Circuit Court for Prince George's County
Case No. CAL17-41089

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2484

September Term, 2018

WILLIAM B. MINTS

v.

SHERIFF MELVIN C. HIGH

Fader, C.J.,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: May 29, 2020

This appeal springs from an early morning alcohol-fueled telephone call from a male off-duty Deputy Sheriff and Captain in the Office of the Sheriff for Prince George's County to a female subordinate on-duty employee. During that call, which lasted approximately two hours, appellant, William B. Mints, using sexually-explicit language, commented on the employee's physical appearance. An Internal Affairs investigation followed.

Appellant was charged with violating four provisions of the Sheriff's General Orders Manual and two provisions of the County's Administrative Procedure Manual. He contested the three charges related to harassment and sexual harassment.[1] An Administrative Hearing Board ("the Board"), convened under the Law Enforcement Officers' Bill of Rights ("LEOBR"), found appellant guilty of all the charges. The Sheriff increased the Board's recommended penalty on each of the charges to termination.

Appellant petitioned for judicial review in the Circuit Court for Prince George's County. The circuit court affirmed, and he filed this timely appeal, presenting one question[2] that we have slightly rephrased:

[1] Appellant pleaded guilty to Charge One ("Unbecoming Conduct"), Charge Two ("Courtesy, Cooperation and Criticism"), and Charge Three (Courtesy, Cooperation, and Criticism"). He contested charges four, five, and six.

[2] Appellant asked:

> Did the Administrative Hearing Board err as a matter of law in finding Appellant Mints'[s] acts on May 7, 2016, constituted harassment and/or sexual harassment?

> Did the Administrative Hearing Board err as a matter of law in finding appellant's actions on May 7, 2016, constituted harassment and/or sexual harassment?

We answer that question "no" and affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

At around 12:55 AM, on May 7, 2016, appellant, while off-duty and having consumed alcoholic beverages, telephoned Security Officer Ariel Adams ("Officer Adams") while she was on duty.[3] That call lasted 116 minutes.

According to appellant, his call was prompted by Officer Adams's application for a more senior Security Officer position. Its purpose was to have a "heart to heart" conversation with her about concerns that Lieutenant Nicholas Trice and Sergeant Kevin Deck, his subordinates and Officer Adams's supervisors, had expressed to him regarding her work performance. He informed Officer Adams that Lieutenant Trice and Sergeant Deck "did not care for [her], but if she apologized to [Lieutenant] Trice, [appellant] would support her in being promoted to Security Officer III." He told Officer Adams that she was "sexy," comparing her to another employee who "had the whole hot chick sexy thing going on but came off like she was a bitch and no one liked it." He also insinuated that Officer Adams was sexually involved with one of the K-9 handlers, recounting a time when the K-9 handler's dog developed an erection in her presence, which he considered evidence of "sexual tension" between her and the handler.

[3] This call was made from appellant's county-issued cellular phone.

Officer Adams's report of the call led to an Internal Affairs investigation conducted by Deputy Investigator Joseph Hughes and John Carr, Commander of Internal Affairs. Appellant was interviewed on June 22, 2016 and again on September 9, 2016 in connection with the incident. During the June 22, 2016 interview, appellant stated:

> Um, I informed [Officer Adams] she had a lot of things going for her. She came to work every day uniform pressed, really took care of her hair, her nails, everything. I understand that she, um, felt that was important to her. I made several compliments. I said her writing was impeccable. She's always on time. She works all these hours. A lot of the whole package thing makes her the u—could be a model employee. Um, I – I believe that that was along of the same lines of that same conversation that she had all these things going for her and she was a[n] attractive young female. It may have been part of when I was talking to her about, um, the, uh, possible inappropriate interactions she's had with Corporal [Franklin] but I understand maybe[] he's attracted to you but I definitely complimented her on all her good attributes. Definitely.
>
> * * *
>
> [Question]: Okay. Did you ever tell Security (Adams) that you believe she was having sex with other deputies[?]
>
> [Appellant]: I think – I think my words were exactly, "I'm not saying that you are. I'm just saying that there's a perception." Um, I don't believe I said I think that you are. I – I maybe I said that it could be likely. I'm – I'm – been on the job for 26 years. I've seen different interactions with employees over the years. Um, I couldn't say yes or no. I – I don't think that I did say, "I'm accusing you." I think what I was reiterating, like I say, "I'm not accusing you. Just saying it's a perception." And this is what our employees are saying is what I reiterated to her several times.
>
> * * *
>
> [Question]: . . . did you say to [Officer Adams] that you believe that she had – or had some type of sexual relationship with [Corporal] (Franklin) because the – the dog had an erection?

> [Appellant]: I – I may have said that dogs can sense things and stuff like – something of that nature. And, um, that may cause them to react to a situation with, you know, if her and – and (Franklin) had been in the car or something like that.
>
> [Question]: So did you reference or ask [Officer Adams] if she had any type of sexual relationship with [Corporal] (Franklin) because of what you observed with the dog was the question.
>
> [Appellant]: I do not remember exactly what I said about that but I know that I did mention something about the – the dog being in the car and then him having an erection . . . .

Internal Affairs issued its Disciplinary Action Recommendation on December 14, 2016. It concluded that appellant "us[ed] sexually suggestive language in his communication with Complainant Adams," stated that she "was sexy and attractive during the communication," and "accused Complainant Adams of possibly having sex with K-9 Sheriff's Deputy because the K-9 dog had an erection in her presence." Appellant was charged with six violations of the Sheriff's and County policies:[4]

Charge 1	Unbecoming Conduct;
Charge 2	Courtesy, Cooperation, and Criticism;
Charge 3	Courtesy, Cooperation and Criticism;
Charge 4	Harassment and Sexual Harassment Policy;
Charge 5	County Personnel Administrative Procedure 221 Harassment Section 16-102(a) (18) & 16-109
Charge 6	County Personnel Administrative Procedure 221 Sexual Harassment Section 16-102(a) (18) & 16-109.

[4] All full-time employees of the Sheriff's Office are subject to Prince George's County personnel laws and regulations. Prince George's County, Md. Code § 18-107 (2019).

It recommended: (1) demotion to the rank of lieutenant; (2) alcohol counseling; (3) two fines in the amount of $250 each; (4) three periods of suspension without pay for forty hours to run concurrently, and (5) retraining.

Appellant rejected the Board's recommendation and an Administrative Hearing Board ("the Board") was convened. At the beginning of a hearing on October 11, 2017,[5] appellant pleaded guilty to Charges 1, 2, and 3; the hearing proceeded on Charges 4, 5, and 6.

Officer Adams testified that appellant did most of the talking during the call; she "sat in silence on the phone [for] the majority of the time." He was "friendly at first" but when she "would say anything or kinda interject or a question or something, he would kind of get aggressive and raise his voice." When asked "why didn't you try and end the conversation," she responded that she "didn't really feel comfortable saying anything so [she] let him talk as long as he wanted to talk and go on . . . ." The call ended with appellant asking her to call Lieutenant Trice and apologize to him for her attitude.

As to how the call affected her and her job performance, she responded:

> [T]he whole conversation made me feel disgusted. It was like I needed to apologize for something that I really didn't know what I did wrong and then the comments about how I looked and just everything. It just made me feel disgusted.

* * *

[5] Under the LEOBR, an officer who has been the subject of an investigation that results in a "recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive" may request a hearing "before the law enforcement agency takes that action." Md. Code Ann., Pub. Safety § 3-107 (2019).

> Um, I didn't know if I was gonna be promoted because I didn't apologize. Because I didn't know what to apologize for and what I had done wrong. So, I didn't know what would happen after that.
>
> * * *
>
> It – because I was told Lieutenant Trice and Sergeant (Deck) told the Captain the things he said to me, it made me feel like I couldn't talk to anybody in my chain of command. And that my whole chain of command was essentially against me and had an issue with me. So it was very uncomfortable to me at work every day not having really any – any – anyone in my chain command I – I could talk to.

The Board found appellant guilty of the harassment-related charges based upon findings that included:

> During the course of the conversation, Captain Mints stated to [Officer Adams] that [her superiors] did not care for her, but if she apologized [to her superiors] he would see to it that Security Officer Adams was promoted to Security Officer III. Also during the conversation, Captain Mints referred to Security Officer Adams as a "hot chick" and that she was "sexy." During the telephone conversation, Captain Mints told Security Officer Adams that he saw one of the K-9 dogs get an erection in her presence, and that he considered that to be a sign that there was sexual tension between Security Officer Adams and the canine handler. Also, Captain Mints told Security Officer Adams that [another employee] had the "whole hot chick sexy thing going on but it came off like she was a bitch."

In its November 8, 2017 report, the Board recommended the following disciplinary action:

Charge 1:	Demotion to rank of Deputy Sheriff Lieutenant;
Charge 2:	Written reprimand;
Charge 3:	Fine of One Hundred Fifty Dollars;
Charge 4:	Removal from promotion consideration to any rank until at least November 1, 2019, and suspension without pay for forty (40) hours;
Charge 5:	Removal from promotion consideration to any rank until at least November 1, 2019, and suspension without pay for forty (40) hours to run concurrent with Charge Four; and

> Charge 6: Removal from promotion consideration to any rank until at least November 1, 2019, and suspension without pay for forty (40) hours to run concurrent with Charge Four and Five.

On November 17, 2017, Sheriff High notified appellant that he was considering increasing the discipline recommended by the Board.[6] After meeting with the appellant and reviewing appellant's administrative record, Sheriff High, on November 29, 2017, "impose[d] the increased penalty of Dismissal from the Office of the Sheriff for Prince George's County, Maryland" as to each of the six charges because he "[did] not believe the discipline recommended by the board [was] appropriate under the circumstances of [appellant's] case." He further stated that appellant's actions had caused him to "lose confidence in [appellant's] future ability to be responsible and trustworthy in serious matters" and "to question [appellant's] judgment and actions during the serious and often

[6] Md. Code Ann., Pub. Safety § 3-108(d)(5) (2019) provides the Department Chief may increase the recommended penalty of a hearing board:

> The chief may increase the recommended penalty of the hearing board only if the chief personally:
> (i) reviews the entire record of the proceedings of the hearing board;
> (ii) meets with the law enforcement officer and allows the law enforcement officer to be heard on the record;
> (iii) discloses and provides in writing to the law enforcement officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and
> (iv) states on the record the substantial evidence relied on to support the increase of the recommended penalty.

stressful situations confronted by Sheriff's Deputies."[7] Appellant's employment was terminated as of the close of business on November 29, 2017.

On December 21, 2017, appellant filed a Petition for Judicial Review of the Department's Final Disciplinary Action in the Circuit Court for Prince George's County. The circuit court affirmed the decision on August 24, 2018, and appellant filed a timely appeal to this Court.

DISCUSSION

I.
Motion to Dismiss for Mootness

Contentions

Because the Board's recommended penalties on Charges 1, 2, and 3 were increased to termination, the Sheriff contends that this appeal is moot. The Sheriff argues appellant's admission of guilt to Charges 1, 2, and 3 means that appellant's "employment with the Sheriff would still be terminated" no matter what decision that we might render on Charges 4, 5, and 6.

Appellant contends that this matter is not moot because he "has a clear and obvious interest in removing the [Board's] factual findings and legal conclusions [related to

[7] In his termination letter, Sheriff High also noted that, earlier in 2017, another Administrative Hearing Board had "found that on September 29, 2015, Lt. Julia Murphy contacted [appellant] regarding recovered property," and that appellant had "failed to properly supervise Lt. Murphy in the handling and documentation of a large amount of money (over $10,000.00 cash)." The Board "sustained a charge of Submission of Incident Report (Supervisors Responsibility)" and "also sustained a charge of Unsatisfactory Performance" based on a "fail[ure] to conform to work standards established for [his] rank."

harassment or sexual harassment] from his record." He argues that a remand "with instructions for further deliberations" would require the Sheriff to reconsider "the [Board's] recommended penalty," and that, "[a]bsent the guilty findings for Charges 4, 5[,] and 6, the Sheriff may elect to pursu[e] a less severe court of action."

Analysis

The Court of Appeals has explained:

> Generally, a case is moot if no controversy exists between the parties or "when the court can no longer fashion an effective remedy." *In re Kaela C.*, 394 Md. 432, 452 (2006); *Adkins v. State*, 324 Md. 641, 646 (1991). This Court's reluctance to hear moot cases stems from the prohibition against offering advisory opinions. *In re Kaela C.*, 394 Md. at 452 (citing *In re Rosa A. Riddlemoser*, 317 Md. 496, 502, (1989)). However, there are several cases in which an appeal can ostensibly appear moot, yet appellate review is warranted. First, mootness will not preclude appellate review in situations where a party can demonstrate that collateral consequences flow from the lower court's disposition. *Adkins*, 324 Md. at 645–46. *See also Lane v. Williams*, 455 U.S. 624, 632 (1982).

D.L. v. Sheppard Pratt Health Sys., Inc., 465 Md. 339, 351–52 (2019).

We recognize that, "the recommendation of a penalty by the [Board] is not binding on the [Sheriff]." Md. Code Ann., Pub. Safety § 3-108(d)(3). And that the Sheriff may increase a recommended penalty upon complying with Md. Code Ann., Pub. Safety § 3-108(d)(5). On the other hand, we see no need to speculate as to what the Sheriff might do if the harassment charges did not survive appellant's challenge because we are persuaded that the finding of guilt on those charges could have "significant collateral consequences" to appellant's future employment. *See D. L. v. Sheppard Pratt Health Sys.*, 465, Md. 339, 361–33 (2019). For that reason, we believe that appellate review is warranted.

II.
Harassment and Sexual Harassment

Standard of Review

We have stated:

> [T]he LEOBR is silent as to a specified scope of judicial review in a disciplinary action involving a county police officer). We have concluded that the scope of judicial review in a LEOBR case is that generally applicable to administrative appeals. . . . Thus, to the extent that the issue under review turns on the correctness of an agency's findings of fact, judicial review is narrow. It is limited to determining if there is substantial evidence in the administrative record as a whole to support the agency's findings and conclusions[.] . . . While an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts, we owe no deference to agency conclusions based upon errors of law. . . . When this Court reviews an administrative decision, we perform precisely the same role as the circuit court. We look only at the decision of the agency, not that of the circuit court.

Ocean City Police Dept. v. Marshall, 158 Md. App. 115, 120–21 (2004) (cleaned up).

Appellant views the issue before us as presenting a pure question of law. He argues that, the Board, "clearly aware of the basic definitions" of "workplace harassment and/or sexual harassment," reached an incorrect legal conclusion.

As we see it, the Board's application of the General Orders and the County policies to the facts in this case was a "judgmental process involving a mixed question of law and fact" to which we accord the Board substantial deference. *Travers v. Baltimore Police Dept.*, 115 Md. App. 395, 420 (1997). In such instances, the test is whether "a reasoning mind could reasonably have reached the conclusion reach by the [Board], consistent with

a proper application of the [controlling legal principles]." *Stover v. Prince George's Cty.*, 132 Md. App. 373, 382 (2000) (internal quotation marks and citations omitted).

Contentions

Appellant contends that the Board erred as a matter of law in concluding that his actions on May 7, 2016 constituted harassment and sexual harassment. Because the language used in the Sheriff's General Orders and the County's policies mirrored language of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* ("Title VII"), he argues it must be interpreted in a manner consistent with Title VII precedent. More specifically, he argues that, appellant's behavior would not qualify as "severe or pervasive" under Title VII case law. In support of that argument, he points to "Workplace Harassment Avoidance Training" materials where the definitions of "hostile environment," "severe or pervasive conduct," and "harassment" reflect Title VII case law.

Sheriff High contends that the Board's conclusion that appellant was guilty of harassment and sexual harassment was legally correct and supported by substantial evidence. He argues that appellant "does not explain, let alone cite authority to support, his proposition that a hearing board carrying out its own internal disciplinary processes would be required to apply Title VII standards." In his view, Title VII "is a floor, not a ceiling, and states and localities can grant more protection than federal law applies."[8]

[8] In *California Federal Savings and Loan v. Guerra*, 479 U.S. 272 (1987), the United States Supreme Court had to decide whether Title VII, when amended by the Pregnancy Discrimination Act of 1978 ("PDA"), overturned a state statute requiring employers to provide leave and guarantee reinstatement to pregnant employees. The Court reasoned that

Analysis

The Harassment and Sexual Harassment Policy, i.e., Section 8-103.1 of the Sheriff's Office General Orders Manual,[9] provides:

> All employees of the Prince George's County Office of the Sheriff are required to comply with the procedures as set forth in this general order. Employees shall avoid situations which involve actual or apparent harassment and/or sexual harassment. Harassment of all kinds, undermines the integrity of employee relationships, lowers morale, interferes with the efficiency of the organization, and may result in civil rights violation suits and/or disciplinary action.

County Personnel Administrative Procedure 221 defines "harassment" and "sexual harassment" as follows:

> Harassment is defined as unwelcome or unsolicited verbal or physical conduct that *is sufficiently severe or pervasive that it interferes with an employee's job performance* or creates an intimidating, hostile or offensive working environment. Harassment based on race, sex, sexual orientation, color, religion, creed, country of national origin, political opinion, marital status, age, physical or mental handicap, or physical appearance violates Prince George's County Government's policy and will not be tolerated. Harassment can arise when unwelcome and offensive comments or conduct are directed at an individual, as well as when such comments and conduct are made in the workplace generally such that they create a hostile or offensive working environment for an individual.
>
> Sexual harassment is defined as unwelcome or unsolicited sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or

Congress "intended the PDA to be a floor beneath which pregnancy disability may not drop—not a ceiling above which they may not rise." *Id.* at 285.

[9] The rules, policies, and procedures contained in the General Orders Manual of the Prince George's County of the Sheriff "are binding upon all persons who work under the authority of the Sheriff of Prince George's County[.]" General Orders Manual 1-101. https://www.princegeorgescountymd.gov/DocumentCenter/View/22638/General-Orders---July-2018

> implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment also violates Prince George's County Government's policy and will not be tolerated. Sexual harassment can arise when unwelcome and offensive comments or conduct are directed at an individual, as well as when such comments or conduct are made in the workplace generally such that they create a hostile or offensive working environment for an individual.

(Emphasis added).

Because an agency's rules and regulations "are promulgated by the agency" and "designed to serve the specific needs of the agency," the agency's interpretation of them is controlling unless it is plainly erroneous or inconsistent with the rules or regulations. *Md. Transp. Auth. v. King*, 369 Md. 274, 288-89 (2002). This is especially important to a law enforcement agency with a paramilitary structure of rank and chain-of-command that is strictly enforced. According to the Court of Appeals, a law enforcement agency "has a legitimate interest in maintaining strict discipline within its ranks." *Younkers v. Prince George's Cty.*, 333 Md. 14, 23 (1993). And we have stated that "maintaining employee discipline, particularly in a paramilitary agency . . . is crucial." *McKay v. Dept. of Pub. Safety*, 150 Md. App. 182, 199 (2003). It is for that reason that the LEOBR "leave[s] to the reasonable discretion of the police department how best to investigate and remedy internal misconduct." *Manger v. Fraternal Order of Police, Montgomery Cty. Lodge 35, Inc.*, 227 Md. App. 141, 152 (2016).

It's undisputed in this case that appellant, a senior police officer, while off-duty and after drinking alcohol, telephoned Officer Adams at 12:55 AM while she was on-duty. During a nearly two-hour call, using profane and sexually-explicit language, he commented on her physical appearance, and described how a K-9 dog having an erection in her presence indicated sexual tension between her and another officer. And to get his support on her requested promotion, she needed to apologize to her current commanding officer[10] to show that she was a team player.

As to Charge 4 (Prince George's County Office of the Sheriff General Order 8-103.1, Harassment and Sexual Harassment Policy), the Board found that appellant's conduct "undermine[d] the integrity of employee relationships, lower[ed] morale, interfere[d] with the efficiency of the organization" in violation of General Order 8-103.1 for several reasons. After the call, Officer Adams was "unable to engage with her peers and superiors as she had prior to the May 7, 2016 telephone call because she doesn't know who may have expressed negative feelings about her." In addition, Sergeant Deck, who appellant had identified in the call as someone who disliked Officer Adams, had "ha[d] no conversations with her – despite the fact that he was now commander of the Building Security Section where Security Officer Adams works."

As to Charge 5 (Harassment), the Board's guilty determination was based on finding "conduct and comments as a Command Officer of the Prince George's County Sheriff's Office to be severe in tone and impact on subordinate Security Officer Ariel Adams." And

[10] During the course of the call, he referred to Lieutenant Trice as a "knucklehead[]."

that she " was so troubled by the comments made by [appellant] that she shared them with her co-worker . . . immediately following the call" and "later reported her conversation with Captain Mints to Lieutenant Colonel Ronald Terry[.]" The Board found that appellant's "unwelcome or unsolicited verbal or physical conduct" was "sufficiently severe or pervasive that it interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment."

With respect to Charge 6 (Sexual Harassment), the Board found appellant's comments to Officer Adams "unwelcome, unsolicited and of a sexual nature." The resulting effects on Officer Adams included "she felt 'dirty,' she withdrew from normal interactions with her co-workers, and her section commander has no direct communications with her."

His focus on appeal is the fact that the call was a single incident spanning only 116 minutes and therefore it was not "so severe or pervasive that it altered the terms, conditions, or benefits of employment." He concludes his argument: "Simply put, an isolated conversation consisting of intermittent remarks of a sexual nature is not harassment, nor is it sexual harassment."

In support of his position, he cites *Harris v. Forklift Systems*, 510 U.S. 17 (1993) for the proposition that "[a]s with any form of harassment, proof of sexual harassment requires evidence of severity and/or pervasiveness." In *Harris*, the Supreme Court stated that "frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably

interferes with an employee's work performance" were factors to be considered in a Title VII calculus. *Id.* at 23.

Appellant also cites 1-7 Stanley Mazaroff & Todd Horn, *Maryland Employment Law* § 7.10 (2017) as "an excellent overview of Federal case law" involving the denial of hostile work environment sexual harassment claims under "the severe and pervasive standard." The text of the provision cited states that there is "no definitive answer to when the sexually oriented conduct is severe or pervasive enough to amount to a sexually abusive working environment," but cases from the United States District Court for Maryland and the United States Court of Appeals for the Fourth Circuit indicate that "isolated or *genuinely trivial*" conduct would not indicate a Title VII violation under Title VII jurisprudence. (Emphasis added).

In other words, "severity" and "pervasiveness" in the context of an alleged Title VII violation are not susceptible to a bright-line rule. And what may qualify as severe or "genuinely trivial" conduct is necessarily situational, and what may constitute a hostile or abusive work environment can depend on the actor's position within the structure of the organization. The Board found that appellant's conduct "as a Command Officer" in the Sheriff's office was "sufficiently severe or pervasive" to interfere with Officer Adams's work performance and her ability to engage with both her coworkers and her supervising officers. Simply put, his conduct seriously fractured the chain-of-command, interfered with an employee's work performance, and, in the Board's view, created "an intimidating,

hostile, or offensive working environment." We see no reason why appellant's conduct in this case could not survive a Title VII challenge.

But, even if it not, this is not a Title VII case controlled by Title VII precedent.[11] This is an internal disciplinary action involving appellant, the Board, and the Sheriff. "Harassment" and "sexual harassment" are defined in the Sheriff's General Orders and the County's Administrative Procedure Manual. The Board, as required by the LEOBR, was made up of ranking police officers.[12] In applying the facts to the General Orders and the County's Administrative Procedure Manual, the Board found "no justification was presented for [appellant] to discuss [Officer Adams's] job performance" and that appellant "displayed a serious lack of judgment by calling [Officer Adams] and making disparaging comments about her superior officers, and making profane and sexually explicit comments to [her]." And, despite being aware that it may have been pervasive only in measuring the duration of the nearly two hour conversation, the Board found that the effects of appellant's comments were sufficiently severe to constitute harassment and sexual harassment. There was no requirement that the conduct be severe *and* pervasive. Moreover, under the County Administrative Procedure, one of the standards for sexual harassment was whether the conduct had "the purpose *or* effect of unreasonably inferring with an individual's

[11] Officer Adams did file an employment discrimination suit against Prince George's County on the basis of sex, in violation of Title VII and Maryland and Prince George's County employment laws. That lawsuit was settled in late 2018.

[12] The Chair was Lieutenant Colonel Orlando Barnes and the other Board members were Major Sharon Saunders and Captain Patrick Jones.

performance." (Emphasis added). The Board detailed the significant effects that appellant's comments had on Officer Adams in her day-to-day interactions with her superior officers and supervisors.

CONCLUSION

The Board's determination that appellant was guilty of harassment and sexual harassment of a subordinate employee was supported by substantial evidence and was consistent with the applicable legal principles. In short, a reasoning mind could have reasonably reached that conclusion.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.