. I* and R* reported that Father and Stepmother woke them up in the middle of the night to yell at them and reprimand them. The girls also reported that Stepmother threatened to smash their faces and rip their hair out, mocked I* for her weight, and made threatening stabbing gestures towards R*'s face with a car key. On I*'s graduation day, Father removed I* from the home and refused to tell R* where her sister had gone, which frightened and concerned R*.

The ALJ also relied on the mental injury assessments completed by Ms. Lenet and Ms. Parks-Bourn, both licensed social workers assigned to the case. The ALJ determined that while the “assessments were insufficient to establish child abuse with mental injury, [the] assessments, coupled with I* and R*'s statements,” demonstrated harm or a substantial risk of harm to the girls' health or welfare. Specifically, Ms. Lenet found that both girls had anxiety and trouble sleeping due to living with Father and Stepmother and the girls' “pre-existing, chronic conditions of mental illness were exacerbated by isolation.” Ms. Parks-Bourn observed that I* had “notable depression and post-traumatic stress symptoms,” there was a “lack o[f] care and attention to [I*'s] needs,”⁵ and Father and Stepmother eroded I*'s relationship with her therapist. She further opined that R* also experienced post-traumatic stress-related symptoms. The girls' foster mother

⁵ Concerning I*, Ms. Parks-Bourn stated: “While [I*] exhibited a pattern of depression symptoms at different points of adjustment and exposure to trauma over the last several years, it appears that this most recent episode went untreated and ultimately led to hospitalization at the time of CPS intervention.”

reported to Ms. Parks-Bourn that the girls' startled easily upon arriving at the foster home, but their startle responses have decreased over time.

Additionally, the ALJ made determinations of credibility and found the girls' statements to be credible because their statements "were consistent with one another and over time," Ms. Lenet found both girls "very believable" during her interviews, a staff member at their high school described them as "really good girls," and Ms. White, a trained forensic interviewer, opined that the girls were credible and did not take chances to embellish their stories. The ALJ noted that Father and Stepmother were less credible because they were not "wholly truthful," Stepmother was "eerily stoic in her demeanor," and Father was "too quick to revert to what is essentially character-assassination of his children, calling the girls thieves, cheaters, and liars."

On review of the evidence in the record, we find no reason to overturn the decision of the Department and the OAH. There is substantial evidence in the record to support the ALJ's affirmance of the Department's finding of indicated child neglect as Father and Stepmother failed to provide proper care and attention to the girls and the girls' health or welfare was harmed or placed at a substantial risk of harm. The ALJ's determinations of credibility are accorded substantial deference on appeal. *See Para*, 211 Md. App. at 355. The ALJ made reasonable determinations supported by the record established by the Department and both licensed social workers assigned to the case. Accordingly, we affirm the judgment of the Circuit Court for Harford County.

**JUDGMENT OF THE CIRCUIT COURT
FOR HARFORD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANTS.**