THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE[1]	)	
	)	OEA Matter No.: 1601-0061-23
v.	)	
	)	Date of Issuance: November 6, 2025
METROPOLITAN	)	
POLICE DEPARTMENT,	)	
Agency	)	
	)	

OPINION AND ORDER
ON
PETITION FOR REVIEW

Employee worked as a Police Officer with the Metropolitan Police Department ("Agency"). On September 26, 2022, Agency issued an Advance Notice of Proposed Adverse Action to Employee, charging him with violation of General Order Series 120.21, Attachment A, Part A-7 (any act constituting a crime), Part #12 (conduct unbecoming an officer), and Part A-16 (fraud in securing employment).[2] Agency's notice alleged that Employee choked and threatened to kill his romantic partner, K.H.; assaulted K.H.'s minor son, R.J.;[3] and issued verbal threats to K.H. in the presence of her children. Additionally, Agency asserted that Employee knowingly provided false responses on

[1] Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.
[2] Charge No. 1 contained two specifications, Charge No. 2 contained three specifications, and Charge No. 3 contained 1 specification.
[3] K.H. and R.J.'s names are undisclosed to maintain the privacy of the parties.

his Personal History Statement ("PHS") that was completed as part of his reinstatement process.[4] On May 4, 2023, an evidentiary hearing was held before Agency's Adverse Action Panel. On June 1, 2023, the Panel found Employee guilty of all three charges. His termination became effective on August 1, 2023.[5]

On August 25, 2023, Employee filed a Petition for Appeal with the Office of Employee Appeals ("OEA"). He argued that Agency's termination action was arbitrary, capricious, and unsupported by substantial evidence. Employee also asserted that his termination was taken without cause, and he opined that Agency misapplied the *Douglas* factors[6] when selecting the penalty. As a result, he asked to be reinstated with backpay and benefits.[7]

---

[4] Employee was originally hired by Agency in 2004. In 2017, Employee was recommended for termination for misrepresenting his official tax-exemption status. The matter was appealed to this Office, and on December 6, 2018, the Administrative Judge upheld Employee's termination. Agency subsequently appealed the Initial Decision to the OEA Board. On December 3, 2019, the Board reversed the Initial Decision and ordered that Employee be reinstated with back pay and benefits. Agency filed an appeal with the Superior Court for the District of Columbia on December 26, 2019. On February 3, 2022, the Court denied Agency's petition and affirmed the Board's ruling to reinstate Employee. The conduct forming the basis of this appeal occurred while the matter was pending before Superior Court. As part of his reinstatement, Employee was required to undergo a criminal background check, which included the completion of a Personal History Statement questionnaire. *See Employee v. Metropolitan Police Department*, OEA Matter No. 1601-0027-18 (December 6, 2018); *Employee v. Metropolitan Police Department*, OEA Matter No. 1601-0027-18, *Opinion and Order on Petition for Review* (December 3, 2019); and *District of Columbia Metropolitan Police Department v. Office of Employee Appeals*, Case No. 2019 CA 8420 P(MPA) (D.C. Super Ct. February 3, 2022).
[4] *Initial Decision*, 3-4.
[5] *Agency's Answer to Petition for Appeal* (September 22, 2023).
[6] *See Douglas v. Veterans Administration*, 5 M.S.P.R. 313 (1981). The *Douglas* factors provide that an agency should consider the following when determining the penalty of adverse action matters: 1) the nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated; 2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position; 3) the employee's past disciplinary record; 4) the employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability; 5) the effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in employee's ability to perform assigned duties; 6) consistency of the penalty with those imposed upon other employees for the same or similar offenses; 7) consistency of the penalty with any applicable agency table of penalties; 8) the notoriety of the offense or its impact upon the reputation of the agency; 9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question; 10) potential for the employee's rehabilitation; 11) mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and 12) the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.
[7] *Petition for Appeal* (August 25, 2023).

Agency filed its answer on September 22, 2023. It denied Employee's substantive allegations and contended that it had cause to discipline Employee for his misconduct. Agency reasoned that the penalty was appropriate based on the *Douglas* factors. Therefore, it submitted that Employee's termination was taken in accordance with all laws, rules, and regulations.[8]

An Administrative Judge ("AJ") was assigned to the matter in October of 2024.[9] During a November 22, 2024, Prehearing Conference, the AJ determined that the holding in *Pinkard v Metropolitan Police Department*, 801 A.2d 86 (D.C. 2006),[10] precluded a *de novo* evidentiary hearing. Accordingly, the parties were ordered to submit briefs addressing whether (1) the Adverse Action Panel's decision was supported by substantial evidence; (2) whether there was harmful procedural error; and (3) whether Employee's termination was taken in accordance with all laws and/or regulations.[11]

In its brief, Agency argued that each of the charges and specifications levied against Employee were supported by substantial evidence. According to Agency, an investigation into his criminal background revealed that Employee assaulted and strangled K.H. to the point of unconsciousness in

[8] *Agency's Answer to Petition for Appeal*.
[9] An OEA AJ was first assigned to the matter in November of 2023. On November 27, 2023, the AJ issued an order directing the parties to file responses addressing whether this matter was governed by the holding in *Pinkard v Metropolitan Police Department*, 801 A.2d 86 (D.C. 2006), and whether the matter was covered by a Collective Bargaining Agreement. The parties were also ordered to submit copies of Employee's PHS and all other documents about which there was no dispute. Employee was further ordered to identify the facts or evidence he contended were not supported by evidence. *Order* (November 27, 2023). Both parties submitted timely responses to the AJ's orders. *See Employee's Brief* (January 3, 2024); *Agency's Response Brief* (January 5, 2024); and *Employee's Reply Brief* (February 26, 2024). On October 31, 2024, Employee's counsel filed a Motion Requesting a Briefing Schedule and Prehearing Conference, or Alternatively, for Reassignment. In his motion, Employee noted that his appeal had been pending for more than fourteen months but had not been set for a prehearing conference or briefing schedule. *Employee's Motion* (October 31, 2024).
[10] Under the holding in *Pinkard*, this Office may not conduct a *de novo* hearing in an appeal before him/her, but it must rather base his/her decision solely on the record below, when all of the following conditions are met: the appellant is an employee of the Metropolitan Police Department or the D.C. Fire & Emergency Medical Services Department; the employee has been subjected to an adverse action; the employee is a member of a bargaining unit covered by a collective bargaining agreement; the collective bargaining agreement contains language essentially the same as that found in *Pinkard*; and at the agency level, the employee appeared before a Trial Board that conducted an evidentiary hearing, made findings of fact and conclusions of law, and recommended a course of action to the deciding official that resulted in an adverse action being taken against Employee.
[11] *Post-Prehearing Conference Order* (November 22, 2024).

2019; assaulted R.J. in 2019 by grabbing him by the neck and throwing him on the couch; and threatened to kill K.H. over the telephone on May 11, 2021, while she was in the presence of her children. Agency averred that Employee made misrepresentations on his PHS when he responded 'no' to the question of whether he ever committed any previous batteries or assaults, or any acts that would rise to a felony or misdemeanor. It also maintained that after Employee was reinstated, he remained subject to the requirements of all General Orders. Agency lastly posited that the cellphone recording of Employee's assault on K.H. was admissible before the Adverse Action Panel because Maryland's two-party consent rule did not apply to a hearing conducted in the District of Columbia. Therefore, it believed that termination was the only appropriate recourse for Employee's misconduct.[12]

In response, Employee argued that K.H. failed to call the police after the alleged assault; he was never arrested, charged, or prosecuted as a result of the incident; K.H. made the claim in an effort to gain leverage in the custody dispute over their daughter; and any claim of an assault made on R.J. was based on conflicting witness accounts. Employee noted that K.H. later recanted her allegations against him. He further argued that the audio recording of the assault was required to be excluded under Maryland's two-party consent law. According to Employee, Agency failed to prove that he knowingly provided false information with an intent to mislead; the completion of the PHS violated OEA's reinstatement directive and D.C. Superior Court's order affirming this Office's ruling; and Agency lacked jurisdiction to impose discipline against him for conduct that occurred when he was not employed by the Metropolitan Police Department. Consequently, he requested that the termination action be reversed.[13]

[12] *Agency's Brief* (December 20, 2024).
[13] *Employee's Brief* (January 16, 2025).

The AJ issued an Initial Decision on June 11, 2025. She held that K.H.'s interview with Agency's Internal Affairs Division ("IAD") and the cell phone recording of the 2019 incident constituted substantial evidence to find that that Employee was guilty of any act constituting a crime, namely assault. The AJ similarly ruled that Employee engaged in conduct constituting a crime when he picked up R.J. by the neck and threw him onto a couch. Concerning the conduct unbecoming an officer charge, the AJ determined that Agency met its burden of proof as to each specification identified in Agency's charging documents. As a result, she found that Employee violated General Order Series 120.21, Attachment A, Parts A-7 and 12.[14]

With respect to the charge of fraud in securing employment, the AJ provided that Agency only met its burden of proof as it related to the PHS questions of whether Employee had engaged in activity amounting to a misdemeanor, and whether Employee ever used force or violence upon another. Finally, the AJ ruled that Agency did not commit any harmful procedural errors in the administration of the termination action; Agency performed a full assessment of the *Douglas* factors; and Employee failed to establish a claim of disparate treatment. Consequently, Employee's termination was upheld.[15]

Employee filed a Petition for Review with the OEA Board on July 15, 2025. He argues that the AJ's determinations with respect to the charges are incorrect because 1) K.H. recanted her accusation that she was strangled; 2) the AJ failed to assess the inconsistencies in the accounts of the three family members who witnessed Employee's alleged assault of R.J.; 3) text messages between Employee and K.H. reveal that they had a healthy and loving relationship; and 4) the physical contact with R.J. was not a crime because Maryland law permits parents to exercise corporal punishment against their children and stepchildren. He opines that Agency committed harmful procedural errors

[14] *Initial Decision* (June 11, 2025).
[15] *Id*.

by admitting illegally obtained cellphone footage of the 2019 assault on K.H. at the hearing; imposing discipline based on conduct that occurred while he was in a terminated status; and inappropriately classified the conduct described in Charge No. 1 as a felony and not a misdemeanor. Lastly, Employee avers that the AJ ran afoul of OEA Rule 634.1 and D.C. Code § 1–606.03 when she issued the Initial Decision more than 120 business days after the Petition for Appeal was filed. As a result, he asks that the Board grant his petition.[16]

In response, Agency submits that it has successfully demonstrated that each charge and specification levied against Employee is supported by substantial evidence. It denies committing any harmful procedural errors during Employee's disciplinary proceedings. Agency maintains that the termination action was taken in accordance with all applicable laws and regulations. Thus, it reasons that the Initial Decision is supported by the record. Therefore, it requests that Employee's petition be denied.[17]

Weight of Evidence

Employee argues that the AJ failed to address that K.H. recanted her accusation that he strangled her in 2019 in an effort to bolster her position in a custody dispute over their daughter. He also alleges that the AJ did not properly assess the inconsistencies in the accounts of three family members who witnessed R.J.'s assault. However, it is clear from the record that the AJ questioned the veracity of K.H.'s affidavit because she did not testify before the Adverse Action Panel; the affidavit was not produced until the day of the hearing; Employee and K.H. were not involved in a custody dispute at the time of the 2019 assault; and witness interviews corroborated K.H.'s original recitation of the events. The AJ not only considered K.H.'s recantation of the 2019 incident but also

[16] *Id.*
[17] *Agency's Opposition to Employee's Petition for Review* (August 25, 2025).

provided a detailed reasoning for dismissing her statement as unsatisfactory to overcome Agency's presentation of evidence in support of the assault.

The AJ also measured the alleged inconsistencies in the witnesses' statements, the text messages between Employee and K.H. purporting to reflect a "healthy and loving relationship," as well as Employee's argument that utilizing corporal punishment on R.J. was permitted under the circumstances. Ultimately, she concluded that Agency's evidence sufficiently established that Employee picked up R.J. by his throat and threw him on the couch, which constitutes an assault. Thus, Employee's arguments in support of having the evidence reweighed on petition for review are insufficient to overturn the AJ's findings. The AJ's analysis and conclusions of law with respect to these issues are based on a thorough assessment of the facts, and this Board finds no reason for reversing her rulings.

Personal History Statement

As it relates to the PHS, the questionnaire elicited whether Employee ever engaged in battery (use of force or violence upon another) or "any act amounted to a misdemeanor regardless of if you were caught," to which Employee answered no. Employee denied strangling K.H. in his interview with Sergeant Cowan,[18] but he did admit to grabbing and shaking K.H., which led to her falling and hitting her head.[19] In addition, Employee's petition suggests that the use of physical force against R.J. was protected under Maryland's laws addressing corporal punishment.[20] While Employee has offered justifications for his conduct, he has nonetheless conceded to using physical force against both K.H. and R.J. As the AJ held, Employee was required to truthfully answer whether he committed any act which would constitute a *misdemeanor or a felony*, notwithstanding if he was caught, arrested,

[18] Agent Tiffani Cowan worked as an investigator with Agency's Internal Affairs Division. Cowan was responsible for investigating the allegations of domestic violence committed by Employee.
[19] *Agency's Answer*, Tab 5.
[20] Maryland law allows for reasonable corporal punishment; however, Employee was neither a parent nor a stepparent to R.J. at the time of the assault, which is required under the statute. *See* Maryland Code Family Law § 4-501.

detained, or convicted. (emphasis added). Answering the PHS in an untruthful manner constituted a violation of General Order 120.21, Attachment A, Part A-16. Therefore, the AJ's finding that Agency met its burden of proof as to Charge No. 3 is supported by substantial evidence.

Audio Recording

Employee argues that the use of K.H.'s cell phone video is inadmissible evidence based on the Maryland Wiretapping and Electronic Surveillance Act's prohibition on the use of electronic communications in judicial proceedings without the consent of both parties. Section 10-405 of the Act provides the following in pertinent part:

> "Whenever any wire, oral, or electronic communication has been intercepted, no party of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or political subdivision thereof if the disclosure of that information would be in violation of this subtitle."

It is well established that the District of Columbia has a one-party consent requirement for recorded conversations.[21] In *Thomas v. United States*, 171 A.3d 151 (D.C. 2017), the D.C. Court of Appeals held that an audio recording of a telephone conversation that occurred while the defendant was in Maryland, and alleged victim was in District of Columbia, was admissible in prosecution in the District, even though the defendant's failure to consent to the recording would have rendered the conversation inadmissible under the Maryland Wiretap Act. Relying on the holding in *United States v. Edmond*, 718 F.Supp. 988, 993 (D.C. 1989), the Court reasoned that consistent with how the federal courts have addressed similar circumstances, "evidence that is obtained in violation of state law is nonetheless generally admissible in federal prosecutions so long as there has been compliance with

[21] *See* D.C. Code § 23-542 (2013).

all applicable federal requirements and the Fourth Amendment."[22] Thus, the *Thomas* Court has ruled that District of Columbia courts are not bound by the recording admissibility laws of other jurisdictions, including the state of Maryland.

Employee attempts to differentiate the facts in this matter as distinguishable from the legal tenants reiterated in *Thomas*. He further contends that because the crimes identified in Charge No. 1 were brought under Maryland law, the Maryland Wiretapping and Electronic Surveillance Act's prohibition applies. However, the plain language of the Act provides that the exclusion of evidence obtained in contravention of the Act is limited to Maryland only, not the District. Accordingly, K.H.'s audio recording of her strangulation at the hands of Employee is fully admissible under the District's one-party consent law. Moreover, the Metropolitan Police Department is a District of Columbia agency subject to District laws. Therefore, the local law of the forum determines the admissibility of evidence and Employee's arguments to the contrary are unpersuasive.[23]

Additionally, Employee's petition submits that Agency's General Order 304.04 precluded Agency from allowing the cell phone footage to be admitted into evidence at the Panel hearing. On the contrary, this Order only acts to identify who can authorize one-party consent recordings, and it provides directives for how Agency members should seek authorization before conducting interceptions of one-party consent recordings.[24] As such, Employee's reliance on this Order does not

---

[22] *See also United States v. Edmond*, 718 F. Supp. 988 (D.C. 1989)(holding that wiretap records obtained in accordance with federal law were admissible even if acquisition was contrary to state law).

[23] We further conclude that the audio recording does not violate the Federal Wiretap Act (18 U.S.C. § 2511) which, similar to D.C. Code § 23-542, only requires the consent of one party. Moreover, there is no indication that D.C. Code § § 23-541 (c) and (d) create exclusionary mandates, and these subsections do not bar a Maryland-originated recording from being used in a D.C. administrative hearing because the recording is admissible under District law.

[24] General Order 304.04(B)(4)(e) states that Members shall ensure one-party consent requests contain the following:

> (e) The jurisdiction in which the recording or interception is to take place
>
> (1) If the request is for a one-party consent recording or interception in the state of Maryland, the name of the person or agency in that jurisdiction, under whose direction the requesting member shall conduct the operation shall be specified.
>
> (2) In the state of Maryland, only Maryland state investigative or law enforcement officers, or any other person acting at the direction or under the direct supervision of a Maryland investigative or law enforcement officer, or any attorney authorized to

alter the outcome of the admissibility of K.H.'s audio recording. Notwithstanding, assuming *arguendo* the recording of the assault was required to be excluded by law, there remains substantial evidence to support a finding that Employee assaulted K.H. Witnesses interviews from K.H., Employee's mother, sister, and two friends all recalled the circumstances surrounding the assault and/or discussed the assault with the victim. Consequently, even without the recording, Agency's charges are supported by the record.

Prior Termination and Reinstatement

It is Employee's position that because he was terminated from September 29, 2017, to May 9, 2022, any misconduct during that time period cannot now serve as a basis for discipline. Therefore, he opines that Agency violated his due process protections. Additionally, he submits that the completion of a PHS as a condition of reinstatement violated the orders issued by the OEA Board and D.C. Superior Court.

Employee fails to cite any case law, statute, or regulation to establish that charging him with violation of Agency's General Orders after he had been reinstated as a member of the Metropolitan Police Department constituted a reversible procedural error. Nothing within the language of General Order 120.21 requires that the underlying conduct occur while Employee was a sworn officer; it only provides that the Order applies to sworn officers.[25] After he was reinstated, Agency was permitted to charge Employee with violation of its orders notwithstanding the conduct occurring while he was in a terminated status. Consequently, the AJ did not err by concluding that Employee's previous misconduct warranted his removal.

---

prosecute or assist in the prosecution of criminal cases in the state of Maryland, are authorized to conduct one-party consent recordings.

[25] *Initial Decision*, 3-4.

As it relates to the completion of the PHS, this document and other background investigation documents were a condition of Employee's reinstatement. The OEA Board's December 3, 2019, order reversing Employee's termination did not expressly limit Agency's policies or procedures relative to its reinstatement requirements for employees. Employee was subject to a Level Four background check in accordance with Special Order 10-16, which included a review of all criminal history. None of Agency's procedures relative to Employee's reinstatement conflict with OEA's or the Superior Court's orders. Thus, we find his arguments to the contrary to be without merit.

Harmless Error

Employee asserts that Agency committed a harmful procedural error because the Advance Notice of Termination issued to Employee inaccurately referred to the conduct described in Charge No. 1, Specification Nos. 1 and 2, as felonies in the state of Maryland, when they should have been classified as misdemeanors. OEA Rule 634.6 states that "notwithstanding any other provision of these rules, the Office shall not reverse an agency's action for error in the application of its rules, regulations, or policies if the agency can demonstrate that the error was harmless." Under OEA Rule 699, "[h]armless error shall mean an error in the application of a District agency's procedures, which did not cause substantial harm or prejudice to the employee's rights and did not significantly affect the agency's final decision to take action."

The OEA Board in *Quamina v. Department of Youth Rehabilitation Services*, OEA Matter No. 1601-0055-17, *Opinion and Order on Petition for Review* (April 9, 2019), held that a two-prong analysis should be applied to determine if harmless error exists: whether the agency's error caused substantial harm or prejudice to the employee's rights and whether such error significantly affected the agency's final decision to take the action against the employee. In *Sefton v. D.C. Fire and Emergency Services*, OEA Matter No. 1601-0109-13 (August 18, 2014) and *George v. D.C. Office of the Attorney General*, OEA Matter No. 1601-0050-16, *Opinion and Order on Petition for Review*

(July 16, 2019), the OEA Board held that employees can only be expected defend against the charges actually levied against them.

We concur with the AJ's analysis of why Agency's administrative error contained in the advance notice did not amount to a harmful procedural error. Agency's initial notice mistakenly identified the criminal allegations contained in Charge No. 1 as felonies, and not misdemeanors in Maryland. Counsel for Employee seasonably objected to the misclassification before the Adverse Action Panel and was given the opportunity cross examine Agency's witness, Sergeant Cowan, regarding the error. Agency cured the Final Notice of Adverse Action by amending the document to correctly provide that Employee's conduct amounted to misdemeanor assault. There lacks evidence to support a finding that Agency's error caused substantial harm or prejudice to Employee's procedural rights, and there is no indication that the misclassification affected Agency's final decision to terminate Employee. Lastly, the violation of the General Order identified in Charge No. 1 was predicated on "any criminal offense" or "any act which would constitute a crime." It does not state that the conduct is required to meet a specific criminal classification as a prerequisite to imposing discipline. Because Employee was able to adequately defend against the charges before the Panel and this Office, we will leave the AJ's ruling on this issue undisturbed.

120-Day Deadline

According to Employee, the AJ violated OEA Rule 634.1 and D.C. Code § 1–606.03 because the Initial Decision was issued more than 120 business days after the Petition for Appeal was filed. OEA Rule 634.1 states that: "…the Administrative Judge shall issue an Initial Decision no later than one hundred twenty (120) business days after the employee files a complete Petition for Appeal; [p]rovided, that the Administrative Judge may extend this period for a reasonable time under extraordinary circumstances." D.C. Code § 1–606.03(c) provides that ". . . any decision by a Hearing Examiner shall be made within 120 days, excluding Saturdays, Sundays, and legal holidays, from the

date of the appellant's filing of the appeal with the Office." The 120 business-day deadline was first introduced by the D.C. City Council in February of 1990, and it provided the following rationale as it related to the 120-day period:

> . . . an absolute requirement for all appeals to be decided within 120 days of filing will hamstring the office in the case of appeals which require the gathering and review of extraordinary amounts of information, or in which the issues are complex and require a greater amount of research. This amendment will allow the Office . . . to have more time to decide appeals in extraordinary circumstances.[26]

The D.C. Court of Appeals in *Anjuwan v. D.C. Department of Public Works*, 729 A.2d 883, 886 (D.C. 1998), ruled that ". . . the statutory timeframe is directory rather than mandatory." Moreover, it found that OEA's failure to comply with the 120-buisiness day requirement did not render the personnel action invalid. Additionally, in *Baldwin v. D.C. Office of Employee Appeals and D.C. Department of Youth Rehabilitation Services*, 226 A.3d 1140 (D.C. 2020), the Court of Appeals held that it is not enough that legislatures articulate a deadline using mandatory language but that the legislature must plainly mean for noncompliance to have consequences.[27]

While D.C. Code § 1-606.03(c) and OEA Rule 634.1 provide that OEA Administrative Judges issue decisions within 120 business days, both are void of any language containing consequences if the deadline is not met. Therefore, the 120-day period for issuing initial decisions is directory and not mandatory. Under OEA Rule 634.1, the AJ was permitted to extend the time period for issuing the Initial Decision under extraordinary circumstances. On August 3, 2024, AJ Hochhauser, who was previously assigned to this appeal, communicated to the parties that the matter was being held in abeyance "pending a court decision in another case, because a decision in the pending matter is likely to impact on these appeals…."[28] She later notified the parties that Employee's matter was reassigned

---

[26] *See* p. 7-8 of Amendment #2 to Bill 8-482 at https://lims.dccouncil.gov/downloads/LIMS/379/Other/B8-0482HANDWRITTENVOTESHEETSANDAMENDMENTS.pdf?Id=85945.
[27] *Mathis v. District of Columbia Housing Authority*, 124 A.3d 1089 (D.C. 2015).
[28] *Agency's Opposition to Employee's Petition for Review*, Exhibit 1 (August 25, 2025).

due to ongoing health issues. There is no evidence to suggest that AJ Hochhauser abused her discretion in holding the matter in abeyance and the reassignment of the appeal caused a justified delay. As a result, we find no basis for reversing the Initial Decision based on a violation of the 120-day rule.

Conclusion

Based on the foregoing, this Board finds that the Initial Decision is based on substantial evidence.[29] Agency met its burden of proof as to each charge and specification identified in its charging documents. Moreover, there is no evidence of a harmful procedural error. Finally, Agency's termination action was taken in accordance with all laws, rules, and regulations. Accordingly, we must deny Employee's Petition for Review.

[29] The D.C. Court of Appeals in *Baumgartner v. Police and Firemen's Retirement and Relief Board*, 527 A.2d 313 (D.C. 1987) found that if administrative findings are supported by substantial evidence, then it must be accepted even if there is substantial evidence in the record to support a contrary finding. Substantial evidence is defined as evidence that a reasonable mind could accept as adequate to support a conclusion. *See* Black's Law Dictionary, Eighth Edition; *Mills v. District of Columbia Department of Employment Services*, 838 A.2d 325 (D.C. 2003); and *Black v. District of Columbia Department of Employment Services*, 801 A.2d 983 (D.C. 2002).

ORDER

Accordingly, it is hereby **ORDERED** that Employee's Petition for Review is **DENIED.**

FOR THE BOARD:

_____
Pia Winston, Chair

_____
Arrington L. Dixon

_____
LaShon Adams

_____
Jeanne Moorehead

Either party may appeal this decision on Petition for Review to the Superior Court of the District of Columbia. To file a Petition for Review with the Superior Court, the petitioning party should consult Superior Court Civil Procedure Rules, XV. Agency Review, Rule 1.