Circuit Court for Prince George's County
Case No. C-16-CV-23-000855

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2084

September Term, 2023

IN THE MATTER OF MARLON FORD

Shaw,
Tang,
Woodward, Patrick L.
(Senior Judge, Specially Assigned)

JJ.

Opinion by Shaw, J.

Filed: January 14, 2025

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

This is an appeal from a judgment entered by the Circuit Court for Prince George's County, affirming an administrative board's recommendation to terminate Appellant Marlon Ford as a police officer. On March 29, 2020, while employed by the Seat Pleasant Police Department, and driving a vehicle issued to him, Appellant was involved in a car accident. An internal investigation was conducted and at its conclusion, administrative charges were filed against Appellant for violations of the Department's General Orders. Appellant was later found guilty of several of the charged violations, and the Administrative Hearing Board recommended that he be terminated. Chief of Police Devan Martin terminated Appellant on January 24, 2023. Appellant filed a petition for judicial review in the Circuit Court for Prince George's County and following a hearing, the court affirmed the Board's decision. Appellant noted this timely appeal and raises three questions for our review:

1. Whether it was an error of law/erroneous conclusion of law for the [Board] to summarily deny [Appellant's] pre-hearing motion to dismiss all charges as they were not properly filed within the one-year statute of limitations pursuant to [Md. Code Ann., Public Safety Article, Section 3-106(A)][?] Was the [Board] findings and conclusions as to its denial based on substantial evidence[?]

2. Whether the [Board] committed an error of law/erroneous conclusion of law and was arbitrary and capricious when it summarily denied [Appellant's] motion for acquittal and dismissal of all charges at the conclusion of the AHB[?] Was the [Board] conclusions and findings based on substantial evidence[?]

3. Whether the Agency/Department is violative of the Accardi Doctrine as it did not follow its own policy and procedures[?]

For the foregoing reasons, we affirm the decision of the Administrative Hearing Board.

BACKGROUND

Appellant was a police officer employed by the Seat Pleasant Police Department. On March 29, 2020, Appellant was off-duty and while operating a City of Seat Pleasant police cruiser, on his way to secondary employment, he was involved in a motor vehicle collision. Appellant contacted the Department as required by the Department's General Orders Manual[1]; and Seat Pleasant Sergeant Jamie Matthews responded to the accident.

When Sergeant Matthews arrived, Appellant informed him that he was attempting to take "police action" when the accident occurred. He stated that he observed a vehicle driving erratically and swerving, and he attempted to conduct a traffic stop. Corporal Jason Wells of the Prince George's County Police Department also responded to the scene of the accident; and he subsequently memorialized Appellant's statements in an accident report. An internal investigation was initiated, thereafter, by Deputy Chief of Police Robert J. Ploof.

Deputy Ploof conducted interviews with several witnesses, including Appellant, the civilian driver, and the responding officers. Deputy Ploof also recovered the dash camera footage from the cruiser. After reviewing the evidence, he determined that the video was inconsistent with the accident report completed by Corporal Wells. The video reflected that Appellant was driving at a high rate of speed with his emergency lights activated

[1] According to Volume I, Chapter 1 of the General Orders Manual which encompasses definitions, the manual outlines and maintains, "written directives that concern policy, rules, regulations, and procedures affecting one or more organizational components." These general orders are issued by the Chief of Police of the Prince George's County Police Department.

immediately before the accident. Appellant had not made a traffic stop, and no apparent emergency existed. Appellant crossed a double yellow center line immediately prior to colliding with the other driver. In an interview with Deputy Ploof on April 14, 2020, Appellant admitted that he had misrepresented the circumstances. He stated:

> [APPELLANT]: I was negligent in operating my emergency (inaudible) - -
>
> DEPUTY CHIEF PLOOF: For what reason?
>
> [APPELLANT]: To get to my secondary employment.
>
> ***
>
> DEPUTY CHIEF PLOOF: Okay. So there was no swerving of her and there was no you pursuing her or anything of that nature, right?
>
> [APPELLANT]: Right.
>
> DEPUTY CHIEF PLOOF: Okay. So it was purely to get to secondary employment faster.
>
> [APPELLANT]: (Witness nods head.)

On March 27, 2021, the Department served Appellant with seventeen Notices of Administrative Charges. The first eleven charges alleged violations of the Department's General Orders Manual, stating: "Employees shall operate Departmental vehicles responsibly and courteously . . . ." Charges 12 through 14 alleged violations of another provision which provides that: "Employees shall . . . maintain exemplary traits of courtesy, honesty, [and] morality . . . ." Charges 15 and 16 outlined violations of a provision which states: "All Departmental employees shall cooperate with those authorized to conduct administrative investigations by fully and truthfully answering any questions pertaining to the investigation." The final charge alleged a violation of the Manual's provision that:

"Employees are duty bound to avoid excessive, unwarranted or unjustified behavior that would reflect poorly on . . . the Department[.]" Appellant signed each notice of charge on March 29, 2021.

On April 15, 2021, the Department released a Report of Investigation detailing its internal investigation, and Appellant was placed on an emergency suspension. He was served with a Notice of Proposed Discipline by Police Chief Devan A. Martin on August 18, 2021.

Appellant requested a hearing before an Administrative Hearing Board to defend against the charges. On November 10, 2021, a hearing was held and at its conclusion, all charges were sustained against him. Appellant petitioned for judicial review before the Circuit Court for Prince George's County. Because the Department could not provide a transcript of the hearing, due to a technology error, the court remanded the case for a new hearing.

Prior to the second hearing, Appellant filed a motion for judgment and a motion to dismiss, arguing that the Department failed to comply with the statute of limitations as outlined in Maryland Code Ann., Public Safety Article, Section 3-106(a) (repealed 2022). The Department opposed the motions. The Board ruled:

> Based on the notice of administration - - I'm sorry, administrative charges, according to that, that was placed on March 29, 2021, which would have been the final day that the previous LEOBR would have allowed for charges to be placed. So, based on that, it's the ruling of this Board that the charges were placed on time, and as a result, the motion for dismissal is denied.

The second hearing was held on December 5, 2022. At the hearing, Deputy Ploof testified that in his role as Deputy Chief of Police, he initiated an investigation into the

accident involving Appellant. He stated that Appellant made several misrepresentations to officers. Deputy Ploof also testified regarding the procedures he undertook during the investigation:

> [APPELLANT'S COUNSEL]: Sir, upon completing your investigation in this case, you must forward your investigation up to the Chief. Is that correct? The results of the investigation. Isn't that correct?
>
> [PLOOF]: That's – that's the routine way we do it, yes.
>
> [APPELLANT'S COUNSEL]: And that would be in accordance with your standard operating procedures, correct, or General Orders?
>
> ***
>
> [APPELLANT'S COUNSEL]: I'm looking at page 3000, and under number 1, it says "Conduct of the Investigation," and it looks like a checklist, and then it says, "Upon completing all of the above tasks, the investigator shall complete a Report of Investigation and forward it through the chain of command to the Chief of Police."
>
> [PLOOF]: And that occurred.
>
> ***
>
> [APPELLANT'S COUNSEL]: All right. And did you review the notice of administrative charges with the Chief before you issued them?
>
> [PLOOF]: I was the Deputy Chief of Police. I wasn't required to.
>
> ***
>
> [APPELLANT'S COUNSEL]: And your investigative summary was not forwarded to the Chief until April 15th of 2021, correct?
>
> ***
>
> [PLOOF]: Yes. That would be when everything was typed up and finalized.

Following his testimony, Appellant made a Motion for Judgment, arguing that the Department failed to make a *prima facie* case. The Board reserved ruling on the motion until the close of all evidence.

Lieutenant Bragg then testified as a witness for Appellant. Lieutenant Bragg detailed his experience with the Seat Pleasant Police Department. He testified that he had conducted numerous internal investigations while employed at the Department. He testified about the procedures that were typically employed:

> [APPELLANT'S COUNSEL]: Sir, is it departmental policy that prior to issuing charges in an internal affairs matter, the matter is or the investigative summary report is reviewed and signed by the Chief?
>
> [BRAGG]: No, sir. Normally the final outcome is signed by the Chief?
>
> ***
>
> [APPELLANT'S COUNSEL]: Okay. What do you mean by the "final outcome"?
>
> [BRAGG]: Once I complete my [ROI], I submit it to the Chief for final approval. If he needs additional information, if there's other questions, wants another witness contacted, I will do that. But once that has been conducted, I will give him the final package, and once he approves it, he signs it and such.
>
> [APPELLANT'S COUNSEL]: Okay. And once the Chief signs it, is that when charges are normally – is that when charges are issued if there are going to be charges?
>
> [BRAGG]: Yes.

Following Lieutenant Bragg's testimony, the Board heard closing arguments from the parties and recessed to deliberate. The Board returned and announced its findings that all but two of the charges were sustained against Appellant. In ruling on the merits, the Board effectively denied Appellant's prior motion for judgment. The sustained charges included violations of departmental vehicle procedures, ethics, internal investigative procedures, and protocol. The Board, thereafter, filed a written report that recommended Appellant be terminated and assessed fines. Appellant filed a petition for judicial review

in the Circuit Court for Prince George's County and a hearing was held on November 21, 2023. The court issued an opinion upholding the decision of the Board. Appellant filed a timely notice of appeal.

STANDARD OF REVIEW

Final decisions made by an administrative agency are reviewed by an appellate court in accordance with Md. Code Ann., State. Gov. § 10-223(b)(1). In its review, an appellate court is not tasked with examining the findings and conclusions of the lower court, but rather to review the agency decision directly. *Grebow v. Client Prot. Fund of Bar.*, 255 Md. App. 7, 21 (2022). An appellate court reviews legal conclusions made by an agency *de novo*. *Montgomery Park, LLC v. Md. Dep't of Gen. Servs.*, 254 Md. App. 73, 99 (2022). An agency's findings of fact, however, are afforded deference and thus review on appeal is limited. *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 121 (2002). Factual conclusions of an agency must be upheld by an appellate court so long as they are supported by substantial evidence. *Cnty. Council of Prince George's Cnty. v. Zimmer Dev. Co.*, 444 Md. 490, 573 (2015). Under the substantial evidence test, a court reviews the decision in the light most favorable to the agency. *Pollock v. Patuxent Inst. Bd. of Rev.*, 374 Md. 463, 477 (2003). Agency decisions are presumed valid, and an appellate court must affirm if there is sufficient evidence such that "a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Id.*; *Zimmer Dev. Co.*, 444 Md. at 573.

DISCUSSION

I. The Administrative Hearing Board did not err in denying Appellant's motion to dismiss.

Appellant argues the Board erred in denying his motion to dismiss the charges because the statute of limitations had lapsed. Appellant asserts the Board failed to properly interpret the law when it determined that the Department had "filed charges" as of the date Appellant received the Notice of Administrative Charges. He contends that the charges were not "filed" until the Chief of Police issued a Notice of Proposed Discipline against him which represented the completion of the internal investigation procedure. The Department argues that charges against Appellant were filed timely as the Notices of Administrative Charges were issued by the proper official in the Seat Pleasant Police Department and served on him within one-year from the date of the incident.

The Public Safety Article, Section 3-106(a) (repealed 2022) provides:

> A law enforcement agency may not bring administrative charges against a law enforcement officer unless the agency *files the charges* within 1 year after the act that gives rise to the charges comes to the attention of the appropriate law enforcement agency official.

(emphasis added).

This Court has examined the language of PS § 3-106 in several different contexts. In *Wilson v. Baltimore City Police Department*, this Court analyzed PS § 3-106, to determine whether a filing of administrative charges had occurred within the one-year statute of limitations. 91 Md. App. 436 (1992). There, the Baltimore City Police Department began an investigation of Officer Wilson on July 12, 1989, which led to him being charged with making false statements and engaging in certain misconduct. *Id.* at

438. The charging document was, first, signed by the commanding officer on July 5, 1990; then, signed by the Deputy Commissioner on July 6, 1990. *Id.* A hearing date was set, and, on July 17, 1990 (more than one year after the investigation began), the charges were served on Officer Wilson. A hearing board subsequently sustained the charges.

Wilson argued, on appeal, that the charges were "filed" when he was served on July 17. We, however, did not agree. Instead, we held that compliance with the one-year statute of limitations is not determined by the date of service upon the officer, but rather when the charges are "presented to and approved" by an individual authorized to initiate formal proceedings against the officer. *Id.* at 441–42 (holding that charges can be considered filed before the officer is given notice). For that reason, we found that the charges had been filed timely as of July 6, 1990, when the Deputy Commissioner reviewed and signed the charging document. *Id.* at 442.

In *Prince George's County Police Department v. Zarragoitia*, we again addressed a filing issue. There, a complaint was filed against Officer Zarragoitia on November 23, 1997, and an investigation was, thereafter, initiated. *Id.* at 173–74. At its completion, the investigating officer prepared a final Report of Investigation ("ROI") that was submitted to the Commander of Internal Affairs for review. The Report was to be approved and sent to the Commander of Inspectional Services and two other entities, the Human Relations Committee and the Citizens Complaint Oversight Panel; all of which had the authority to revise the charges before they were submitted to the Chief of Police. *Id.* at 175–76. After the report was approved, a Departmental Action Report ("DAR") was completed. *Id.* at 176. It provided a description of the charges with factual detail in support. The DAR was

signed by the commander of internal affairs on January 4, 1999, and served on Officer Zarragoitia. *Id.* at 177,179–80. Following disciplinary proceedings, Zarragoitia, petitioned for a judicial review in the circuit court. *Id.* at 178. He argued that the charges had been filed outside of the statute of limitations because the DAR was issued on January 4, 1999. *Id.* The court agreed and ruled that the DAR was the official charging document, and that the DAR was not filed within the applicable statute of limitations. *Id.* at 179. The charges were, therefore, dismissed. *Id.*

On appeal, this Court examined what constitutes a "charge." We stated:

> [A]n "administrative charge" as highlighted by [PS § 3-106], is a formal accusation of misconduct that evidences a decision by the agency to proceed against the law enforcement officer and marks the beginning of the adjudicatory phase of the proceeding. *See* Floor Report on Senate Bill 632. The charging document should detail the acts or acts of misconduct the officer is accused of having committed, and the laws, rules, or regulations he is alleged to have violated, so that he has the necessary information to adequately defend himself and so that the Board can assess the sufficiency of the charge and of the evidence presented.

Id. at 184 (internal citations omitted). We discussed the legislative intent of Section 3-106, stating that it was enacted to apprise an officer of the nature of the charges lodged against him, such that an infraction may not be "held over [their] head for an extended period of time, resulting in significant uncertainty as to when, or even if, any disciplinary action is to be taken." *Id.* at 173 (quoting Floor Report on Senate Bill 632, at page 1–2). We agreed with the circuit court and held that the DAR was the formal document that constituted the charges. *Id.* at 185–86. Because it was signed outside of the one-year limitations period, the Department's actions were untimely.

In *Baltimore Police Department v. Brooks*, this Court reaffirmed its holding in *Zarragoitia*. 247 Md. App. 193 (2020). The case involved a series of complaints against officers, followed by internal investigations and disciplinary actions by the Baltimore Police Department ("BPD"). *Id.* at 201–04. Each investigation followed the Department's typical disciplinary process. *Id.* at 199. Once the investigation of an officer's misconduct was completed and the allegations were sustained, the proposed charges were submitted to a Disciplinary Review Committee that reviewed the factual findings, and made a recommendation for discipline to the police commissioner. *Id.* The police commissioner (or designee) would then make a final approval of the charges. *Id.* The commissioner's designee typically approved the charges verbally at the committee meeting, and later, the designee would sign a form that listed the accused officer, the investigated allegations, a factual summary, and a recommendation for discipline. *Id.* at 200. In each of the cases, the signature on the form was not affixed until after the expiration of the one-year period, the committee meetings, however, were held prior. *Id.* Each officer petitioned the court for judicial review, arguing that the charges had not been filed timely, pursuant to PS § 3-106. After holding a hearing, the circuit court determined that the Department failed to act within the one-year limitations period and dismissed the charges.

The Department appealed, arguing before this Court that its oral approval at the committee meetings constituted the filing of charges. *Id.* at 205–06. We did not agree. We held that when the forms were signed, the charges were filed, as prior to that "the officer would have no information about the proposed charges, no means to prepare a defense, and no way to force a matter to conclusion." *Id.* at 214 (quoting *Zarragoitia*, 139

Md. App. at 186–87). We held, moreover, that "[i]t is clear from the text of [PS § 3-106] and our prior relevant decisions that a level of formality is required for the filing of charges." *Id.* at 213 (citing *Wilson*, 91 Md. App. at 439; *Zarragoitia*, 139 Md. App. at 184). We affirmed the decision of the circuit court.

In the present case, the events giving rise to the investigation, occurred on March 29, 2020. Thus, the one-year limitations period for the filing of charges against Appellant, tolled on March 29, 2021. Appellant was served with Notices of Administrative Charges on March 27, 2021, he signed them on March 29, 2021, and the Notice of Proposed Discipline from Chief Martin was issued on August 18, 2021. The Notices served on Appellant, contained a statement of the charges, a reference to the authority each charge was based on and a factual basis for each of the charges. As we see it, the information provided within the notices, fully apprised Appellant of the investigation, detailed the alleged misconduct, and allowed him to adequately defend himself.

The Notice of Proposed Discipline, by contrast, dated August 18, 2021, simply stated the charges, whether they had been sustained, and outlined the potential consequences of Appellant's actions. The Notice of Proposed Discipline lacked detail regarding the alleged acts of misconduct. It did not provide "the laws, rules, or regulations he is alleged to have violated, so that he has the necessary information to adequately defend himself and so that the Board can assess the sufficiency of the charge and of the evidence presented." *See Zarragoitia*, 139 Md. App. at 184. We hold that the Notices of Administrative Charges were, in fact, the formal charging documents filed in this matter.

Appellant next argues that Deputy Ploof was not the proper official to approve the charges and thus, the Board erred in denying his motion to dismiss. We do not agree. The Department's General Orders Manual provides that "[t]he Chief of Police is authorized to initiate and administer discipline, as well as authorize subordinate supervisors to initiate, administer, or recommend disciplinary action against an employee." The Chief of Police appointed Robert Ploof as Deputy and he testified that he was responsible for internal investigative matters. Deputy Ploof, further, testified that he was not required to have Chief Martin review and approve Notices of Administrative Charges prior to issuing them. Based on this testimony, which was undisputed, we hold that he was a proper official to approve and sign the notices of charges. For these reasons, the Board did not err in denying Appellant's motion to dismiss.

II. The Administrative Hearing Board did not err as there was substantial evidence in the record to support its findings.

Appellant next argues that the Board erred in denying his motion for judgment and that the Board's decision was not supported by "logic [and] the evidence on the record." He contends that the Board improperly credited the testimony of Deputy Ploof, a terminated employee, and discredited the testimony of his witness, Lieutenant Bragg. In response, the Department argues that the Board did not err and there was substantial evidence in the record to support its findings.

In reviewing a lower tribunal's ruling on a motion for judgment, our job is to determine whether "on the evidence adduced, viewed in the light most favorable to the non-moving party, any reasonable trier of fact could find the elements of the [claim] by a

preponderance of the evidence." *Sugarman v. Liles*, 234 Md. App. 442, 464 (2017) (quoting *Asphalt & Concrete Servs., Inc. v. Perry*, 221 Md. App. 235, 271–72 (2015)). In so analyzing, "if there is any evidence, no matter how slight, legally sufficient to generate a [question of fact], the motion must be denied." *Tate v. Bd. of Educ., Prince George's Cnty.*, 155 Md. App. 536, 545 (2004). Witness credibility "lies solely within the purview of the factfinder." *Neil v. State*, 191 Md. App. 297, 319 (2010). An appellate court must give "due regard" to a trial court's credibility determinations, and will not overturn absent clear error. Md. Rule 8-131(c); *see also Gigeous v. E. Corr. Inst.*, 132 Md. App. 487 (2000) (holding that when reviewing an administrative law judge's finding of fact as to credibility, appellate court must determine whether there is evidence to support the judge's conclusion).

The charges lodged against Appellant were for violations of departmental vehicle procedures, ethics, internal investigative procedures, and protocol. The evidence in the record includes video evidence of Appellant's own admission to, both, the incident, and his untruthfulness in reporting the accident, car dash camera video from his vehicle; as well as testimony from Deputy Ploof, the investigating official, and former police official, Lieutenant Bragg. In its opinion, the Board recounted the following findings of fact:

> 1. On March 29, 2020, at approximately 0344 hours, Police Officer Marlon Ford #134 was off duty and operating a marked Seat Pleasant Police Department cruiser in the area of the 6400 block of Walker Mill Road, Capitol Heights Maryland. He was en route to secondary employment.
>
> 2. While driving along Walker Mill Road, Officer Ford activated his emergency lights when no emergency existed, and no traffic stop was initiated. Officer Ford also drove his cruiser in excess of 90 miles per hour along Walker Mill Road. Moments later, Officer Ford crossed the double-

yellow lines in the center of the roadway and collided with a civilian vehicle in transport. There were no reported injuries.

3. During the course of the internal accident investigation, Officer Ford intentionally mislead investigators by stating he intended to take police action with regard to the vehicle with which he collided. Upon subsequent video recorded interview Officer Ford admitted to operating the cruiser in a negligent manner.

4. Mr. Robert Ploof testified that he was the Deputy Chief of the Seat Pleasant Police Department at the time of Officer Ford's collision. He also testified that he had the authority to initiate internal investigations. Mr. Ploof stated that the investigation was not initiated until after viewing the mobile video footage from Officer Ford's cruiser. The video was inconsistent with the accident report that was completed by Corporal Jason Wells #3146 of the Prince George's County Police Department. There were no traffic citations issued to Officer Ford. Mr. Ploof interviewed Officer Ford during the investigation, and the interview was video recorded, dated April 14, 2020.

5. Lieutenant Kenneth Bragg #147 testified that he is currently assigned to the Office of Professional Responsibility for the Seat Pleasant Police Department. He also testified that it is procedure for the final Report of Investigation be [sic] signed by the Chief of Police.

6. A review of the mobile video from Officer Ford's cruiser showed that emergency lights were activated when no apparent emergency existed, and no traffic stop was initiated. The mobile video also showed that Officer Ford was traveling in excess of a reasonable and prudent speed along Walker Mill Road. Furthermore, the video showed both Officer Ford and the civilian vehicle were traveling in lane #1 along Walker Mill Road. Officer Ford's cruiser is seen crossing the double-yellow lines in the center of the roadway prior to the collision with the civilian vehicle.

7. A review of the accident report, completed by Corporal Jason Wells #3146 of the Prince George's County Police Department shows that the civilian vehicle turned in front of Officer Ford's cruiser causing the collision. This is inconsistent with the mobile video obtained from Officer Ford's cruiser.

8. A review of the GPS data from Officer Ford's cruiser showed that it reached a maximum speed of 91 miles per hour [sic] while traveling in the 5400 block of Silver Hill Road, and 80 miles per hour while traveling in the 6400 block of Walker Mill Road.

9. A review of the email from Sergeant Jamie Matthews #105 of the Seat Pleasant Police Department, dated April 5, 2020, details a conversation he had with Officer Ford on April 2, 2020[sic] regarding the collision. The email

> states that Officer Ford advised he intended to take "police action" after observing the civilian vehicle swerving and driving erratically on Walker Mill Road. Officer Ford retracted his statement during an interview with Mr. Ploof.
>
> 10. A review of the interview video of Officer Ford conducted by Mr. Ploof, dated April 14, 2020, shows that Officer Ford admitted to negligent operation of his cruiser. It further shows that Officer Ford admitted the only reason he activated his emergency equipment and drove in excess of the posted speed limit was to get to secondary employment faster.

Based on our review of the record, Appellant's claim that the Board erred in denying his motion for judgment is not preserved. At the close of the evidence, the Board did not revisit Appellant's motion for judgment, nor did Appellant request a ruling. In circumstances where a court does not give an explicit ruling on a motion that has been made, and the parties do not request action by the court, absent waiver, the subject matter of the motion is not properly preserved on appeal. *See Brice v. State*, 254 Md. 655, 663 (1969) and *White v. State*, 23 Md. App. 151, 156 (1974) (holding that appellant waived claim of error when appellant failed to bring the motion to the attention of the trial court).

We further hold that the Board's findings were supported by substantial evidence. It is clear that, based on the evidence presented, which was primarily undisputed, a reasonable person could have found "the elements of the [claim] by a preponderance of the evidence." We note that the Board was not required to accept all of Lieutenant Bragg's testimony or none of the testimony of Deputy Ploof. A fact finder is entitled to "accept all, part, or none of the testimony of any witness, whether that testimony was or was not contradicted or corroborated by any other evidence." *Omayaka v. Omayaka*, 417 Md. 643, 659 (2011)). This Court's role is to defer to an administrative board's credibility decisions

unless they are erroneous and under the circumstances here, we conclude that they are not. In sum, the Board did not err in denying Appellant's motion for judgment and its ultimate conclusions are supported by substantial evidence.

III. The Administrative Hearing Board did not err in finding that the Department had not violated the *Accardi* Doctrine.

Appellant asserts that the Department violated the *Accardi* Doctrine by failing to follow its own General Orders Manual and standard procedures. He contends that because the Notice of Administrative Charges were served on him prior to the completion of the ROI on April 15, 2021, that the Department's actions resulted in a premature and invalid issuance of charges against him. The Department argues that Appellant waived any objection based on the *Accardi* Doctrine because the argument was not presented to the Board. In the alternative, the Department contends that Appellant failed to show that he experienced any prejudice from the procedures undertaken. In response, Appellant asserts that he explicitly raised this argument before the Board.

"Under settled Maryland law, appellate review of administrative decisions is limited to those issues and concerns raised before the administrative agency." *Cap. Com. Props., Inc. v. Montgomery Cnty. Planning Bd.,* 158 Md. App. 88, 96 (2004). If a party fails to raise an argument in a hearing before an administrative agency, those claims are waived, and will not be reviewed. *See Mesbahi v. Md. State Bd. of Physicians*, 201 Md. App. 315, 333 (2011) (quoting *Dep't of Health & Mental Hygiene v. Campbell*, 364 Md. 108, 123 (2001)). A reviewing court may not "pass upon" issues that are not encompassed in the final decision of the administrative agency. *Campbell*, 364 Md. at 123.

Here, Appellant filed a motion to dismiss his case, prior to the second hearing. The motion, among other things, argued that the Notice of Administrative Charges was invalid because "[the ROI] was signed by Ploof on April 15, 2021, twenty (20) days after the date of the Notices and not signed by the Chief." Appellant, however, never averred *why* the timeline was inadequate, or that the Department had violated any of its procedures, or that the *Accardi* doctrine was a basis for dismissal, as he does on appeal. As a result, the Board did not have the opportunity to specifically address, or consider the doctrine. The record is also devoid of any mention of the doctrine or supporting caselaw, either during the hearing or in writing prior to. For this reason, Appellant has not preserved this argument.

Assuming *arguendo*, that the argument was preserved, we hold that the Department did not violate the *Accardi* Doctrine. Under Maryland law, the *Accardi* doctrine requires that administrative agencies observe its own rules, regulations, and procedures that it has established.[2] *Id.* at 503–04. When an agency fails to act in accordance with its formalities, and an individual is prejudiced by it, a reviewing court may invalidate the agency's action. *Id.* at 496, 504.

Appellant, here, bases his argument on a portion of the General Orders Manual provision which states, "[n]otifications of the disposition shall not be sent to the complainant or respondent until authorized by the Chief of Police." Appellant asserts that

[2] In *Pollock v. Patuxent Institution Board of Review*, the Supreme Court of Maryland adopted the holding of *United States ex. rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954). 374 Md. 463, 503 (2003).

this procedure required that the ROI be signed and approved prior to his receipt of the Notices on March 27, 2021. We do not agree.

The term disposition as defined by Merriam Webster's Dictionary, means a "final arrangement or settlement." *Disposition*, MERRIAM-WEBSTER DICTIONARY, https://www.merriam-webster.com/dictionary/disposition#dictionary-entry-1. Black's Law Dictionary defines "disposition" as "the act of getting rid or putting away something, esp. by way of authoritative or final decision; a final settlement or determination." *Disposition*, BLACK'S LAW DICTIONARY (12th ed. 2024). The Notices of Charges were not a "disposition" as they did not constitute a final decision by the agency. The ROI was signed and approved by Chief Martin after the Notices were sent. This procedure was not violative of the General Orders Manual. We note that Appellant also has not established that he was prejudiced by any improper procedures.

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