2015 IL App (1st) 142675-U

FIFTH DIVISION
December 23, 2015

No. 1-14-2675

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

SHEILA A. MANNIX,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County
	)	
v.	)	
	)	No. 14 M3 01463
VILLAGE OF BARRINGTON, an Illinois	)	
Municipal Corporation, and	)	
SERGEANT JEFF MCMURRY,	)	Honorable
	)	Sandra Tristano,
Defendants-Appellees.	)	Judge Presiding.

PRESIDING JUSTICE REYES delivered the judgment of the court.
Justice Lampkin concurred in the judgment.
Justice Gordon dissented.

ORDER

¶ 1 *Held*: Affirming judgment of circuit court of Cook County upholding final administrative decision regarding parking violation.

¶ 2 The police department of the Village of Barrington (the Village) issued a parking violation notice to Sheila Mannix (Mannix). Mannix requested an administrative hearing; the hearing officer ruled in favor of the Village and imposed a $50.00 fine against Mannix. The circuit court of Cook County affirmed the decision of the hearing officer. On appeal, Mannix raises two primary arguments. First, she contends that the "hearing officer erred when he did not

accept the notarized affidavit of [Mannix's] witness which was specifically created 'as an offer of proof in lieu of oral testimony.' " Second, Mannix argues that "the hearing officer erred when he ruled against the manifest weight of the evidence[.]" For the following reasons, we affirm the decision of the circuit court upholding the hearing officer's final administrative determination.

¶ 3 BACKGROUND

¶ 4 Mannix resided in the 200 block[1] of North Hager Avenue in Barrington. On March 13, 2014, at 10:56 a.m., the Barrington Police Department issued a "Notice of Ordinance Violation" (the parking ticket) to a silver Ford in the 200 block of Hager; the parking ticket listed a license plate number. There is no dispute that Mannix is the registered owner of the vehicle. The parking ticket lists "0850" – 8:50 a.m.[2] – and indicates that the violation was "overtime 2 hr. parking 6-3-2B."[3] The fine was $30.00 if settled by payment before the March 26, 2014, due date.

¶ 5 Mannix submitted a "Non-Appearance at Hearing/Citation Review Request," requesting a hearing regarding the parking ticket and providing the following explanation:

> "I pulled up and parked at 10:00 am – right behind my friend in the brown Mercedes. We had a coffee date at 10:00. We finished at 11:30 and I found ticket on my car and not my friend's car → Chris [*telephone number redacted*][4]
>
> I was parked at 8:50 (per ticket) but had left for over one hour and returned at 10:00*

[1] Due to privacy concerns, we do not reference the exact address herein.
[2] In her appellant's brief, Mannix references two recorded times: "8:50" and "10:56."
[3] Section 6-3-2B of the Barrington Village Code provides, in part, that "[t]he board of trustees shall have authority to determine and designate by ordinance or resolution those streets or parts of street and other village property upon which stopping, standing or parking shall be prohibited within certain hours or permitted for a limited period of time." Barrington Village Ordinance No. 06-3306 (adopted May 22, 2006).
[4] Any references to telephone numbers herein have been redacted for privacy purposes.

> * I am concerned about harassment due to history with Barrington Police. My son's federal law suit was dismissed on March 6 2014. [*sic*] But he is appealing. —NO YELLOW CHALK ON MY TIRE—" (Emphasis in original.)

¶ 6 Mannix was sent a notice of a "Barrington Municipal Hearing" set for April 17, 2014. Mannix and the Village Attorney, James Bateman (Bateman), appeared before the hearing officer on that date.[5] The hearing officer asked Mannix if her car was parked "for longer than two hours." Mannix responded, "No, sir, only 90 minutes, and I have a witness affidavit in lieu of in-court testimony." The hearing officer inquired about the "90 minutes," and Mannix answered:

> "Yes, I was -- according to the ticket it says that I was there at 8:50, and I was parked at 8:50.
>
> Shortly after 8:50 I left for over an hour. I don't recall at the moment what I was doing. I either went to Citizens Park and did my walk, or I went to the library to do some work on the computers, or I don't know what I was doing, but I returned at 10:00 o'clock for a date with a girlfriend. We met for about an hour and a half, and we came out; she didn't have a ticket; I had a ticket right -- so she left, and called me and said there's a ticket on your car, I'll be your witness."

¶ 7 Mannix asked, "May I tender to the Court and lay upon the record the affidavit?" The transcript indicates, "Document tendered to the Hearing Officer." The hearing officer responded that "you should really have her come, but let me see what this says[.]" The hearing officer then asked, in part, "how do we check the two-hour time? Are we still marking tires[?]" He stated that "what they're advising me is that what they usually do is, to keep track, because you're right,

[5] We provide herein a non-exhaustive summary of the key statements and developments at the administrative hearing.

you could have gone and come back, but usually there's some indication on your tire or some indication on the vehicle that we know that whether or not --" Mannix stated, "Yes, and there was no yellow mark." Mannix further indicated, in part, that she was "well aware of the officer's typical procedure of marking the tire to keep track." She later stated, "Again, I was there at 8:50 pursuant to the ticket. I left for over an hour, I returned a little bit after my girlfriend to meet together, and we -- I moved my car by 11:30 after she called me and told me that I had been ticketed." She then "immediately came to the station and submitted" her appeal form.

¶ 8 Bateman argued, "My own view is that you could accept the affidavit. I think there's a certain amount of ambiguity in the affidavit in terms of what she's saying[.]" He explained that he did not think the affidavit was "reflective" of Mannix's testimony. Mannix disagreed with Bateman's assessment about "ambiguity," arguing:

> "She pulled up, I pulled up behind her, I was running a little late for our date. We finished. She came out and said, Sheila, there's a ticket on your car, I will be your witness, you pulled up after me, you were parked for approximately 90 minutes."

Bateman responded, "I'm not sure what the paragraph about she pulled -- you pulled up behind her means." Mannix responded, in part:

> "She pulled up and parked at approximately 10:00 o'clock in front of [*house number redacted*] North Hager. I was running several minutes late. I pulled up behind her, parked in front of the neighbors. She got out. I got out. Hi, we went in, we had our coffee clutch for an hour and a half, I was still in the house, she came out, she proceeded to turn around, it's a cul-de-sac, came south and said, Sheila, there is a ticket on your car.

I came out, saw the ticket. Took the ticket and came directly to the police station and submitted my statement that I was only parked for 90 minutes. There was no yellow mark on my tire.

I admit that I was there at 8:50. I left for over an hour. I came back from my coffee clutch, and came a few minutes after my friend. I do not see any area of ambiguity in my friend's affidavit."

¶ 9 The transcript of the hearing then provides as follows:

"MR. BATEMAN: And in regard to the possible ambiguity, I would suggest that the friend should testify because Dr. Mannix is suggesting it's an offer of proof rather than testimony, so I think the -- I think it would be appropriate to hear it from the friend. I think the Hearing Officer is at a little bit of a disadvantage by not being able to ask the questions.

HEARING OFFICER BINNINGER: One of the things that we do is we always tell people to bring in photographs or bring things in; even though we do have relaxed rules of evidence -- I mean, it's a, it repeats to a certain extent what you're saying.

The problem is the ticket doesn't have a --

(Whereupon Sheila Mannix is speaking on a cell phone).

DR. SHEILA A. MANNIX: 'Hi, Chris, I'm at the hearing and they'd like you to testify.'

DR. SHEILA A. MANNIX: Would you like to have my friend on the speaker phone so she can testify to the veracity of her statements made?

HEARING OFFICER BINNINGER: No, I would not.

DR. SHEILA A. MANNIX: Okay.

HEARING OFFICER BINNINGER: You can't do that.

All right, I understand the affidavit. I understand what it says. I also understand that in the administrative adjudication system, the ticket itself is given presumption of validity. I have to give the officer's statements that he made in the ticket that those are true and accurate, and there's really been nothing presented -- it's basically at this point a tie between you and the officer's statement. The problem is the officer's statement wins at this point.

DR. SHEILA A. MANNIX: All right, then may we please pass this case, and I'll call my friend and have her go out of her way to come down here and have her state that she didn't lie --

HEARING OFFICER BINNINGER: No. The case is over, ma'am. Finding of guilty.

This is a $50 ticket I believe?

MR. BATEMAN: Yes.

HEARING OFFICER BINNINGER: It'll be a $50 fine imposed. You can check out through the door. Thanks for coming in.

DR. SHEILA A. MANNIX: Do you keep the affidavit --

HEARING OFFICER BINNINGER: No --

DR. SHEILA A. MANNIX: (Continuing.) -- or can I have that for the filing in the circuit court, and I will be asking for damages.

HEARING OFFICER BINNINGER: It's your call.

DR. SHEILA A. MANNIX: I believe this is harassment due to the --

HEARING OFFICER BINNINGER: Ma'am, be quiet, and there's the door. The door. I don't want to hear any more.

DR. SHEILA A. MANNIX: Yes, sir."

¶ 10 In a letter signed by Sergeant Jeff McMurry (McMurry), Traffic Compliance Administrator for the Village, Mannix was provided notice that "a Final Determination of Standing or Parking Violation Liability" had been entered against her in the amount of $50.00.

¶ 11 On May 15, 2014, Mannix filed a *pro se* complaint in the circuit court against the Village and McMurry, seeking administrative review of the hearing officer's decision. The Village and McMurry filed a motion to dismiss McMurry, or alternatively, clarify that McMurry was named only in his official capacity as "an employee of the Village and its Traffic Compliance Officer." During a hearing on June 13, 2014, the circuit court dismissed McMurry with prejudice and directed Mannix to file her specification of errors by July 11, 2014.[6] Bateman requested leave to file a response; the court stated, in part: "No. I'm not going to give you leave for that. This is a parking ticket. We're not spending all of these funds."

¶ 12 On July 11, 2014, Mannix filed a three-page, single-spaced "Specification of Errors" with the circuit court, delineating the errors allegedly made during the administrative hearing. Mannix contended, among other things, that the hearing officer erred by: (a) not accepting Mannix's "**unopposed** statements regarding the events of March 13, 2014" (emphasis in original); (b) "not question[ing] or tak[ing] testimony under oath from the ticketing officer as to whether she marked Mannix's tire because [the hearing officer] did not secure by subpoena or otherwise request the appearance of the ticketing officer"; (c) not accepting the notarized affidavit of Mannix's witness; (d) not allowing Mannix's witness to "give oral testimony via

[6] Although McMurry was dismissed as a defendant in the circuit court proceedings, the appellee brief refers to McMurry as an appellee, as reflected in the case caption above.

speaker phone or pass the case until later in the Administrative Hearing call since she lived five minutes away and was willing to come"; (e) allowing Bateman to make "specious and dilatory statements which obscured the facts and evidence that Mannix was only parked for 90 minutes in a two-hour zone"; and (f) "[finding] Mannix guilty because there was a 'tie.' " The attachments to Mannix's specification of errors included the original affidavit of Ellen C. Armbruster-Vaia (Armbruster-Vaia)[7] and a document identified by Mannix as Armbruster-Vaia's telephone records.

¶ 13 The Armbruster-Vaia notarized affidavit provided, in pertinent part, as follows:

> "1. I am of legal age and competent. This affidavit is made on my personal knowledge of all matters set forth herein. If sworn and called as a witness in this matter, I could, and I would, testify competently as to each fact set forth herein.
>
> 2. I have created this affidavit as an offer of proof in lieu of testimony. I am a resident of Barrington, Illinois and my phone number is [*telephone number redacted*].
>
> 3. Prior to March 13, 2014, I had planned to meet Sheila Mannix at her residence at [*house number redacted*] N. Hager Avenue in Barrington on the 13th at 10:00 a.m.
>
> 4. On March 13, 2014, I parked in front of [*house number redacted*] N. Hager [*sic*] at a few minutes before 10:00 a.m. on the east side of the street.
>
> 5. Within a few minutes of parking my car, Sheila Mannix pulled up behind me and parked her car in front of her neighbor's house.
>
> 6. At about 11:20 a.m., I returned to my car to leave. After I turned my car

[7] Ellen C. Armbruster-Vaia appears to be "Chris," referenced above; the parties do not raise any concerns regarding this issue.

around and proceeded heading south, I passed Sheila Mannix's car and noticed that there was a ticket under her windshield wiper. I immediately informed Sheila about the ticket and told her I would be her witness to testify that, like me, she had only been parked for no more than 90 minutes.

7. There is a two-hour parking limit between 7 a.m. and 5 p.m. on North Hager Avenue."

¶ 14 On July 15, 2014, Mannix filed a "Verified Amended Specification of Errors," amending her prior specification of errors "due to typographical, grammatical and other errors and omissions." In her amended specification of errors, Mannix stated, in part, that "Mannix is fully aware that Bateman has a history of improper conduct[.]" She asserted, among other things, that "Bateman churned discord among Barrington residents and unnecessary litigation fees on the Barrington taxpayers' tab in Cook County Case No. 2003 CH 04973 in which Mannix was a plaintiff and which was finally settled out of court in favor of the plaintiffs ***." In a motion filed on August 1, 2014, the Village sought leave to file a response to Mannix's amended specification of errors; the response was appended to the Village's motion.

¶ 15 After proceedings on August 8, 2014, the circuit court (a) denied the Village's motion for leave to file a response; (b) "upheld and affirmed" the "ruling and final determination" of the hearing officer; and (c) entered a judgment in the amount of the $50.00 fine in favor of the Village and against Mannix. Mannix timely appealed.

¶ 16 ANALYSIS

¶ 17 Mannix raises two primary arguments on appeal. First, she asserts that the hearing officer "erred when he did not accept" the Armbruster-Vaia affidavit "which was specifically created 'as an offer of proof in lieu of oral testimony.' " Second, Mannix contends that the

"hearing officer erred when he ruled against the manifest weight of the evidence." We address each argument below.

¶ 18 The Armbruster-Vaia Affidavit

¶ 19 According to Mannix, "the admissibility of [her] witness' affidavit is a question of law, so the standard of review is *de novo*." However, the cases cited by Mannix in support of this proposition do not involve the admissibility of evidence. In *Lelis v. Board of Trustees of Cicero Police Pension Fund*, 2013 IL App (1st) 121985, ¶ 13, the court applied a *de novo* standard of review when considering "[w]hether an administrative body has jurisdiction to adjudicate a claim for benefits." In *Branson v. Dept. of Revenue*, 168 Ill. 2d 247, 254 (1995), our supreme court addressed a question of statutory interpretation *de novo*. In the instant case, "[w]e review an administrative agency's evidentiary ruling for an abuse of discretion." *Aich v. City of Chicago*, 2013 IL App (1st) 120987, ¶ 12; *Wilson v. Dept. of Professional Regulation*, 344 Ill. App. 3d 897, 907 (2003) ("An administrative agency's decision regarding the conduct of its hearing and the introduction of evidence is properly governed by an abuse of discretion standard and subject to reversal only if there is demonstrable prejudice to the party").

¶ 20 Regardless of the applicable standard of review, we disagree with Mannix's fundamental assertion that the hearing officer "ignored Plaintiff's witness' affidavit." The hearing officer, referring to the affidavit, stated, "you should really have [Armbruster-Vaia] come, but let me see what this says --[.]" He later commented, "I understand the affidavit. I understand what it says." Based on our review of the hearing transcript, we conclude that the hearing officer did not ignore or refuse to admit the Armbruster-Vaia affidavit. Although we recognize that "[i]n administrative law cases, we review the decision of the administrative agency, not the trial court" (*CBS Outdoor, Inc. v. Department of Transp.*, 2012 IL App (1st) 111387, ¶ 26), we share the

view of the circuit court: "The affidavit was reviewed by the hearing officer and not specifically denied as far as introduction."

¶ 21 The crux of Mannix's argument appears to be directed at perceived deficiencies – or her perceived mistreatment – during the administrative proceeding. For example, Mannix contends that she "was flabbergasted by the Village Attorney's dilatory statements regarding the affidavit *** in conjunction with the hearing officer's apparent inexperience and prejudicial statements when he 'dissed' her direct testimony which was backed by her witness' affidavit **and** her documentary evidence, i.e., her appeal form filled out immediately after the issuance of the ticket that stated that there was no yellow mark." (Emphasis in original.) Putting aside her provocative word choices,[8] we disagree with Mannix's assessment.

¶ 22 Bateman stated that his "own view is that you could accept the affidavit." He then opined that "there's a certain amount of ambiguity in the affidavit in terms of what she's saying." When questioned by Mannix about this "ambiguity," Bateman responded, "Well, I don't think it really, really is reflective of your testimony." Referring to the affidavit, Bateman later stated, "Well, I'm not sure what the paragraph about she pulled -- you pulled up behind her means." We do not view Bateman's statements regarding "possible ambiguity" as indicative of any impropriety. As the attorney prosecuting the action on behalf of the Village, it is understandable, if not expected, that he would raise concerns or otherwise comment upon the evidence presented by Mannix. See, *e.g.*, Ill. R. Prof'l Conduct R. 1.3, Comment (eff. Jan 1, 2010) (providing, in part, that a "lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf").

[8] This court has reminded "attorneys and litigants of the necessity of civility and professionalism in all aspects of litigation, including appellate advocacy." *Talamine v. Apartment Finders, Inc.*, 2013 IL App (1st) 121201, ¶ 1. Mannix, as a *pro se* litigant, is "not entitled to more lenient treatment than attorneys." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78.

¶ 23 We further note that Bateman suggested during the administrative hearing that "the friend should testify because Dr. Mannix is suggesting it's an offer of proof rather than testimony, so *** I think it would be appropriate to hear it from the friend." The hearing officer then stated:

> "One of the things that we do is we always tell people to bring in photographs or bring things in; even though we do have relaxed rules of evidence -- I mean, it's a, it repeats to a certain extent what you're saying.
>
> The problem is the ticket doesn't have a --"

At that point, without requesting permission or informing the hearing officer of her intended action, Mannix – using her mobile telephone – called Armbruster-Vaia and began conversing with her. Mannix contends on appeal that, "[f]eeling desperate" and "having personal knowledge that a witness can provide telephone testimony," she "quickly got her witness on the phone to give oral testimony." Simply put, we view nothing in the hearing transcript that should have given rise to such desperation. Furthermore, although formal or technical rules of evidence do not apply in administrative hearings (*e.g.*, 625 ILCS 5/11-208.3 (West 2014)), Mannix has cited no authority that would require the hearing officer to proceed with Armbruster-Vaia's telephonic participation under the circumstances presented at the hearing.

¶ 24 Mannix contends that "it was obvious to [her] that her due process of law rights were being violated" when the hearing officer stated the following:

> "I think the officer's -- how do we check the two-hour time? Are we still marking tires, or what do we do for -- do we still mark tires? Well, okay, what they're advising me is that what they usually do is, to keep track, because you're right, you could have gone and come back, but usually there's some indication on your tire or some indication on the vehicle that we know whether or not --"

In support of her assertion of a due process violation, Mannix cites a criminal case, *People v. McDaniels*, 144 Ill. App. 3d 459 (1986), in which the appellate court concluded that the defendant was "denied a fair and impartial trial" and thus reversed and remanded for a new trial. *Id.* at 463. The *McDaniels* appellate court noted that certain "facts make it plainly apparent that the trial court, as the trier of fact, had prejudged the validity of the defendant's defense prior to hearing the totality of the evidence." *Id.* at 462. For example, "[a]t the time the [circuit court] stated that the claim of self-defense was 'pretty ridiculous', the court had not only not heard all of the evidence to be presented by the defendant, it had not even heard the completion of the testimony of the first witness to testify for the State." *Id.* Aside from the obvious distinctions between a criminal trial and an administrative hearing regarding a parking violation,[9] the record on appeal does not indicate that the hearing officer "prejudged the validity" of Mannix's case or that Mannix was deprived of an "unbiased, open-minded trier of fact." *Id.*

¶ 25 "An administrative hearing comports with due process where the parties are given the opportunity to be heard, the right to cross-examine adverse witnesses, and impartiality in ruling upon evidence. [Citation]." (Internal quotation marks omitted.) *Wolin v. Dept. of Financial and Professional Regulation*, 2012 IL App (1st) 112113, ¶ 25.[10] Mannix contends that her "testimony was unopposed regarding the lack of a yellow mark. The ticketing officer was not there to counter Plaintiff's evidence against the ticket as *prima facie* evidence." In response, the Village asserts – and we agree – that "the fact that the Hearing Officer was 'empowered to

[9] See, *e.g.*, *Crystal Food and Liquor, Inc. v. Howard Consultants, Inc.*, 276 Ill. App. 3d 504, 509 (1995) (stating that "[a]lthough administrative proceedings are subject to the requirements of due process of law, they are not subject to the same safeguards and protections afforded in criminal prosecutions").

[10] We note that a "claim that an administrative proceeding violated an individual's right to due process presents a question of law and, therefore, is subject to *de novo* review." *Wolin*, 2012 IL App (1st) 112113, ¶ 25.

administer oaths and to secure by subpoena both the attendance and testimony of witnesses' pursuant to 625 ILCS 5/11-208.3(b)(4), does not mean that the Hearing Officer was required to issue a subpoena to the ticketing officer(s) or any other witnesses, especially when the Plaintiff did not request any such witnesses be subpoenaed."

¶ 26 In *Van Harken v. City of Chicago*, 305 Ill. App. 3d 972 (1999), the court discussed due process requirements and the fact that Chicago police officers who issue parking violation tickets are not required to attend in-person administrative hearings regarding the tickets. *Id.* at 983. The court stated, in part:

> "[W]e do not find that such a practice deprives the ticket recipient of due process under our State Constitution. As expressed by the Court in [*Van Harken v. City of Chicago*, 103 F.3d 1346, 1351-52 (1997)], the economic concerns caused by requiring officers to attend every contested hearing are great. However, we cannot dispose of this issue for that reason alone. We find it equally significant that the Ordinance expressly provides the hearing officer with the power to 'issue subpoenas to secure the attendance and testimony of witnesses.' Chicago Municipal Code § 9-100-080(d) (1998). Under this provision, the hearing officer may subpoena the police officer who issued the ticket for purposes of cross-examination, if necessary to fairly consider a defense offered by the ticket recipient. [Citation.]" *Van Harken*, 305 Ill. App. 3d at 983.

See, *e.g.*, *Dombrowski v. City of Chicago*, 363 Ill. App. 3d 420, 426 (2005) (concluding that plaintiff was not denied due process where "he never asked the [administrative law judge] to subpoena the inspector who had issued the violation notice or otherwise attempt[ed] to secure his presence and testimony at the hearing"). Mannix states that "it was not Plaintiff's burden to

subpoena the ticketing officer even if Plaintiff knew that she had subpoena powers." She continues, "Plaintiff figured the administrative hearing was like the traffic court proceedings she's witnessed, specifically, when the ticketing officer is not there, the cases are often dismissed in the face of evidence presented by the citizen." Although we need not speculate regarding the possible strategic bases for her decision, Mannix apparently did not seek to have the hearing officer subpoena the ticketing officer to ensure the ticketing officer's presence at the hearing. To the extent that she is asserting any due process violation based on such absence, we reject such argument.

¶ 27 In sum, contrary to Mannix's assertion that the "hearing officer erred when he did not accept the notarized" Armbruster-Vaia affidavit, we do not believe that the hearing officer ruled that the affidavit was inadmissible or otherwise failed to consider the affidavit. We further conclude that the conduct of the hearing did not violate Mannix's due process rights.

¶ 28 Hearing Officer's Ruling Was Not Against Manifest Weight of the Evidence

¶ 29 Mannix also contends that the hearing officer's ruling was against the manifest weight of the evidence. Our function is to determine whether the hearing officer's findings and decision are contrary to the manifest weight of the evidence. *Abrahamson v. Illinois Dept. of Professional Regulation*, 153 Ill. 2d 76, 88 (1992); *Wolin*, 2012 IL App (1st) 112113, ¶ 19. An administrative agency's factual determinations are against the manifest weight of the evidence "only if the opposite conclusion is clearly evident." *Abrahamson*, 153 Ill. 2d at 88.

¶ 30 Mannix contends that "the affirmative acts of the Village Attorney, James Bateman *** during the administrative hearing obscured the evidence." For example, Mannix challenges Bateman's statement during the administrative hearing that, "Well, I'm not sure what the paragraph about she pulled -- you pulled up behind her means." During the circuit court

proceedings, referring to the affidavit, Bateman stated, in part: "[T]he affidavit speaks to Ms. Mannix pulling up a few minutes later where she says in her testimony that she was several minutes late. So there's some inconsistency there." According to Mannix, Bateman's "remarks in both proceedings were specious and dilatory and indicate intentional misconduct when viewed with the additional affirmative acts detailed below." Mannix then quotes Bateman's statement in the circuit court proceedings: "In addition, if you read -- what I'm struck by as I read her testimony before the hearing officer, she really never says that she moved her car." Mannix contends that "this statement indicates that Bateman has no regard for the truth and further that it meets the elements of fraud upon the court by an officer of the court." Mannix asserts that she "repeatedly gave testimony in the administrative hearing that she left shortly after 8:50 to do her morning habits and returned just after her friend at approximately 10:00."

¶ 31 Mannix's arguments are inapposite for a number of reasons. First, arguably there were gaps and inconsistencies in the evidence presented to the hearing officer; we cannot hold that the "opposite conclusion is clearly evident." *Abrahamson*, 153 Ill. 2d at 88. For example, Mannix never expressly stated that she *drove* her vehicle or that her vehicle was *moved* when she departed from her home after 8:50 a.m. In her Citation Review Request, Mannix wrote, "I was parked at 8:50 (per ticket) but had left for over one hour ***." During the administrative hearing, she stated, "Shortly after 8:50 I left for over an hour."

¶ 32 The hearing officer also may have questioned the seeming juxtaposition of Mannix's detailed recollection regarding the specific times she departed from and returned to her home versus her lack of recollection regarding where she traveled that morning. She told the hearing officer, "I don't recall at the moment what I was doing. I either went to Citizens Park and did my walk, or I went to the library to do some work on the computers, or I don't know what I was

doing but I returned at 10:00 o'clock for a date with a girlfriend."

¶ 33 The hearing officer concluded:

> "All right, I understand the affidavit. I understand what it says. I also understand that in the administrative adjudication system, the ticket is given the presumption of validity. I have to give the officer's statements that he made in the ticket that those are true and accurate, and there's really nothing presented -- it's basically at this point a tie between you and the officer's statement. The problem is the officer's statement wins at this point."

Although the reference to a "tie" may not have been the optimal articulation of the hearing officer's conclusion, we agree with the Village that the hearing officer "weighing the evidence, made a determination as to the credibility of the Plaintiff and the affiant or lack thereof and resolved conflicts in the evidence presented." *E.g.*, *Younge v. Board of Educ. of City of Chicago*, 338 Ill. App. 3d 522, 529-30 (2003). We conclude that the hearing officer's decision was not against the manifest weight of the evidence.

¶ 34 Furthermore, Mannix's reliance upon various cases "regarding fraud upon the court by an officer of the court" is confounding. While Bateman challenged certain evidence presented by Mannix, we find no support in the record for the proposition that Bateman "has no regard for the truth" or that he "knowingly made" a "false statement to" the circuit court, as Mannix suggests or implies.[11] Compare, *e.g.*, *Bank of America, N.A. v. Adeyiga*, 2014 IL App (1st) 131252, ¶ 78

[11] Mannix points out that Bateman filed a motion for leave to file a response to Mannix's specification of errors despite the circuit court's denial of his initial request for leave to file a response. Mannix asserts that such "affirmative act[] during the circuit court proceedings *** literally [proves] Plaintiff's allegation of improper conduct by Bateman ***." We disagree with Mannix's assessment. At a subsequent hearing, referring to the denial of the earlier request, the circuit court stated: "I think we talked about that on the first date, but *I understand from the things that are alleged that you feel the need to put something on the record.*" (Emphasis added.)

("Manufacturing evidence favorable to a plaintiff, or concealing evidence favorable to a defendant, and the concealment of that scheme would constitute fraud on the court.").

¶ 35 Finally, the Village argues in its appellate brief that Mannix "makes multiple *ad hominem* statements attacking the character and integrity of the Village Prosecutor and also the Hearing Officer." The Village contends that "[t]he Plaintiff's claim that the Village Prosecutor committed fraud on the court simply because the Village's position relative to the Plaintiff's submitted affidavit was not in accordance with her own is not only unfounded and improper but is apparently intended only to harass the Village Prosecutor in a manner that could be deemed frivolous and sanctionable pursuant to Illinois Supreme Court Rule 375(b)."[12] Although the Village suggests that Mannix's actions may be sanctionable, it does not expressly request the imposition of sanctions, and we will not impose sanctions herein. We observe, however, that Mannix's statement in her appellate brief that "she has never done a *pro se* appeal involving the review of an administrative decision" does not exempt her from the fundamental respect and civility expected of all litigants appearing before this Court. See, *e.g.*, *Parkway Bank and Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87 ("Zealous advocacy *** must not deteriorate into zealotry, regardless of whether the advocate is a lawyer or a self-represented litigant").

¶ 36 CONCLUSION

¶ 37 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County

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Bateman stated, "So you can see how I feel then, Judge," and the court responded, "Yes." In any event, we review herein the decision of the hearing officer, not the circuit court. *CBS Outdoor, Inc.*, 2012 IL App (1st) 111387, ¶ 26.

[12] Rule 375(b) provides, in part, that "[i]f, after consideration of an appeal or other action pursued in a reviewing court, it is determined that the appeal or other action itself is frivolous, or that an appeal or other action was not taken in good faith, for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, or the manner of prosecuting or defending the appeal or other action is for such purpose, an appropriate sanction may be imposed upon any party." Ill. S. Ct. R. 375 (eff. Feb. 1, 1994).

upholding the final administrative decision of the Village of Barrington hearing officer.

¶ 38 Affirmed.

¶ 39 JUSTICE GORDON, dissenting.

¶ 40 The only testimony that the administrative hearing officer heard was that of plaintiff. Plaintiff testified she was only parked for 90 minutes. The police officer did not testify.

¶ 41 To find this plaintiff guilty by a preponderance of evidence is clearly error because there is no evidence to the contrary to that presented by plaintiff. The police officer's written statement on his ticket states "overtime 2 hr. parking". It does not show when the officer first observed the vehicle and when he wrote the ticket. It is a conclusion not based on any factual explanation. Although the evidentiary matters in these proceedings are relaxed, plaintiff provided exact testimony as to the time parameters. The affidavit plaintiff submitted was to support her defense. The hearing officer had difficulty in understanding the affidavit of the witness, and I find it troublesome to find plaintiff guilty on a four-word affidavit of the police officer. Clearly, the decision of the administrative hearing officer is against the manifest weight of the evidence. As a result, I must respectfully dissent.