IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVE EGGLESTON,
Appellant,
vs.
CLARK COUNTY DEPARTMENT OF FAMILY SERVICES,
Respondent.

No. 87583-COA

ORDER OF AFFIRMANCE

Steve Eggleston appeals from a district court order denying his petition for judicial review concerning an agency substantiation of child maltreatment. First Judicial District Court, Carson City; James E. Wilson, Judge.

Respondent Clark County Department of Family Services (DFS) became involved with Eggleston after the mother of Eggleston's two minor children, Laura Rodriguez, allegedly expressed suicidal ideation in December 2014 and emergency services were summoned.[1] Rodriguez was subsequently taken to the hospital, where she was detained on a psychiatric hold due to substance abuse and mental health concerns.

Georgina Stuart, a DFS child development supervisor, investigated child maltreatment reports against Eggleston and Rodriguez. In her investigation, Stuart interviewed Rodriguez, Eggleston, and Rodriguez's two adult daughters, Alexis and Selena. Stuart discovered a

[1]We recount the facts only to the extent necessary to our disposition.

concerning history of inadequate supervision and neglect involving the four minor children living with Eggleston and Rodriguez. The minor children living with Rodriguez and Eggleston included their two children, R.E. and H.E., and two children from one of Rodriguez's previous relationships, K.R. and J.R. At the time of the investigation, R.E. was 4 years old, H.E. was 2, K.R. was 11, and J.R. was 8.

Eggleston and Rodriguez, who were never married, had a tumultuous relationship marked by frequent arguments at home over parenting the children. During their relationship, Rodriguez was self-employed as a hair stylist, while Eggleston spent long hours away from home teaching at a local college. When Eggleston was home, he was not actively involved in co-parenting, often retreating to his office for hours. He admitted to leaving most parenting duties to Rodriguez, who struggled with severe substance abuse, including heavy alcohol consumption and cocaine use. Prior to her admission to the hospital, Rodriguez's substance abuse led to a violent episode in which Alexis and the minor children were forced to hide from Rodriguez in the bathroom until she passed out. Eggleston was not present during this incident. Further, because of Eggleston's frequent absences from the home, he took no steps to protect the minor children from Rodriguez during her incapacity.

In response to concerns about Rodriguez's untreated mental health and substance abuse issues, Stuart helped devise a present danger plan in preparation for Rodriguez's return from the hospital. Under the plan, Eggleston, Alexis, and Selena would provide 24-hour supervision of Rodriguez to protect the minor children until receiving further guidance from DFS. All three agreed to and signed the present danger plan.

On December 25, 2014, Rodriguez was discharged from the hospital but was shortly readmitted after consuming half a bottle of vodka, resulting in another legal hold. During this same time, Alexis took H.E. to Sunrise Hospital due to a ruptured appendix. The record shows that Eggleston went to Sunrise Hospital to sign consent forms but left shortly afterward to return to work.

On January 5, 2015, Alexis and Selena informed Stuart that they had concerns about Rodriguez's substance abuse, as well as worries about the overall safety of their younger siblings. They noted that Rodriguez had emptied a Xanax prescription after only two days and a Tylenol with Codeine prescription within five days. Alexis and Selena further informed Stuart that they planned to return to college in a couple of days and would be unavailable to supervise the children. Both expressed significant concern about Rodriguez's ongoing drug and alcohol use, as well as Eggleston's reluctance to intervene to protect the children when they were no longer there. Additionally, they informed Stuart that K.R., the eldest of the minor children at 11 years old, primarily cared for the other three minor children when Rodriguez was unavailable because she was at work, even when Eggleston was working at home.

The next day, DFS attempted to offer the family in-home mental health, family support, and safety services, which were reportedly "unsuccessful." Afterwards, Stuart went to the family home on January 7, 2015, with the Las Vegas Metropolitan Police Department to remove the minor children. Eggleston consulted an attorney and then signed the necessary documents to grant temporary guardianship of H.E. and R.E. to their maternal aunt and uncle, while Rodriguez signed documents allowing for the same temporary guardianship for all four minor children, including

K.R. and J.R. All four minor children are currently living with their maternal aunt and uncle in Illinois, where their aunt has petitioned for permanent guardianship.[2] Subsequently, Rodriguez and Eggleston separated,[3] and Eggleston relocated to England, where he has lived during the pendency of these proceedings.

In early February 2015, DFS sent Eggleston a letter informing him that the allegations of child maltreatment against him had been substantiated.[4] As a result, Eggleston's name was added to a central registry for child abuse or neglect pursuant to NRS 432B.310(1). The letter also outlined the appeal process and provided an address for submitting appeals. Eggleston appealed, but the DFS appeals unit manager entered a summary decision upholding the substantiated finding of child maltreatment against Eggleston with respect to all four minor children.

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[2]*See Eggleston v. Stuart*, 137 Nev. 506, 508, 495 P.3d 482, 487 (2021) (addressing tort claims brought by Eggleston in a separate proceeding concerning DFS's actions in this case and observing that the children's aunt petitioned for permanent guardianship in Illinois without stating the disposition of the guardianship proceeding).

[3]Based on the record before this court, it does not appear that Rodriguez participated in Eggleston's administrative appeal of the substantiation finding, which is the proceeding that gives rise to this appeal.

[4]As used in this disposition, "substantiated" indicates that "a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists." NAC 432B.170.

Eggleston then requested a fair hearing to appeal the administrative decision in accordance with NRS 432B.317.[5]

At Eggleston's request, the administrative hearing was initially set for August 1, 2017, but Eggleston thereafter requested multiple continuances and failed to respond to several emails from DFS to coordinate a new date for the hearing. After years of delays, the administrative hearing was rescheduled for September 15, 2020, to be held over WebEx. One day before the hearing, Eggleston moved for another continuance, explaining that he had unreliable broadband for WebEx, some of his witnesses were unavailable, and the hearing officer had a conflict due to being named in a federal civil rights and racketeering lawsuit he had filed against her and others.[6] He also moved to disqualify the hearing officer, arguing that her involvement in this lawsuit created a conflict requiring her recusal. The hearing officer reserved her ruling on Eggleston's motions to continue and to disqualify until the time of the hearing.

Despite Eggleston's objections, the administrative hearing was conducted via WebEx on September 15, 2020. At the hearing, the parties initially presented arguments on Eggleston's latest motions for a continuance and to disqualify the hearing officer. In response to arguments

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[5]Under NRS 432B.317, a person may request an administrative appeal of the substantiation of a report of child abuse or neglect and the agency's intention to place the person's name in the central registry by submitting a written request to the agency within 15 days after the date on which the agency sent the written notification.

[6]Eggleston made this motion notwithstanding earlier motions that he filed in which he sought permission to present witnesses and evidence remotely and by phone and raised concerns about traveling internationally during the COVID-19 pandemic.

from DFS's counsel, Eggleston frequently interrupted both the hearing officer and the attorney. Although Eggelston claimed that he could not hear what anyone was saying due to internet connectivity issues, the nature of his interruptions indicated that he understood. Shortly into the hearing, Eggleston indicated that he needed to leave in 30 minutes to pick up his daughter (apparently from another relationship). Although the hearing officer acknowledged that Eggleston's frequent disconnections were making it "extremely difficult" to conduct the hearing, she also acknowledged that he had previously engaged in tactics to delay the proceedings. DFS's counsel characterized Eggleston's purported broadband issues as "another trick" designed to delay the proceedings and dismiss the case, and the hearing officer agreed. Ultimately, the hearing officer concluded that Eggleston could hear and participate in the proceedings, as he continued to interrupt both her and DFS's counsel.

After hearing arguments from both parties, the hearing officer denied Eggleston's request for a continuance and for her to disqualify herself.[7] At this point, Eggleston apparently stopped participating in the proceedings and no longer appeared via WebEx, although he continued to send multiple emails to DFS's counsel as the hearing continued. Initially, he claimed that his computer was rebooting, but later he emphasized that he lacked the technological capacity for WebEx and was leaving to pick up

[7]On appeal, the parties do not challenge the hearing officer's ruling on the disqualification motion, and therefore we need not address it further.

his daughters.[8] He also stated that he reserved his right to conduct the hearing on a later date.

Notwithstanding Eggleson's lack of further participation at this point, the hearing officer permitted DFS to present its case on why the substantiation should be upheld. Stuart testified as to why DFS substantiated the child maltreatment against Eggleston. She explained that Rodriguez had untreated mental health and substance abuse issues, resulting in multiple hospitalizations for suicidal ideation and ongoing struggles with alcoholism. Stuart noted that both parents had a strained relationship, were not co-parenting effectively, and had failed to provide adequate supervision, with Eggleston often leaving the children in Rodriguez's care despite her regular intoxication. Stuart also discussed other instances of child neglect. The hearing officer upheld DFS's substantiation of child maltreatment as to K.R., J.R., R.E., and H.E. Specifically, the hearing officer determined that "the preponderance of the evidence indicates that Mr. Eggleston allowed the minor children to be subjected to harmful behavior by the mother that resulted in a plausible risk of physical injury/harm pursuant to NRS 432B.140."

On October 19, 2020, the hearing officer's decision was sent to Eggleston via email and Eggleston timely petitioned for judicial review. The district court denied DFS's challenge to the service of the petition and determined it had jurisdiction over the matter. On May 26, 2023, the district court ordered a limited remand to the hearing officer for her to

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[8]The record is inconsistent with respect to how many children Eggleston was responsible for in England, as Eggleston stated during the administrative hearing that he was picking up only one of his daughters, while in the email, he mentioned needing to pick up multiple children.

amend her decision to include a concise statement of the underlying facts supporting her findings.

The hearing officer's amended decision was entered on July 17 stating that "the substantiation of the allegation in this matter was based on the totality of the circumstances/facts over a period of time, rather than a single incident." The hearing officer referenced Stuart's testimony concerning information she gathered relating to serious incidents involving the children, including an incident in which H.E., who was 1 year old at the time, nearly drowned in the backyard pool and the incident where Alexis had to lock herself in the bathroom with the minor children. Notably, all these events occurred without Eggleston's supervision. The hearing officer found that Eggleston "allowed/did nothing to prevent or stop the negligent treatment of the children by [Rodriguez] in circumstances where he knew or had reason to know that the children were being neglected because he was aware of [Rodriguez]'s drug and alcohol abuse." Additionally, the hearing officer noted that Eggleston failed to provide the necessary care, control, and supervision for the minor children, choosing not to parent them even when Rodriguez was unable due to her drug and alcohol abuse and related hospitalizations. As a result, the hearing officer concluded that Eggleston "engaged in the negligent treatment/maltreatment of the children, pursuant to NRS 432B.140, under circumstances that indicated a plausible risk of harm to the children's health."

After receiving the hearing officer's amended decision, the district court permitted both parties to submit supplemental briefs, and thereafter the court issued an amended order denying Eggleston's petition for judicial review. Eggleston now appeals.

On appeal, Eggleston contends that the district court should have reversed the hearing officer's amended decision pursuant to NRS 233B.135(3)(a) and (e) because it was issued in "violation of . . . statutory provisions" and was "clearly erroneous in view of the reliable, probative, and substantial evidence in the record." In turn, DFS argues that the district court lacked jurisdiction to consider the petition for judicial review because Eggleston failed to properly serve the petition on the administrative head of DFS, as required by NRS 233B.130(2)(c)(1), and, in the alternative, contends it presented sufficient evidence to substantiate the child maltreatment allegations. We address these arguments below.

The district court had subject matter jurisdiction to consider the petition

Nevada's Administrative Procedure Act (APA), codified at NRS Chapter 233B, governs judicial review of administrative decisions. *Liberty Mut. v. Thomasson*, 130 Nev. 27, 30, 317 P.3d 831, 834 (2014). Under NRS 233B.130(2)(c), petitions for judicial review must be served upon (1) the attorney general or a designated representative and (2) the individual serving as the administrative head of the named agency. Both service requirements of NRS 233B.130(2)(c) are mandatory and jurisdictional. *Heat & Frost Insulators & Allied Workers Local 16 v. Labor Comm'r*, 134 Nev. 1, 4, 408 P.3d 156, 159 (2018).

DFS raises a challenge to subject matter jurisdiction based on service. DFS argues that Eggleston's purported failure to properly serve the petition in accordance with NRS 233B.130(2)(c) required the district court to dismiss it for lack of subject matter jurisdiction and, accordingly, that this court should reverse with directions for the district court to dismiss the petition. We disagree.

Subject matter jurisdiction is a question of law that we review de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 669, 704 (2009). "[W]hether a court lacks subject matter jurisdiction can be raised by the parties at any time, or sua sponte by a court of review, and cannot be conferred by the parties." *Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011) (internal quotation marks omitted). A district court's judgment is rendered void if the court lacks subject matter jurisdiction. *Id.* (citing *State Indus. Ins. Sys. v. Sleeper*, 100 Nev. 267, 269, 679 P.2d 1273, 1274 (1984)); *see also* NRCP 12(h)(3) ("If the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action.").

A petition for judicial review is viewed as a post-complaint filing, meaning that personal service is unnecessary and an alternative method of service under NRCP 5(b) is sufficient. *Dep't of Corrs. v. DeRose*, 136 Nev. 339, 342, 466 P.3d 1253, 1255 (2020). In particular, NRCP 5(b)(2)(C) provides that a document can be served by "mailing it to the person's last known address—in which case service is completed upon mailing."

We agree with the district court that Eggleston properly and timely served his petition for review on December 29, 2020.[9] A December 29, 2020, certificate of mailing shows that Eggleston properly and timely served Tim Burch, the interim director of DFS, by mailing the petition for judicial review to the correct address. The certificate of mailing states that service of the petition for judicial review "was made pursuant to NRCP 5(b) by depositing a copy in the U.S. Mail in the State of Nevada, postage

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[9]We note that Eggleston initially attempted service of the petition on December 22, 2020, and this service was deficient. However, Eggleston then properly served the petition on December 29.

prepaid, addressed to . . . CCDFS C/O TIM BURCH 121 S MARTIN LUTHER KING JR BLVD LAS VEGAS, NV 89106." This address was provided to Eggleston in the substantiation letter sent on February 2, 2015, and was the last known address for the purposes of effecting service under NRCP 5(b)(2)(C). Therefore, we conclude that the district court had subject matter jurisdiction to consider the petition for judicial review.[10] We now address Eggleston's challenges to the denial of his petition for judicial review.

The hearing officer's amended decision did not violate NRS 233B

Eggleston raises two substantive issues on appeal regarding the district court's failure to reverse the hearing officer's amended decision under NRS 233B.135(3). First, he argues that the hearing officer's amended decision violates certain statutory provisions within the APA. Second, he argues that the decision is clearly erroneous and not supported by substantial evidence.

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[10]DFS also argues that NRS 233B.133(1) required the district court to deny Eggleston's petition for judicial review because Eggleston untimely filed his memorandum of points and authorities in support of the petition. But the district court had discretion to hear the petition despite Eggleston's failure to timely file his memorandum of points and authorities. *See Fitzpatrick v. State, Dep't of Com.*, 107 Nev. 486, 488, 813 P.2d 1004, 1005 (1991) (stating that, "if the petition for judicial review is timely filed, NRS 233B.133 allows the district court to accept a tardy memorandum of points and authorities in support of the petition"). We decline to resolve this appeal on procedural grounds, and instead elect to reach the merits of Eggleston's petition. *See State, Dep't of Motor Vehicles v. Moss*, 106 Nev. 866, 868, 802 P.2d 627, 628 (1990) (stating that "[p]olicy strongly favors deciding cases on their merits"); *see also Pina-Soria v. CMS Facilities Maint., Inc.*, No. 55415, 2011 WL 2623946, at *1 n.1 (Nev. July 1, 2011) (Order of Affirmance) (declining to dismiss an appeal on procedural grounds under similar circumstances).

The standard for reviewing orders resolving petitions for judicial review of administrative decisions is the same for both this court and the district court. *City of Reno v. Bldg. & Constr. Trades Council of N. Nev.*, 127 Nev. 114, 119, 251 P.3d 718, 721 (2011). This court does not give any deference to the district court order when reviewing an order on a petition for judicial review. *City of N. Las Vegas v. Warburton*, 127 Nev. 682, 686, 262 P.3d 715, 718 (2011). This court reviews an administrative appeals officer's legal determinations, including statutory interpretation, de novo. *Id.* But we review their factual findings for clear error or arbitrary abuse of discretion and will not overturn them if they are supported by substantial evidence. *Day v. Washoe Cnty. Sch. Dist.*, 121 Nev. 387, 389, 116 P.3d 68, 69 (2005). If an agency fails to make a required factual finding, this court may imply it, so long as the agency's conclusion provides a proper basis for that implied finding. *Warburton*, 127 Nev. at 686, 262 P.3d at 718. We address each of Eggleston's arguments in turn.

The hearing officer's amended decision did not violate NRS 233B.121(4) or NRS 233B.123(4)

Eggleston primarily challenges the hearing officer's amended decision by citing two statutes—NRS 233B.121(4) and NRS 233B.123(4)—that she allegedly violated at the administrative hearing. In contested cases, these statutes afford the parties the opportunity to present and challenge evidence at the administrative hearing. NRS 233B.121(4) provides that an "[o]pportunity must be afforded all parties to respond and present evidence and argument on all issues involved." Likewise, NRS 233B.123(4) provides that "[e]ach party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues . . . impeach any witness . . . and rebut the evidence against him or her." Eggleston specifically argues that his rights under

these statutes were violated at the administrative hearing as he (1) was not given sufficient time to prepare for the hearing, (2) was unable to call any of his witnesses prior to closure of the hearing, (3) was unable to cross examine DFS's witnesses due to connectivity issues, (4) was unable to hear the proceedings, and (5) suffered connectivity issues which prevented him participating in the hearing over WebEx.

Here, the record establishes that Eggleston was allowed to testify on his own behalf and attempt to introduce any previously disclosed witnesses and exhibits. Although no statute gave Eggleston the right to dictate the timing of the administrative hearing, DFS provided him multiple chances to propose dates, yet he repeatedly found reasons why each suggested date would not work. *Cf. Berger v. N.D. Dep't of Transp.*, 795 N.W.2d 707, 711 (N.D. 2011) (holding that while a petitioner cannot dictate the timing of an administrative hearing, they have a due process right to notice of the hearing and an opportunity to be heard). Eggleston claims he was given only four days to prepare for the administrative hearing following his initial request on September 11, 2015, but this misrepresents the procedural history. In reality, Eggleston's initial request was followed by five years of delays—largely due to Eggleston's repeated motions for continuance—and the hearing did not take place until September 15, 2020.

The hearing officer did not err in continuing with the hearing despite Eggleston having no witnesses available to present. Eggleston failed to provide a specific reason for the witnesses' unavailability that day and could not definitively state when they would be able to testify. In this context, the hearing officer acted appropriately in continuing with the hearing and DFS's presentation of evidence, as Eggleston was given the opportunity to present witnesses, in accordance with the relevant statutes.

See Kosich v. N.Y. State Dep't of Health, 854 N.Y.S.2d 551, 554 (App. Div. 2008) (holding that an administrative law judge does not abuse their discretion by holding a hearing despite a petitioner's assertion that they are not prepared when they fail to provide a specific reason for witness unavailability and do not demonstrate legitimate efforts to secure the witnesses' presence, despite having provided prior notice of potential witnesses).

Moreover, the record shows Eggleston intended not to participate in the administrative hearing, despite any claimed broadband issues, as he testified that he needed to leave to pick up his daughter and sent an email during the hearing stating that he was leaving to collect his children. Furthermore, prior to the administrative hearing, Eggleston made multiple motions showing that he intended to present testimony and call witnesses electronically or by phone. The administrative hearing conducted via WebEx addressed Eggleston's concerns about traveling during the COVID-19 pandemic, as well as his motions to present evidence and demands to call witnesses remotely or by phone. Eggleston raised his objection to appearing via WebEx only one day before the scheduled administrative hearing in a motion for continuance, despite having received notice about the virtual format over a month in advance.

Further, although Eggleston asserted that he could not hear the proceedings, the hearing officer determined otherwise, noting that he frequently interrupted both the hearing officer and counsel for DFS. This is supported by the record, as the nature of Eggleston's interruptions demonstrated that he could hear the discussions occurring during the proceedings. For example, when the hearing officer asked if he had a response to DFS's argument regarding the motion to disqualify, Eggleston

interjected, stating that what DFS's counsel had just said was "nonsense" and proceeded to present his argument on the motion. Eggleston also interrupted the proceedings by calling DFS's claims regarding his inappropriate conduct at the hearing "ridiculous," even though he claimed he did not "even know what [DFS's counsel] just said." And when DFS's counsel argued that a purported key witness of Eggleston's was not included on any witness list, Eggleston replied, "That's nonsense. [He's] on every single list."[11]

However, there is conflicting evidence regarding whether Eggleston experienced connectivity issues that prevented him from participating in the proceedings. The hearing officer noted that Eggleston was frequently dropped from the WebEx call and, after his preliminary motions were decided, he seemed to disappear from the administrative hearing entirely. As the hearing proceeded, Eggleston sent an email claiming that he did not have "the technical capacity to do [the] hearing by WebEx." Nonetheless, the hearing officer was in the best position to evaluate Eggleston's conduct during the administrative hearing, *see Peterson v. Dep't of Soc. & Health Servs., Adult Protective Servs.*, 534 P.3d 869, 873 (Wash. Ct. App. 2023) (holding that a reviewing judge's failure to give due regard to the administrative law judge's findings informed by their ability to observe witnesses is an error of law), and this court does not reweigh the evidence on appeal, *Langman v. Nev. Adm'rs, Inc.*, 114 Nev. 203, 210, 955 P.2d 188, 192 (1998) (noting when reviewing an

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[11]In denying the motion for a continuance, the hearing officer noted that the absence of one witness was not sufficient grounds for further delay of the proceedings. Further, Eggleston never explained why this witness's testimony was crucial to the case either below or on appeal.

administrative agency's decision and assessing conflicting evidence, appellate courts "will not substitute their judgment as to the weight of the evidence for that of the administrative agency"). Accordingly, we conclude that Eggleston was afforded his rights under NRS 233B.121(4) and NRS 233B.123(4) to present and challenge evidence but chose not to exercise these rights by willfully declining to participate in the administrative hearing, particularly when he had sufficient time to prepare for the hearing.

The hearing officer's amended decision was supported by substantial evidence and was not clearly erroneous

Eggleston next argues that the hearing officer's amended decision was clearly erroneous and not supported by substantial evidence. Specifically, Eggleston argues that several of the hearing officer's findings are inaccurate or contradictory and that no testimony given during the administrative hearing indicated physical abuse of the children had occurred.

The applicable statutes under which DFS found credible evidence of physical injury or neglect by Eggleston are NRS 432B.020 and NRS 432B.140. Under NRS 432B.020(1), "abuse or neglect of a child" refers to nonaccidental physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment as defined in NRS 432B.140. Pursuant to NRS 432B.140 "negligent treatment or maltreatment" of a child occurs if a child "is without proper care, control or supervision or lacks the subsistence . . . medical care or other care necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so."

"A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the

definite and firm conviction that a mistake has been committed." *Unionamerica Mortg. & Equity Tr. v. McDonald*, 97 Nev. 210, 211-12, 626 P.2d 1272, 1273 (1981) (quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948)). If the district court's findings are supported by substantial evidence, they will be upheld. *Pandelis Constr. Co. v. Jones-Viking Assoc.*, 103 Nev. 129, 130, 734 P.2d 1236, 1237 (1987); NRS 233B.135(3)(e) (authorizing the district court to reverse an agency decision where it is "[c]learly erroneous in *view of the reliable, probative and substantial evidence on the whole record*" (emphasis added)).

Following the district court's order for limited remand to clarify the facts supporting the hearing officer's initial decision, the hearing officer found in her amended decision, by a preponderance of the evidence, that Eggleston was unwilling to intervene to protect the children from Rodriguez's drug and alcohol abuse. The hearing officer found that Eggleston acknowledged that Rodriguez had been consuming alcohol and taking Xanax. Additionally, the hearing officer noted that Eggleston admitted to leaving most parenting responsibilities to Rodriguez while he spent his days writing in his office.

In reviewing the applicable child maltreatment statute, NRS 432B.140, the hearing officer concluded that the evidence indicated Eggleston allowed Rodriguez's harmful behaviors to expose the children to a plausible risk of physical injury or harm. From there, the hearing officer determined that the preponderance of the evidence showed that Eggleston knew, or should have known, that the children were being neglected due to Rodriguez's drug and alcohol abuse. Moreover, the hearing officer found that, despite this knowledge, Eggleston took no action to protect the children from Rodriguez's intoxicated episodes or from ongoing neglect. The

hearing officer further observed that Eggleston refused to provide the necessary care, control, and supervision for the children's well-being when Rodriguez was unable to do so because of her substance abuse and multiple hospitalizations.

Eggleston argues on appeal that DFS was required to provide evidence of physical abuse for the substantiated finding of child maltreatment to be upheld. However, under NRS 432B.020, in conjunction with NRS 432B.140, abuse or neglect may be established if a child "lacks proper care, control, or supervision," which directly pertains to Eggleston's conduct. The hearing officer relied on NRS 432B.140 to uphold DFS's substantiation of child maltreatment, which was warranted because the allegations against Eggleston were directly tied to his failure to supervise the minor children.

With respect to Eggleston's challenge to the sufficiency of evidence supporting child maltreatment under NRS 432B.020 and NRS 432B.140, Stuart extensively testified at the administrative hearing about her investigation into potential child abuse or neglect involving Eggleston and Rodriguez. Of note, she testified at length about how Rodriguez's substance abuse and mental health issues posed a threat to the children, as well as how Eggleston's lack of supervision and failure to adhere to the DFS present danger plan exacerbated that threat.

Stuart testified that during the course of her investigation she learned that H.E. experienced a near-drowning incident in 2014, prompting Child Protective Services and law enforcement involvement. She also explained that, over the holiday season that year, Rodriguez neglected to supervise the children and drank alcohol excessively, leading them to lock themselves in a bathroom one evening out of fear of her behavior. And she

explained how later the next morning, Rodriguez was hospitalized after making statements about wanting to end her life.

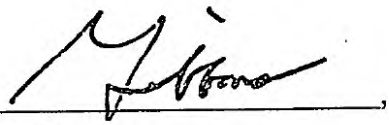
Stuart testified that Eggleston agreed to the present danger plan that required him to provide 24-hour supervision of Rodriguez until DFS could further assess Rodriguez's mental health, substance use, and ability to protect the children. Stuart also testified that Alexis and Selena reported that Eggleston previously demonstrated reluctance to intervene to ensure the children's safety.

In addition, Stuart testified in detail about her reasons for substantiating the allegations of physical abuse and neglect against Eggleston. She noted that the children lacked regular supervision, as Eggleston taught outside the home and Rodriguez was rarely present to care for or supervise them during the day. Stuart further explained that Eggleston admitted during the DFS investigation that Rodriguez's mental health and substance abuse issues posed a risk to the children, yet he continued to work long hours, leaving the children in the care of their intoxicated mother without intervening. Additionally, Stuart testified that Eggleston demonstrated a diminished ability to protect the children because he willfully failed to follow the present danger plan, which was specifically created for the children's protection.

We agree that the hearing officer's factual findings made in support of these determinations are supported by substantial evidence in the record, *see Pandelis Constr. Co.*, 103 Nev. at 130, 734 P.2d at 1237, and this court does not reevaluate the hearing officer's weighing of evidence or credibility assessments, *see Langman*, 114 Nev. at 210, 955 P.2d at 192; *Grosjean v. Imperial Palace, Inc.*, 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009) ("[C]redibilty determinations and the weighing of evidence are left to

the trier of fact."). Therefore, we conclude that the hearing officer's amended decision was not clearly erroneous in view of the substantial evidence in the record. *See* NRS 233B.135(3)(e). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[12]



_____, C.J.
Gibbons

_____, J.
Bulla

_____, J.
Westbrook

cc: First Judicial District Court, Dept. II
Clark Hill PLLC
Clark County District Attorney/Juvenile Division
Carson City Clerk

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[12]Insofar as Eggleston raises arguments that are not specifically addressed in this order, we have considered the same and conclude they do not present a basis for relief.