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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
JUN 02 2016

ALFREDA DUBOSE,

Appellant,

v.

OHIO DEPARTMENT OF
JOBS AND FAMILY SERVICES,

Appellee.

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Case No.: A1401225

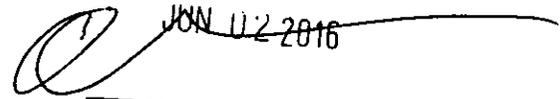
Judge Nadine Allen

ENTRY UPHOLDING
MAGISTRATE'S DECISION
DATED FEBRUARY 26, 2016

This matter is before the Court on Appellant's Objections to Magistrate's Decision filed on May 19, 2016. After reviewing the Motion and oppositional memoranda, hearing oral argument and being fully advised of the facts and the law the Motion is found to not be well-taken at this time and is hereby **DENIED**. The Magistrate's Decision dated February 26, 2016, is upheld.

IT IS SO ORDERED.

ENTERED


JUN 02 2016

NADINE ALLEN, JUDGE
Hamilton County Court of Common Pleas

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ALFREDA DUBOSE,	:	Case No. A1401225
Appellant,	:	Judge Allen
v.	:	
	:	
OHIO DEPARTMENT OF	:	<u>MAGISTRATE'S DECISION</u>
JOB AND FAMILY SERVICES,	:	
Appellee.	:	

RENDERED THIS 26TH DAY OF FEBRUARY, 2016.

This administrative appeal is from a January 29, 2014 Administrative Appeal Decision from a Bureau of State Hearings Administrative Appeal Officer denying Appellant Alfreda Dubose's ("Appellant") application for an extension of benefits under the Ohio Works First ("OWF") program. This appeal, filed pursuant to R.C. §§ 119.12 and 5101.35(E), was taken under submission for decision on March 9, 2015 after oral argument.

BACKGROUND

A staff hearing officer determined that Appellant did not qualify for a hardship extension of OWF benefits.¹ Appellant requested an appeal. The Administrative Appeal Officer stated, in pertinent part:



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 TRACY WINKLER
 CLERK OF COURTS
 HAMILTON COUNTY, OH

¹ / R. at State Hearing Decision.

The appellant was working prior to the birth of her twins. There is no medical evidence that she is currently incapable of working. The appellant's twins have medical limitations, but the evidence from the children's doctor indicates that they can attend childcare at least twenty hours per week. Despite their many appointments, there is no evidence that the appellant could not resume her previous employment on third shift and still accommodate their schedule. The evidence presented does not indicate that the domestic violence issues have impacted the appellant's ability to work.²

The Administrative Appeal Decision was issued January 29, 2014. The instant appeal was timely appealed.

STANDARD OF REVIEW

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.³

A strict reading of this standard of review allows the trial court to weigh the evidence to determine whether it is reliable, probative and substantial. However, the trial court is required to give due deference to the administrative resolution of evidentiary conflicts.⁴ Consequently, an administrative factual finding should not be disturbed without legally sufficient reasons for doing so.

² / R. at Administrative Appeal Decision, p.5.

³ / Ohio Rev. Code § 119.12 (West 2009).

⁴ / *Star Cruises v. Department of Liquor Control*, No. C-950701, 1996 Ohio App. LEXIS 1013, at *4-5 (App. 1 Dist.), see *Univ. of Cincinnati v. Conrad* (1980), 63 Ohio St.2d 108, and *Pons v. Ohio State Med. Bd.* (1993), 66 Ohio St.3d 619.

Section 119.12 of the Revised Code requires that evidence considered by the court on appeal be reliable, dependable, probative and substantial.⁵ Reliable evidence is dependable, confidently trusted, and there is reasonable probability that the evidence is true.⁶ Probative evidence is relevant and tends to prove the issue in question.⁷ Substantial evidence is evidence with some weight; it must have importance and value.⁸

DISCUSSION

As Appellant points out in her brief, the term “hardship” is not defined in R.C. 5107.18(E). County departments may consider criteria when determining whether to grant a hardship extension. Hamilton County has such a criteria and the questionnaire was admitted into the record.⁹ According to an opinion of the Ohio Attorney General, “There is no express statutory authority for the adoption of time limit hardship criteria by a County Department.”¹⁰ While these criteria may be used as guidelines, the determination regarding hardship is a fact specific inquiry on a case by case basis.

This court has thoroughly reviewed the record in this case and must give deference to the factual findings below. Appellant argues that while her circumstances do not fit neatly into any of the criteria for an extension, Appellant’s circumstances as a whole require granting the extension. Appellant’s hardship was twofold. She alleges she was being victimized by an ex-boyfriend and had recently given birth to twins, at least one of which is disabled and requires special care. The Department argues the decision to deny the extension was sound and based upon reliable, probative evidence.

⁵ / *Our Place, Inc. v. Ohio Liquor Control Comm’n.* (1992), 63 Ohio St.3d 570, 571.

⁶ / *Id.*

⁷ / *Id.*

⁸ / *Id.*

⁹ / R. at p.54.

¹⁰ / OAG 03-003. Appellant Brief at p.6.

Given that this court hears civil protection order cases on a daily basis, the court is sensitive to the issue of domestic violence and recognizes the effect it can have on victims. The court has reviewed Appellant's evidence and allegations of domestic violence. The pictures of Appellant's ex-boyfriend with firearms are disturbing and he appears to be a violent individual. Appellant argues she has endured mental distress because her ex-boyfriend made posts online directing others to come to her home. However, these allegations were not proven at the hearing below. This court frequently cautions those seeking a protection order that proving a particular individual is engaging in online harassment is very difficult. Perhaps if Appellant had followed through with the protection order or previous criminal cases, she could have proven these allegations or brought forth other evidence of domestic violence. As the record stands, the administrative appeal officer properly upheld the decision of the hearing officer on this issue.

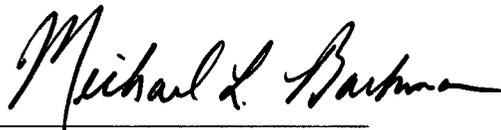
The hearing officer went into a very detailed analysis of the hardship posed by Appellant's children. At one point, Appellant's doctor indicated that one of Appellant's twins could attend a childcare facility for at least twenty (20) hours per week. Once Appellant's doctor became aware that Appellant's extension was denied (at least in part) due to this opinion, Appellant's doctor apparently softened her position. The appeal officer acknowledged that Appellant's children have a "significant number" of appointments, but do not completely prevent Appellant from working in some capacity.¹¹ The appeal officer concluded "there is no indication that an extension of her OWF eligibility will help her become more self-sufficient."

¹¹ / R. at Administrative Appeal Decision, p.3.

This court cannot substitute its judgment in place of an administrative agency. The court has no doubt there are far less deserving citizens than Appellant currently receiving far more government benefits. However, the court also recognizes the goals of the OWF program: to encourage self-sufficiency, personal responsibility, useful work habits, and the development of marketable skills. The burden was on Appellant to prove to the administrative agency that granting the extension would further the program's goals. While this court may not have come to the same conclusion as the hearing officer, the decisions of both the hearing officer and appeal officer were detailed, thoughtful, and based on the evidence. Even considering Appellant's hardships in their entirety, the court must affirm the decision of the appeal officer.

DECISION

The Administrative Appeal Decision dated December 31, 2013 is hereby AFFIRMED.



**MICHAEL L. BACHMAN,
MAGISTRATE,
COURT OF COMMON PLEAS**

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

Copies sent by Clerk of Courts to:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION
HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR
ATTORNEYS AS PROVIDED ABOVE.

Date: 2/29/16 Deputy Clerk: 