

Circuit Court for Baltimore City  
Case No: 24-C-18-005075

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 1395

September Term, 2019

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S. F.

v.

BALTIMORE CITY DEPARTMENT OF  
SOCIAL SERVICES

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Nazarian,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 3, 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.

The Baltimore City Department of Social Services (“the Department”), appellee, made findings that S.F., appellant, was “responsible for indicated child abuse” to her eight-year-old daughter, L.F., following a report of injuries to the child’s face. S.F. challenged the findings at a contested hearing before the Office of Administrative Hearings. The presiding administrative law judge (“ALJ”) issued a decision, concluding that the Department’s findings were supported by credible evidence and consistent with the law. The ALJ’s decision was affirmed by the Circuit Court for Baltimore City and, thereafter, S.F. noted a timely appeal to this Court.

On appeal, S.F. contends that the “evidence did not support the [Department’s findings]” and that she was deprived of “a fair chance for [a] witness to come forward” at the contested hearing. For the reasons that follow, we shall affirm.

### **BACKGROUND**

The facts, as enumerated herein, are drawn from the testimony and exhibits entered into evidence during the October 17, 2017 contested hearing before the OAH.

On January 25, 2017, the Department received a report of physical abuse from Johnston Square Elementary School (“Johnston Square”), where L.F. was enrolled, regarding injuries to her face. The report stemmed from the observations of an after-school teacher and the school’s secretary, Willetta Goffigan, of a “green ring” underneath L.F.’s eye and a “brush burn on her arm.” L.F. was subsequently transported to Johns Hopkins Hospital for medical evaluation.

Observations of L.F.’s injuries were documented in several reports taken by the Department, the police, and the hospital. Specifically, JoAnn Martin, the Department’s

screener who first responded to Johnston Square, observed “a greenish gray mark under [L.F.’s] left eye and a ½ inch healed scratch on her left cheek.” Officer Richardson, of the Baltimore Police Department, also noted a “bruise and scratch to [L.F.’s] left cheek under her eye.” Upon physical examination at Johns Hopkins Hospital, it was noted that L.F. had “bruising [to her] left cheek with abrasion” which was “[d]iagnostic of abuse.” Photos were taken of her face documenting the described injuries. Ingrid Mattison, a Department employee responsible for “investigat[ing] child maltreatment in the form of physical abuse and neglect,” met with L.F. on January 27, 2017 and also observed that she “had a scratch on her cheek, and...light bruising...under her eye.” Moreover, according to S.F.’s testimony before the ALJ, she observed the injuries to L.F.’s face upon her arrival at the hospital. She testified to seeing “a bright green bruise...[that] was wrapped around [L.F.’s] eye....on the left side.” She also observed the reported scratch.

While there is consistency with respect to the location and nature of L.F.’s injuries, accounts differ as to how the injuries were sustained. According to the testimony of Ms. Goffigan, L.F. stated that “[h]er mother got upset with her and hit her” because “she had taken her mother’s money.” L.F. went on to tell Ms. Goffigan that she “fell to the floor,” causing the marks on her face and a brush burn to her arm.

L.F. reportedly told Officer Richardson and Ms. Martin during a joint interview on January 25, 2017 that “her mother...hit her in the face with [a] remote four times on Friday [January 20, 2017] at [her] grandmom’s house before dinner.” Additionally, she stated “that her mother pushed her to the ground after getting mad that [L.F.] purchased a game on her cell phone.” Moreover, L.F. detailed that “she [had scraped] her face on the carpet

when her mother knocked her to the floor.” During L.F.’s January 27<sup>th</sup> interview with Ms. Mattison, L.F. told her that “her mother slapped her in the face, and she fell to the floor scraping her face on the carpet” because she had taken money from her mother.

The hospital reports offer three slightly different accounts from L.F. According to the section entitled “chief complaint,” L.F. stated that her “mother slapped [her] on the floor on Friday at [her] grandma’s house before dinner with the remote control” because she “did not tell her the truth.” Secondly, the reports state that, according to L.F., her “mother threw her on the ground and she cut her cheek on the carpet.” Lastly, as reported by the hospital social worker, L.F. stated that her “mom hit her buttocks with a remote, then pushed her on the floor.” The social worker further notes that “the incident happened on Friday after [L.F.] got caught lying” and that, in general, “when she gets in trouble her mom hit[s] her with a belt all over her body.”

S.F. also offered various accounts of how L.F. sustained the injuries to her face. Ms. Martin reported that she spoke with S.F. “via phone regarding the allegations” on January 25<sup>th</sup> and that S.F. “adamantly denied that she hit her child.” She also reported that, at the hospital, S.F. said “that [L.F.] did not have that bruise on her face when she left for school,” but that “she did have a lil’ scratch on her cheek [where]...the cat scratched her.” Further, according to Ms. Martin, S.F. stated that “something must have happened at school” and that there was a prior “incident at school where [L.F.] was being bullied.” Ms. Mattison noted that S.F. “denied the allegations that she hit her child,” but “admit[ted] to being frustrated with the child’s behavior.” She also “did not recall causing the child to hit the floor and cause an injury to her face.”

During the contested hearing before the OAH, S.F. offered the following testimony. S.F. testified to giving L.F. a spanking on Saturday, January 21, 2017 because L.F. “stole money,” purchased “a game off [her] phone” without permission, and because “she wasn’t supposed to go in [her aunt’s] room and play with the dog.” S.F. testified that she gave L.F. a spanking with a remote control “on the butt.” L.F. was fully clothed during the spanking. S.F. testified that she normally spanks [L.F.] with a belt. On this occasion, however, she spanked L.F. twice with her hand and, due to pain in her hand, spanked L.F. “two or three more times with [a] remote.” S.F. testified that immediately following the spanking, she “went to go turn [L.F.] around to go sit down [and] she fell.” S.F. testified that she observed the scratch on L.F.’s face at that time, but that she didn’t know whether it was caused by the dog or by the fall. She stated that she didn’t notice any bruising around [L.F.’s] eye at that time. When S.F. saw her daughter at the hospital on January 25<sup>th</sup>, she “didn’t understand where [the bruise] came from.” She acknowledged, though, that the scratch “happened over the weekend.”

Based on the foregoing testimony and evidence, the ALJ made the following findings of fact by a preponderance of the evidence:

1. [S.F.] is [L.F.’s] mother.
2. In January 2017, [L.F.] was eight years old.
3. On or about January 25, 2017, the after-school teacher where [L.F.] attends school observed a bruise and a 1/2 inch scratch under [L.F.’s] left eye. The after-school teacher took [L.F.] to the school office where she was met by Willetta Goffigan, the School Secretary.

4. Ms. Goffigan asked [L.F.] to explain how she got the marks on her face. [L.F.] told Ms. Goffigan that she took money from her mom and her mom hit her in the face and she fell on the carpet and received a brush burn on her arm.
5. School personnel contacted the Baltimore Police and the local department, and [L.F.] was transported to Johns Hopkins Hospital (JHH) by CPS worker for physical examination. The physical examination revealed that [L.F.] had an abrasion and bruising on her left cheek that were diagnostic of abuse.
6. At JHH, [L.F.] told a social worker that on the previous Friday her mother hit her with a remote control device, then pushed her to the floor because she got caught lying.
7. At JHH, [L.F.] told the physician, “my mother slapped me to the floor on Friday at my grandma’s house before dinner with the remote control, I did not tell the truth.” (sic). No follow-up visits for medical treatment were required and [L.F.] was released to relatives.
8. On Friday, January 20, 2017, [L.F.] was at her grandmother’s house with [S.F.]. On that date, [S.F.] spanked [L.F.] on the buttocks with a remote control after learning that [L.F.] had purchased a video game, without permission, on [S.F.’s] phone, had taken some money from her grandparents, and had played with the dog without permission.
9. After spanking [L.F.] with the remote, [S.F.] pushed [L.F.] towards the couch, knocking her to the floor, which caused an immediate abrasion on [L.F.]’s face and bruise. [S.F.] immediately observed a scratch.
10. As result of the January 20, 2017 incident, criminal charges were filed against [S.F.] and a CINA case was opened.
11. The criminal charges were *nolle prosequi* (not prosecuted). After a contested hearing in April 2017, the magistrate recommended that [L.F.] be found CINA and the court agreed. After a dispositional hearing on July 21, 2017, the court dismissed the CINA case.

Based on the foregoing, the ALJ concluded that the Department had established by a preponderance of the evidence that 1) “that the finding of indicated physical child abuse [was] supported by credible evidence,” 2) “that [S.F. was the] individual responsible for [the] indicated child abuse,” and 3) “that the local department may identify [S.F] in the centralized confidential database as an individual responsible for indicated child abuse.”

## DISCUSSION

### *Standard of Review*

When reviewing the decision of an administrative agency, we “do not evaluate the findings of fact and conclusions of law made by the circuit court.” *Howard Cty. Dep’t. of Soc. Servs. v. Linda J.*, 161 Md. App. 402, 407 (2005) (internal citation omitted). Instead, “we bypass the judgment of the circuit court and look directly at the administrative decision.” *Kim v. Maryland State Bd. of Physicians*, 196 Md. App. 362, 370 (2010).

Our inquiry is limited to determining whether “there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.” *I.B. v. Frederick Cty. Dep’t of Soc. Servs.*, 239 Md. App. 556, 562, (2018) (internal citation omitted). In doing so, we must determine “whether a reasoning mind reasonably could have reached the factual conclusion that the agency reached.” *Employees’ Ret. Sys. of Baltimore Cty. v. Brown*, 186 Md. App. 293, 312 (2009) (internal citation omitted). “Generally, when the entire record shows that the findings of fact and conclusions of law are supported by competent, material and substantial evidence taken before the agency ...

it is the function of the court to affirm the order of the agency[.]” *B.H. v. Anne Arundel Cty. Dep’t of Soc. Servs.*, 209 Md. App. 206, 230 (2012) (internal citation omitted).

*Additional Witnesses*

S.F. contends on appeal that she was denied the opportunity to present a witness, presumably her sister or mother, at the contested hearing. However, the record does not reflect that the ALJ denied S.F. any specific request to put forth a witness. Moreover, the record does not reflect that the issue of additional witnesses was ever raised for the ALJ’s consideration. We, therefore, decline to take up this issue on appeal. *See Baltimore Cty., Maryland v. Aecom Servs., Inc.*, 200 Md. App. 380, 421 (2011) (“[a] contention not raised below...is not preserved for appellate review.”).

*Substantial Evidence to Support the ALJ’s Findings and Conclusions*

S.F. also contends on appeal that the evidence presented at the contested hearing “did not support the [Department’s findings].” However, upon review of the record, we are satisfied that the ALJ’s decision “that the finding of indicated physical child [was] supported by credible evidence” and “that [S.F. was the] individual responsible for [the] indicated child abuse” was grounded in substantial evidence.

At the contested hearing, the Department bore the burden of defending its abuse findings by a preponderance of the evidence. Pursuant to 07.02.07.11(A)(1) of the Code of Maryland Regulations, the Department was permitted to make a finding of indicated child abuse where there was credible evidence of (a) a “physical injury,” (b) a “child victim,” (c) “a parent...responsible for the alleged abuse;” and (d)



“[c]ircumstances...indicating that the alleged victim’s health or welfare was harmed or was at substantial risk of harm.”

There was no dispute that L.F. was an eight-year old minor at the time of the alleged abuse. Additionally, the evidence documenting L.F.’s physical injuries, consisting of the bruise around her left eye, scratch underneath her left eye, and brush burn to her arm, was unrefuted. The crucial considerations for our review, therefore, are whether there was substantial evidence in the record to support the ALJ’s conclusion that 1) S.F. was responsible for the indicated child abuse and 2) that her actions harmed L.F.’s health and welfare or placed her at substantial risk of harm.

With respect to how L.F.’s injuries were sustained, the ALJ was presented with conflicting accounts from L.F. and S.F. With regard to L.F.’s version of how the injuries were sustained, the ALJ noted that she “gave conflicting versions of how her mother disciplined her with the remote on January 20, 2017.” Indeed, the record reflects that L.F. told varying accounts of where on her body she was struck with the remote control. Specifically, she reportedly told Ms. Martin, Ms. Mattison, and Officer Richardson that she was struck in the face with the remote, but also reported to the hospital social worker that her “mom hit her buttocks with a remote.” Though inconsistent in this respect, the ALJ noted that in each version, L.F. was consistent as to how she sustained the injuries to her face. Specifically, the ALJ observed that L.F. consistently “stated that [S.F.] pushed or knocked her to the carpet, which caused the injuries to her face.” This observation is supported by the record. Accordingly, the ALJ’s finding that L.F. was pushed to the floor

by her mother, causing the injuries to her face, was supported by substantial, credible evidence on the record.

In contrast, the ALJ found that S.F.’s testimony was “unworthy of belief,” noting several inconsistencies in her testimony. The ALJ first noted that S.F. “both denied and admitted to spanking [L.F.] with a remote control.” Indeed, upon review of the record, we observe that S.F. “adamantly denied that she hit her child” when speaking with Ms. Martin via telephone on January 25<sup>th</sup>, but that she also admitted to spanking L.F. at the contested hearing. Of the scratch to L.F.’s face, the ALJ noted that S.F. had stated in different instances that the scratch “was caused by the cat or it was caused by the dog.” The record does reflect that S.F. told Ms. Martin at the hospital that L.F. “did have a lil’ scratch on her cheek [where]...the cat scratched her.” However, she testified at the contested hearing that the scratch may have been caused by the dog. Moreover, the ALJ found S.F.’s testimony “self-serving and hollow” because in some respects her memory was purportedly quite good, but at other times she possessed little recollection of events.

As this Court has previously stated, in reviewing an administrative agency’s findings of fact, we must “defer to the agency’s (i) assessment of witness credibility, (ii) resolution of conflicting evidence, and (iii) inferences drawn from the evidence.” *Richardson v. Maryland Dep’t of Health*, 247 Md. App. 563, 570 (2020). We, therefore, defer to the ALJ’s assessment that S.F. lacked credibility. Moreover, we defer to the ALJ’s resolution of the conflicting accounts offered by S.F. and L.F. Based on the foregoing, we hold that there was substantial, credible evidence on the record from which the ALJ was

permitted to conclude that L.F. was pushed to the floor by S.F, causing the injuries to her face.

We now turn to whether there was substantial evidence on the record to support the ALJ’s finding that L.F. had been placed at a substantial risk of harm. We observe that the record contains credible evidence to support this finding. The ALJ noted that the force of S.F.’s push was such that, “even though the floor was carpeted,” the impact with the ground was still enough to cause a significant bruise around the child’s eye and scratch on her left cheek. The ALJ concluded that such a push “was likely not in an attempt to reasonably discipline the Child, but out of anger” and therefore concluded that L.F. had been placed at a “substantial risk of harm.” We hold that the ALJ’s conclusion was drawn from reasonable inferences of evidence in record. We, therefore, decline to disturb the ALJ’s decision on appeal.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**