2019 IL App (4th) 180480-U

NO. 4-18-0480

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
May 24, 2019
Carla Bender
4th District Appellate
Court, IL

THE ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff-Appellant, v. JAMES A. LEEDS and THE ILLINOIS CIVIL SERVICE COMMISSION, Defendants-Appellees.	)	Appeal from the Circuit Court of Sangamon County No. 17MR788 Honorable Rudolph M. Braud Jr., Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Knecht and Turner concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, concluding the Illinois Civil Service Commission's decision to impose a 90-day suspension in lieu of discharge was not arbitrary, unreasonable, or unrelated to the requirements of service.

¶ 2 In August 2017, an administrative law judge (ALJ) recommended that defendant, James A. Leeds, be discharged from his position as a child welfare specialist with plaintiff, the Illinois Department of Children and Family Services (DCFS). Thereafter, the Illinois Civil Service Commission (Commission) found the proven charges warranted Leeds's suspension for a period of 90 days plus the duration of his suspension pending discharge. In September 2017, DCFS filed a complaint for administrative review, and the circuit court affirmed the Commission's decision.

¶ 3 On appeal, DCFS argues the Commission's final decision to reduce Leeds's discipline from discharge to a 90-day suspension should be reversed. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Leeds's Work with DCFS

¶ 6 Leeds worked for DCFS from 2000 through 2016 as a child welfare specialist. A child welfare specialist works with children who have been abused, neglected, or are dependent and working toward either reunification with their family members or being placed elsewhere. As part of their duties, child welfare specialists meet with children who are in foster care in the foster home once each month. The visits allow the workers to ensure the home has adequate food, utilities, and sleeping areas as well as observe the interactions between the child and foster family. School visits are also conducted every quarter.

¶ 7 Using the Statewide Automated Child Welfare Information System (SACWIS), the child welfare specialists record the visits by creating a note in which they indicate who was contacted, when and where they were contacted, the time of the contact, and any narrative regarding the contact. The note is saved on SACWIS and reviewed quarterly. The child welfare specialists also meet weekly with their supervisors to discuss the contents of the case and any issues that need to be addressed. The supervisor then creates a supervisory note and saves it to SACWIS.

¶ 8 B. The Charges Against Leeds

¶ 9 DCFS filed three charges against Leeds, including falsification of records and information (charge I), conduct unbecoming of a DCFS employee (charge II), and failure to perform duties (charge III). DCFS sought to have Leeds discharged as discipline for these infractions.

¶ 10 In charge I(A), DCFS claimed Leeds falsified records and information in relation to the C.N. case when, on September 27, 2016, he entered a contact note stating he met with the

children and foster parents at the foster parents' home at 10 a.m. on September 21, 2016, and he informed his supervisor of that meeting. However, DCFS claimed the contact on September 21, 2016, occurred at the school after 2 p.m., not in the foster home.

¶ 11 In charge I(B), DCFS claimed Leeds falsified records and information in relation to the P. G.-B. case when, on September 27, 2016, he entered a contact note stating he met with Q., his sibling S., and the foster parents at the foster parents' home and informed his supervisor he met with them on September 9, 2016. However, DCFS claimed Q. was not present in the home during the September 2016 foster home visit.

¶ 12 In charge II, DCFS claimed Leeds demonstrated conduct unbecoming a DCFS employee in relation to the C.N. case when, on September 21, 2016, he made inappropriate statements to a youth in care while with the child at school.

¶ 13 In charge III, DCFS claimed Leeds failed to perform his duties in relation to the C.N. case when, in September 2016, he failed to see the children in their home but instead met them at their school.

¶ 14 C. The Administrative Hearing

¶ 15 In May 2017, the Commission's ALJ conducted a hearing on the charges. Leryn Rector, a labor relations administrator for DCFS, testified the DCFS employee handbook has rules prohibiting the falsification of records and requires honesty and accuracy in all documents completed by DCFS workers. The handbook also prohibits dereliction of duty and the use of vulgar or profane language in the workplace directed toward coworkers or clients.

¶ 16 Alyssa Marcantonio, a public service administrator for DCFS in the Bloomington field office, testified she supervises caseworkers and their cases and reviews all court reports and service plans. She discusses case activities with the caseworkers and inputs her supervisory

notes in SACWIS. Leeds worked on her "casework team" as a child welfare specialist for approximately 16 months. She stated the importance of having accurate records is because that information "will direct the case as to what needs to be done, what has been done, [and] where we're heading in the case." In addition, she pointed out how important it is for a specialist's notes to be accurate if a case is transferred from one child welfare specialist to another.

¶ 17 Marcantonio testified she met with Leeds on September 22, 2016, regarding his September 21, 2016, meeting with the foster children in the C.N. case. Leeds created a contact note on September 27, 2016 (exhibit No. 9), which indicated a meeting was held at school on September 21, 2016. In the narrative section, Leeds indicated he attended an individualized education plan (IEP) meeting regarding L., one of the foster children. Present were the foster parents, school social worker, L.'s third grade teacher, a special education teacher, and Tim Ulrich, head of the special education department at L.'s school.

¶ 18 Leeds created an additional contact note (Exhibit No. 10) on September 27, 2016, in the C.N. case indicating a meeting took place at the foster parents' home with both children L. and S. present on September 21, 2016.

¶ 19 Marcantonio testified Leeds informed her at the September 22, 2016, meeting he met with both children at school and later at the home of the foster parents and she documented that information in her supervisory notes. She stated the information provided by Leeds was inaccurate in that Leeds met with both L. and S. at the school after L.'s IEP meeting; however, he did not meet with the children later on the same date at the home of the foster parents.

¶ 20 Marcantonio stated she also spoke to Leeds at a September 15 supervisory meeting about the case involving P. G.-B. Leeds attended a home visit for Q. and S. on September 9, 2016. Upon arrival, he found S. was not present due to an unplanned after-school

activity and a plan was made to see S. later that same month at home. Marcantonio said Leeds informed her he visited the home on September 9 and the "children were doing well and have started school," according to her supervisory note. In that case, Leeds prepared a contact note on September 27, 2016 (exhibit No. 13), indicating he met with the children (Q. and S.) at the home of the foster parent. However, his note referenced two different dates: September 5 and September 15 and failed to list the September 9 date altogether. His note indicated both children were present at the home on the day of his visit.

¶ 21 Leeds also prepared a contact note on September 30, 2016 (exhibit No. 14), regarding a September 27 meeting with Q. In the note, he indicated he met with P.V., the foster parent of Q. and S., at "[elementary school] her home," and that Q. and S. were present.

¶ 22 Marcantonio testified about receiving information regarding inappropriate comments alleged to have been made by Leeds while at the IEP meeting with the children in the C.N. case. Marcantonio said she was contacted by Ulrich, who complained about comments Leeds made in the presence of L. about being "mentally retarded." Ultimately, she learned Leeds was merely relating a comment made to him by L.'s biological father.

¶ 23 Marcantonio also stated Leeds "allegedly said to a child that he didn't think that she was listening to him because he said that he had dynamite in his car and he was going to blow her up." Marcantonio found this behavior inappropriate because many of the children have been traumatized and have had "many adverse childhood experiences." As result of this information, Marcantonio was asked to conduct a review of Leeds's contact notes for the previous 30 days and verify with the contacted individuals that the contacts had, in fact, been made.

¶ 24 The investigation revealed two discrepancies, and Marcantonio stated the inaccurate records affected her trust in Leeds because workers "are the ones reporting back to us with firsthand knowledge of what is going on in a case" and how the case proceeded depended on accurate information.

¶ 25 On cross-examination, Marcantonio agreed it is important for a caseworker to develop a relationship with the children they serve and there is "no one-size-fits all approach." Marcantonio stated she did not receive any evidence during her investigation that the foster children in the C.N. case did not feel supported by Leeds. She stated it was not possible she misheard Leeds in preparing her supervisory note and she did not create a "cut-and-paste error."

¶ 26 Leeds's contact note in exhibit No. 13 indicated the date of contact was September 5, 2016. The narrative portion indicated the meeting took place on September 15, 2016. Marcantonio acknowledged Leeds claimed his process of creating a contact note involved pulling up a previous contact note, deleting the information, and pasting new information specific to the meeting. Marcantonio was unsure of when Leeds met with the foster children and parents in the P. G.-B. case.

¶ 27 Marcantonio believed Leeds intentionally falsified the contact notes because he had accepted a new position with DCFS and any work in his position as a child welfare specialist would have to be completed before he could start the new position on November 1, 2016.

¶ 28 Jennifer Seward, an area administrator for DCFS, testified she supervised the permanency supervisors, including Marcantonio. She also participated in the investigation of Leeds. She noted the critical importance of caseworkers maintaining accurate records because the supervisors have to rely on what is reported to make assessments as to the safety of the children. She stated Leeds acknowledged entering an incorrect contact note in two separate

cases as well as making the joke about the dynamite in his car. Seward believed the joke was inappropriate because the child, who was nine years old at the time, had a history of violence in her family that resulted in anxiety issues. She also found it concerning the joke was told in a school, which has "a very strict policy about making threats of blowing things up." Seward stated Leeds told her on September 26, 2016, that he had accepted a position in the adoption unit and hoped to leave as soon as possible. After an investigation, Leeds was placed on desk duty on September 30, 2016.

¶ 29 On cross-examination, Seward testified she conducted investigatory interviews with Leeds on September 30 and October 26, 2016. During the September 30 interview, Leeds admitted telling the dynamite joke and stated he made a mistake in entering a contact note indicating he had met with L. and her siblings in the foster home on September 21, 2016. During the October 26 interview, Leeds stated he visited with foster parents on September 9, 2016, and noted he did not see Q. that day. Leeds stated he intended to return later to visit Q., and Seward agreed he had would have had 21 more days to visit Q. When asked at the interview why he told his supervisor on September 15, 2016, that he had seen Q. on September 9, Leeds said he thought he told his supervisor he had not seen Q. Seward believed Leeds had told Marcantonio that he had seen both children in the home.

¶ 30 On examination by the ALJ, Seward stated she believed Leeds falsified his contact notes and it was not a "cutting-and pasting error" because Leeds "made a separate note for his contact that occurred at the school, and then he did a separate note of a contact that occurred in the foster home." Seward said Leeds then claimed "he saw everybody and what occurred."

¶ 31 P.V. testified Leeds became the caseworker in the P. G.-B. case after she and her husband became foster parents to two children, Q. and S. P.V. found Leeds to be "very kind" and he provided "a lot of support and resources." P.V. met with Leeds on September 9, 2016, at her home. Also present were P.V.'s daughter and S. At that time, Q. was at an after-school program. P.V. did not tell Leeds that Q. was not going to be at the house, but Leeds met with Q. later that month. Overall, P.V. had "a nice experience" with Leeds.

¶ 32 L.N. testified she and her husband were the foster parents of two girls, L. and S., in September 2016. On September 21, L.N. and her husband attended a meeting with Leeds at L.'s school in regard to an IEP issue. Leeds asked that L. be evaluated to see what services were needed. A second meeting was held in which S. and L. were present. During that meeting, L.N. heard Leeds make a statement about having dynamite in his car and L. laughed. L.N. stated L. did not exhibit any behavior that indicated the statement had a negative impact on her. L.N. stated Leeds "was a good caseworker" and she "didn't have any complaints."

¶ 33 Leeds testified he prepared his contact notes by using a Microsoft Word document and then cutting and pasting the information into SACWIS. He was assigned to the C.N. case in July 2016, and he typically met with the foster parents in the foster home. Leeds had contact with the foster parents and children on September 21, 2016, at the school. During the first meeting, the IEP issues were discussed. Leeds said L.'s biological father told him L. was " 'a little bit off' " and she might be " 'mentally retarded.' " Leeds informed Ulrich and asked that the school provide testing for L. Leeds said Ulrich responded "contentiously."

¶ 34 At a second meeting at the school on September 21, 2016, Leeds met with the foster parents and both children. He stated he inaccurately recorded in his contact note the time

of the meeting and that it took place in the home of the substitute caregiver. Leeds stated it "was a cut and paste error" and not intentional.

¶ 35 During the supervisory meeting with Marcantonio on September 22, 2016, Leeds did not believe he told her he met with the children in the foster home. Instead, he had every intention of going to the home the following week.

¶ 36 In the P. G.-B. case, Leeds was required to meet with the children, Q. and S., once a month in the home. He met with the foster parents and S. on September 9, 2016. In a contact note, the references to September 5 and 15 were incorrect and caused by a "cut and paste error." The note was also incorrect in stating Q. and S. were in the home during the meeting. Leeds stated Q. was supposed to be there but was still at school. Leeds met with Q. in September at the school and intended to meet Q. at home by the end of the month.

¶ 37 After Leeds accepted the adoption unit position, he entered more case notes into SACWIS at the end of September because Marcantonio wanted to have that information, court reports, and service plans written before he left.

¶ 38 In regard to the dynamite comment, Leeds admitted stating he told L. he "had some dynamite in [his] car and that [he] was going to blow her up." Leeds stated L. had been "very excited" and "running about the room" at the meeting, and he needed to tell L. her mother would be unable to attend because of a funeral. After making several attempts to engage her in conversation, Leeds made the dynamite comment to "pull her into a conversation." Leeds stated L. "giggled and laughed" and did not appear to take his comments seriously. Although he recognized the comment was inappropriate at the hearing, he stated he had often used "similar comments to engage the child in some sort of therapeutic discussion."

¶ 39 On examination by the ALJ, Leeds stated he had not received any prior discipline while working for DCFS and his performance evaluations met or exceeded expectations.

¶ 40 D. The ALJ's Recommended Decision

¶ 41 Following the hearing, the ALJ issued a 26-page proposed decision outlining his findings of fact and legal conclusions. The ALJ found Leeds "was an accomplished and enthusiastic employee at DCFS" who often "put in extra effort in completing his duties and helping others." However, the ALJ found "the evidence indicates Leeds intentionally falsified the contact notes" in the C.N. and P. G.-B. cases. The ALJ noted Leeds intentionally falsified the contact note created on September 27, 2016, in the C.N. case by stating he saw the children in the home when in fact he only saw them at school. Also, Leeds intentionally falsified the contact note created on September 27, 2016, in the P. G.-B. case by stating he saw both children in the home when in fact he only saw one child at home because the other child was at school.

¶ 42 The ALJ found Leeds's claim that the false contact notes were unintentional mistakes was not credible given that (1) the notes were inaccurate; (2) Marcantonio credibly testified Leeds specifically told her he visited both children at the foster homes in both cases; (3) Leeds had a motive to falsify the notes to finish his cases as soon as possible so he could start his new position; and (4) although Leeds established he cut and pasted the first lines in the narrative portion of contact notes, the notes contained other fields in which he specifically represented the contacts were in the foster home and all of the children were present.

¶ 43 In regard to charge I, the ALJ found DCFS proved by a preponderance of the evidence that Leeds intentionally falsified the contact notes in the two cases and Leeds was not credible. As to charge II, the ALJ found DCFS proved its case that Leeds engaged in conduct unbecoming a DCFS employee by making the dynamite comment. However, the ALJ stated the

statement "was not as egregious" as DCFS claimed and noted Leeds worked well with the child and used humor to forge a connection with her. In regard to charge III, the ALJ found DCFS proved Leeds failed to perform his duties by not visiting the children in the C.N. case in their home in September 2016.

¶ 44 Despite noting Leeds "was an accomplished, knowledgeable, and enthusiastic" child welfare specialist and had received good performance evaluations and no discipline since his work with DCFS began in May 2000, the ALJ concluded "discharge is the appropriate discipline in this case." Although noting charges II and III "might warrant a suspension," the ALJ found charge I was "a serious violation" and nothing within DCFS rules suggested "anything less than discharge would be appropriate for the falsification of client records."

¶ 45 E. The Commission's Final Decision

¶ 46 In August 2017, the Commission found the written charges for discharge approved by the director of Central Management Services had been proved but discharge was not warranted considering (1) the nature of the offenses; (2) the employee's performance record, including his disciplinary history; and (3) his length of continuous service. Specifically, the Commission noted Leeds had 16 years of continuous service, had no prior discipline, received positive performance evaluations, had helped out fellow workers in need of assistance in addition to addressing his own caseload, the clients at issue testified Leeds was a good employee on their behalf, and those clients testified Leeds's conduct was in no way detrimental to their families.

¶ 47 Considering these findings, the Commission found "progressive corrective discipline should be imposed for the proven charges." The Commission noted as follows:

> "Although the preponderance of the evidence indicates that Leeds made serious mistakes in violation of DCFS rules, the evidence

> indicates that Leeds was a long-term, enthusiastic, and exceptional employee who genuinely cared about the clients he served and he put out significant effort in helping both his clients and also his fellow workers. Moreover, there was no evidence that the clients at issue were actually exposed to any risks and/or detrimental effects due to his mistakes. While Leeds may have intentionally misrepresented the locations of the contacts, the evidence indicates that Leeds had substantial, consistent and engaged contact with the clients during the relevant time frames and his actions genuinely helped the clients at issue."

¶ 48 The Commission indicated it understood the importance of DCFS needing to ensure its employees are aware that falsification of notes will not be tolerated and stated discharge may be warranted in some situations. However, such a drastic penalty was inappropriate in Leeds's case, and "progressive corrective discipline should be utilized" based on his "long history of service with the State of Illinois, his positive performance evaluations, and his lack of prior discipline." The Commission concluded the proved charges did "not rise to the level which sound public opinion recognizes as good cause for the employee to no longer hold the position." Instead, the Commission found the proved charges "warrant a 90-day suspension plus the duration of his suspension pending discharge in lieu of discharge."

¶ 49 F. The Circuit Court's Proceedings

¶ 50 In September 2017, DCFS filed a complaint for administrative review pursuant to section 3-103 of the Administrative Review Law (735 ILCS 5/3-103 (West 2016)), arguing the decision of the Commission was contrary to law; against the manifest weight of the evidence;

clearly erroneous; an abuse of discretion; arbitrary, unreasonable, and unrelated to the requirements of the service; and contrary to the public policy of Illinois.

¶ 51 The circuit court found the Commission "sufficiently substantiated its conclusion that a 90-day suspension plus the duration of [Leeds's] suspension pending discharge was the appropriate level of discipline to impose upon Leeds for his violations of DCFS policies." The court also found the Commission's decision was not arbitrary, unreasonable, or unrelated to the requirements of service. The court affirmed the Commission's final administrative decision. This appeal followed.

¶ 52 II. ANALYSIS

¶ 53 DCFS argues the Commission's final decision to reduce Leeds's discipline from discharge to a 90-day suspension was arbitrary, unreasonable, and unrelated to the terms of his service. We disagree.

¶ 54 A. Standard of Review

¶ 55 "In an appeal from the judgment of an administrative review proceeding, we review the decision of the administrative agency and not the decision of the circuit court." *Orsa v. Police Board*, 2016 IL App (1st) 121709, ¶ 47, 63 N.E.3d 912; see also *Department of Corrections v. Welch*, 2013 IL App (4th) 120114, ¶ 17, 990 N.E.2d 240.

> " 'In discharge cases, "[t]he scope of review of an administrative agency's decision regarding discharge is generally a two-step process involving first, a manifest-weight standard, and second, a determination of whether the findings of fact provide a sufficient basis for the agency's conclusion that cause for discharge does or does not exist." ' [Citations.]" *Department of Juvenile Justice v.*

Civil Service Comm'n, 405 Ill. App. 3d 515, 521, 939 N.E.2d 54, 59-60 (2010).

"An agency's factual findings will be reversed only if they are against the manifest weight of the evidence, whereas the agency's discharge determination will be reversed only if it is arbitrary, unreasonable, or unrelated to the requirements of service." *Welch*, 2013 IL App (4th) 120114, ¶ 39, 990 N.E.2d 240. "A reviewing court may reverse a sanction imposed by an administrative agency when that agency, in opting for a particular sanction, acted unreasonably." *Department of Juvenile Justice*, 405 Ill. App. 3d at 522, 939 N.E.2d at 60.

¶ 56 B. DCFS's Claim the Commission's Decision was Arbitrary and Unreasonable

¶ 57 In the case *sub judice*, DCFS does not challenge any factual findings made by the Commission as being against the manifest weight of the evidence, and thus we need not address the first step of the review process. Instead, DCFS contends the Commission's decision not to discharge Leeds was arbitrary, unreasonable, and unrelated to the terms of his service. In reviewing the second step, "the question is not whether the reviewing court would have imposed a harsher or more lenient penalty, but whether the Commission substantiated its decision." *Welch*, 2013 IL App (4th) 120114, ¶ 39, 990 N.E.2d 240. The Commission substantiates its decision when it explains why its decision is inconsistent with the ALJ's decision. See *Department of Juvenile Justice*, 405 Ill. App. 3d at 524, 939 N.E.2d at 62 (citing *Austin v. Civil Service Comm'n*, 247 Ill. App. 3d 399, 404, 617 N.E.2d 349, 353 (1993)). If the Commission fails to substantiate its decision, we must conclude its reasoning is arbitrary, unreasonable, or unrelated to the requirements of service. *Department of Juvenile Justice*, 405 Ill. App. 3d at 524, 939 N.E.2d at 62.

¶ 58 In arguing the Commission's decision was arbitrary, unreasonable, or unrelated to the requirements of service, DCFS argues Leeds's discharge was warranted under the facts of this case. Pursuant to title 80, section 1.170 of the Illinois Administrative Code (80 Ill. Adm. Code 1.170, amended at 37 Ill. Reg. 3825 (eff. Mar. 15, 2013)), "cause for discharge" is defined as "some substantial shortcoming that in some way renders the employee's continuance in the position detrimental to the discipline and efficiency of the service and that law and sound public opinion recognize as good cause for the employee's removal from the position." See *Department of Juvenile Justice*, 405 Ill. App. 3d at 522, 939 N.E.2d at 60. According to DCFS, Leeds's falsifications of contact notes were serious violations of its rules that hampered DCFS employees' ability to accurately determine the best course of action in cases and created integrity issues for Leeds going forward.

¶ 59 DCFS notes its policy guide provided disciplinary action consisting of immediate discharge that would be initiated against any employee found violating the policy against falsifying client/case record information. DCFS appears to argue discharge was the only sanction available to the Commission once cause was shown. However, DCFS cites no cases in support of its contention. Moreover, such a finding would ignore the statutory authority afforded the Commission and strip it of its decision-making authority. See 20 ILCS 415/10, 11 (West 2016); *Starkey v. Civil Service Comm'n*, 97 Ill. 2d 91, 100, 454 N.E.2d 265, 269 (1983) (stating "the ultimate decision-making authority regarding employee discipline more serious than a 30-day suspension is vested in the Civil Service Commission").

¶ 60 Assuming, *arguendo*, that Leeds's actions rendered his continued employment detrimental to the discipline and efficiency of DCFS such that discharge was an appropriate option for the Commission to consider, we turn to DCFS's next argument—that the

Commission's decision not to discharge Leeds was arbitrary, unreasonable, and unrelated to the terms of his service.

¶ 61 "It is well established that, where the Commission adopts an ALJ's decision but disagrees with the appropriate discipline to be imposed, it must make specific findings of fact or conclusions of law to support its decision to increase or decrease the proposed level of discipline; otherwise its decision is wholly conclusory and arbitrary." *Welch*, 2013 IL App (4th) 120114, ¶ 44, 990 N.E.2d 240. The Commission's decision must contain "a concise and explicit statement of the underlying facts supporting the findings." 5 ILCS 100/10-50(a) (West 2016). Those findings must be "specific enough to permit an intelligent review of its decision." *Violette v. Department of Healthcare & Family Services*, 388 Ill. App. 3d 1108, 1112, 904 N.E.2d 1229, 1233 (2009).

¶ 62 In *Department of Juvenile Justice*, 405 Ill. App. 3d at 517-18, 939 N.E.2d at 56-57, the Department of Juvenile Justice charged an employee with secretly recording workplace conversations. Following a hearing, the ALJ found the employee intentionally and secretly recorded coworker conversations without their permission or authorization from a superior. *Department of Juvenile Justice*, 405 Ill. App. 3d at 520-21, 939 N.E.2d at 59. Despite the employee's 15 years of service, positive performance evaluations, and lack of prior discipline, the ALJ found discharge was the appropriate discipline. *Department of Juvenile Justice*, 405 Ill. App. 3d at 520-21, 939 N.E.2d at 59.

¶ 63 In its decision, the Commission found the charges had been proved but did not warrant discharge due to the employee's 15 years of service with no prior discipline and her lack of malicious intent. *Department of Juvenile Justice*, 405 Ill. App. 3d at 521, 939 N.E.2d at 59. The Commission then recommended a 90-day suspension in lieu of discharge, and the circuit

court affirmed the Commission's decision. *Department of Juvenile Justice*, 405 Ill. App. 3d at 521, 939 N.E.2d at 59.

¶ 64 On appeal, the Department of Juvenile Justice argued "the Commission's decision to reduce the ALJ's discharge recommendation to a 90-day suspension was 'wholly conclusory' in that it provided 'little analysis why it chose to reduce [the employee's] discipline from discharge to a mere 90-day suspension.' " *Department of Juvenile Justice*, 405 Ill. App. 3d at 522, 939 N.E.2d at 60. In affirming the Commission's decision, this court highlighted the Commission "explained why its decision that a 90-day suspension in lieu of discharge was the appropriate level of discipline by specifically placing greater emphasis than did the ALJ on [the employee's] 15 years of service without any disciplinary infractions." *Department of Juvenile Justice*, 405 Ill. App. 3d at 525, 939 N.E.2d at 62. We also noted the ALJ, and therefore the Commission, found no evidence the employee's actions were premeditated or done with malicious intent. *Department of Juvenile Justice*, 405 Ill. App. 3d at 525, 939 N.E.2d at 63. Because the Commission properly considered the employee's history and lack of malicious intent, which were findings supported by the record, this court determined the Commission's decision was not arbitrary, unreasonable, or unrelated to the requirements of service. *Department of Juvenile Justice*, 405 Ill. App. 3d at 525-26, 939 N.E.2d at 63.

¶ 65 In this case, the Commission adopted the ALJ's proposed decision and partially affirmed and adopted the conclusions of law of that proposal. However, the Commission determined a 90-day suspension plus the suspension pending discharge was the appropriate level of discipline. In its findings, the Commission stated discharge was unwarranted based on the nature of the offense; Leeds's performance record, including disciplinary history; and the length of his continuous service with DCFS. Specifically, the Commission pointed out Leeds had 16

years of continuous service, no prior discipline, received positive performance evaluations, helped out fellow workers who needed assistance in addition to addressing his own caseload, the DCFS clients at issue specifically testified he was a good employee on their behalf, and those clients testified Leeds's conduct was in no way detrimental to their families. In explaining its decision, the Commission stated as follows:

> "Given all of the factors above, progressive corrective discipline should be imposed for the proven charges. Section 302.626 [(80 Ill. Adm. Code 302.626 (2016))] specifically states, 'Unless grounds clearly are present warranting immediate discharge or suspension pending discharge, employees shall be subject to corrective discipline progressively utilizing counseling, warnings, and/or suspensions, as the facts and circumstances dictate, prior to discharge. If an employee's work or work-related conduct remains unacceptable after the application of progressive corrective discipline, such employee may be discharged in accordance with the appropriate rules.' Although the preponderance of the evidence indicates that Leeds made serious mistakes in violation of DCFS rules, the evidence indicates that Leeds was a long-term, enthusiastic, and exceptional employee who genuinely cared about the clients he served and he put out significant effort in helping both his clients and also his fellow workers. Moreover, there was no evidence that the clients at issue were actually exposed to any risks and/or detrimental effects due to

> his mistakes. While Leeds may have intentionally misrepresented the locations of the contacts, the evidence indicates that Leeds had substantial, consistent and engaged contact with the clients during the relevant time frames and his actions genuinely helped the clients at issue.
>
> The Civil Service Commission understands the importance for the Department of Children and Family Services to ensure its employees are aware that falsification of entries into the SACWIS system will not be tolerated. Such conduct may certainly warrant the imposition of the ultimate discipline—discharge—at times. Considering the multitude of factors noted above, it would not benefit the State to impose such a drastic penalty given these particular facts and circumstances. Rather, progressive corrective discipline should be utilized based upon Leeds[']s long history of service with the State of Illinois, his positive performance evaluations, and his lack of prior discipline."

¶ 66 "In determining the appropriate level of discipline, the Commission shall consider the nature of the offense, the employee's performance record, including disciplinary history, the employee's length of continuous service, and other relevant factors." 80 Ill. Adm. Code 1.170, amended at 37 Ill. Reg. 3825 (eff. Mar. 15, 2013)). Here, in noting Leeds's performance record, lack of disciplinary history, and length of service, the Commission thoroughly explained its decision that a suspension in lieu of discharge was the appropriate level of discipline. Moreover, while the Commission was well aware of DCFS's need for accurate and truthful information by

its caseworkers and recognized falsification of records could lead to discharge in certain circumstances, it concluded such a drastic penalty was inappropriate here when "progressive corrective discipline should be utilized based on Leeds's long history of service with the State of Illinois, his positive performance evaluations, and his lack of prior discipline." Thus, the Commission's decision included "a concise and explicit statement of the underlying facts supporting the findings." 5 ILCS 100/10-50(a) (West 2016). Because the Commission sufficiently substantiated its determination to depart from the ALJ's discharge recommendation, we conclude the Commission's determination to suspend Leeds in lieu of discharge was not arbitrary, unreasonable, or unrelated to the requirements of service.

¶ 67 III. CONCLUSION

¶ 68 For the reasons stated, we affirm the Commission's judgment.

¶ 69 Affirmed.