2012 IL App (1st) 103747-U

FIFTH DIVISION
September 7, 2012

No. 1-10-3747

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

NITA MARCHANT,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 97 CR
	)	
ILLINOIS DEPARTMENT OF CHILDREN AND	)	
FAMILY SERVICES and ERWIN McEWEN, Director,	)	Honorable
	)	Michael B. Hyman,
Defendants-Appellees.	)	Judge Presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Howse and Taylor concurred in the judgment.

O R D E R

¶ 1 *Held*: DCFS' decision to deny plaintiff's request for expungement of indicated report of abuse found clearly erroneous where corporal punishment was not excessive and thus did not constitute abuse under the Act; judgment reversed with directions to expunge indicated report.

¶ 2 Plaintiff Nita Marchant appeals from an order of the circuit court of Cook County affirming the decision of the Director of the Illinois Department of Children and Family Services (DCFS) to deny her request to expunge from the state central register an indicated report entered against her for child abuse. On appeal, plaintiff claims that the evidence presented at the administrative hearing does not constitute abuse under the Abused and Neglected Child

Reporting Act (Act) (325 ILCS 5/1 *et seq.* (West 2008)) because her actions did not amount to excessive corporal punishment, and therefore, the indicated report should be expunged.

¶ 3 The record shows that 11-year-old L.L. and his 14-year-old sister Z.L. were in foster care in Ohio. After their mother passed away in late 2006, an interstate compact was entered into between Ohio and Illinois, and the minors were placed in Illinois with their paternal aunt, plaintiff Nita Marchant. They resided there with her and their older brother, Samuel Howell.

¶ 4 In April 2007, accusations of abuse were reported to DCFS which determined that credible evidence supported indicated reports of abuse and neglect by plaintiff for the following harm: substantial risk of physical injury/environment injurious to health and welfare (89 Ill. Adm. Code 300, app. B, No. 10/60 (2007)), and cuts, bruises, welts, abrasions, and oral injuries (89 Ill. Adm. Code 300, app. B, No. 11 (2007))[1]. Indicated reports of child abuse and neglect are retained on file in the state central register, and plaintiff sought to have them expunged from the register. While this expungement matter was pending, the children were returned to Ohio and placed in foster homes.

¶ 5 An administrative hearing was held on the expungement matter in April 2008. In that proceeding, Brooke McCaffery testified that she is a counselor at Stockton Elementary School in Chicago. When plaintiff enrolled Z.L. and L.L. in that school in November 2006, she informed McCaffery that the children had problems which needed to be addressed. McCaffery stated that the children did not present any behavioral problems at school, but then testified that she was aware of reports that Z.L. was lying to authorities. McCaffery also stated that she was aware of reports that the children presented problem behavior at the school, including abusive language,

[1] Under the Act, all abuse allegations are coded with a one or two digit number less than 30, and all neglect allegations are coded with a two digit number greater than 50.

defiance, disrespect and insubordination. She was also aware that plaintiff, Z.L. and L.L. were seeing a family therapist weekly.

¶ 6 McCaffery further testified that Z.L. told her that plaintiff used a paddle on L.L. but not on her. When L.L. met with her, he was terrified to talk to her, and was upset with Z.L. for telling McCaffery about the paddling. Z.L. and L.L. were both afraid of being separated, and L.L. told her he was happy where he was living. He admitted, however, that he had been hit, but did not want to move because he was afraid of what could happen to him. L.L. further stated that plaintiff punched him in the chest a month ago. McCaffery did not observe any bruising on the children, but found them credible, and contacted DCFS based on the children's reports.

¶ 7 McCaffery also testified that Z.L. had written letters to her and Stockton Elementary School apologizing for her outbursts and making false abuse accusations against plaintiff and her older brother, Samuel Howell. Z.L. further indicated in the letter that she had harmed her younger brother, but blamed her older brother because she was afraid she would get into trouble. McCaffery was also aware that Z.L. had written a letter to Howell apologizing for making people believe that she and L.L. were being abused.

¶ 8 Robbie Caffey testified that she is a DCFS child protection investigator and was assigned to investigate the allegations against plaintiff. The initial report she received indicated that Z.L. had said that her brother was being hit daily by plaintiff and she was made to watch it. Z.L. also reported being told to get on her knees with L.L. and ask their deceased mother for forgiveness for killing her.

¶ 9 When Caffey met the children at their school on March 19, 2007, L.L. told her that plaintiff struck him with a paddle and punched him in the chest. L.L. told Caffey he did not have any bruises, that he loved his aunt and did not appear fearful. Caffey found L.L. credible.

¶ 10 Caffey further testified that Z.L. was hesitant to talk to her at first. Z.L. told her that her aunt might find out and make her lie, but her friends told her to tell the truth. Z.L. then told Caffey that plaintiff would hit L.L. in front of her with a paddle and did so once with a flashlight. Z.L. stated that she was afraid of plaintiff because she did not know what she would to do to her.

¶ 11 After speaking with the children, Caffey met with plaintiff who told her that she was tired of this, as this was the second report, the first being unfounded. Plaintiff stated that DCFS was not going to tell her how to discipline her children, and that she had a wooden paddle which she would use if needed. Plaintiff then showed Caffey the paddle which was two inches thick. Caffey told plaintiff that she could not use the paddle. Plaintiff replied that the children were manipulative and knew how to use the system, and she would use the paddle if they needed it.

¶ 12 On March 23, 2007, Caffey received a report that Z.L. stated that plaintiff had hit her and L.L. The report further indicated that Z.L. had some redness on her body and was terrified. Caffey went to the school that day to meet with Z.L., who related that the day before, March 22, 2007, plaintiff was upset with her for not going to an after-school program, and hit her twice with a wooden paddle and also hit L.L. The next morning, plaintiff came into her room and hit her again. A struggle ensued between them because she did not want to have any bruises. Plaintiff "told her that she was going to beat her. So she ended up with bruises on her." Caffey observed bruises on Z.L., the size of a 50-cent piece, located on the left thigh, right forearm and another bruise on Z.L.'s lower lip. Caffey's notes stated that the injury to Z.L.'s lip might have resulted from Z.L. biting her lip. Z.L. indicated that she was fearful of her aunt, and appeared to be so. L.L. also told her that plaintiff was upset with Z.L. for not attending the alternative after-school program and hit her, but did not indicate whether he witnessed it. He further told her that plaintiff hit him for not bringing his school work home.

¶ 13 At that point, Caffey felt the children's safety was at risk, and had them taken into protective custody. Caffey called plaintiff, who came to the school. Plaintiff admitted that she used the wooden paddle on the children, and would use it again, and also stated that DCFS cannot tell her how to control the children. Plaintiff explained to Caffey that she would accept counseling, but not DCFS monitoring the children in her home.

¶ 14 Caffey further testified that Z.L.'s therapist told her that Z.L. had said that "she was being physically punished." The therapist also told her that plaintiff had been told several times about how to appropriately discipline the children.

¶ 15 Caffey acknowledged that she was aware of a psychiatrist's report regarding her monthly meetings with the family, which indicated that the children were attached to plaintiff and doing well due to her care. The report also indicated that the psychiatrist has a positive impression of plaintiff, and that Z.L. is experienced and knows how to work the system.

¶ 16 The children's paternal grandmother, Nita Marchant, testified that Z.L. was destructive and a liar. Marchant further testified that plaintiff provided a loving environment and that she has never known her to be abusive. While Z.L. and L.L. stayed with plaintiff, she saw them every weekend, and they never reported to her that they were being abused, and she never observed any bruises on them. Marchant stated that she recalled plaintiff telling her that she spanked Z.L., and stated that it was not plaintiff's nature to punch L.L. in the chest.

¶ 17 The children's older brother, Samuel Howell, testified that he had been incarcerated for a year, and except for that time, he lived his entire life with his brother and sister, which included 11 foster homes, and plaintiff's home. He testified that Z.L. lied often and was "very violent in some ways." He testified that Z.L. lied about her mother and him beating her, and Z.L. and L.L. never told him that plaintiff physically harmed them, although Z.L. told him that plaintiff struck her with a paddle. He further stated that he has never seen plaintiff hit the children and that the

paddle must have been a last resort. He also stated that Z.L. has a history of hitting herself, and that Z.L. told him that she would rather be in foster care than living with plaintiff because it was like a prison. Howell explained that Z.L. did not like structure.

¶ 18 A compact disc was also admitted into evidence, which contained commentary from an Ohio magistrate who indicated that he was familiar with the children and based on his conversations with them, they are liars.

¶ 19 The Administrative Law Judge (ALJ) recommended that the indicated reports for allegations No. 10/60 be expunged. The ALJ found that no competent evidence was presented that plaintiff's conduct created a real and significant danger of physical injury to the minors which would likely cause disfigurement, death, or impairment of physical health or loss or impairment of bodily functions (No. 10 - abuse) or that she placed them in an environment which was injurious to their health and welfare (No. 60 - neglect). The ALJ noted that the evidence presented brought "into question whether the paddling/striking of [L.L.] actually occurred. Testimony established that neither the school counselor nor the Department investigator observed any bruises on [L.L.,] and that he told the investigator that he had none." The ALJ noted that Howell was a credible witness and that Howell testified that Z.L. was "a manipulative liar." The minors' previous history of lying was also documented by the school counselor and the comments of the Ohio magistrate.

¶ 20 The ALJ's decision described Z.L. and L.L. as "street savvy kids who are undisciplined and reactive to authority because of their experiences and their mother's progressive terminal illness." Specifically, Z.L. "has had a documented past history of lying to officials to manipulate them and events, as well as a history of self-mutilation in which she intentionally injures herself."

¶ 21 With regards to allegation No. 11, the ALJ originally dismissed plaintiff's appeal on that matter, but was instructed to review it on remand from the circuit court. The ALJ ultimately

found that a preponderance of the evidence supported the indicated report of allegation of harm - cuts, bruises, welts and oral injury (No. 11). The ALJ noted that plaintiff did not contest that the incident in question occurred, namely, that she struck Z.L. with a paddle, but maintains that she did not use excessive corporal punishment, citing *In re J.P.*, 294 Ill. App. 3d 991 (1989) and *In re B.H.*, 389 Ill. App. 3d 316 (2009). The ALJ found that the cases cited by plaintiff were distinguishable in that they concerned adjudication of wardship/temporary custody issues. The ALJ explained that there is no excessive corporal punishment requirement to enter an indicated finding under the language of allegation of harm (No. 11). The ALJ then found, for the sake of argument, that the circumstances of the incident and the minor's injuries show that the corporal punishment was excessive.

¶ 22 The Director of DCFS issued a final administrative decision adopting and incorporating the ALJ's findings of fact and conclusions of law. The Director concurred that plaintiff's request for expungement of No. 11 be denied.

¶ 23 In September 2009, plaintiff filed a complaint for administrative review in the circuit court of Cook County alleging that the actual harm suffered by Z.L. does not fall within the Act's definition of an abused child. Plaintiff claimed that Z.L.'s minor bruises did not amount to abuse under the Act where there was no excessive corporal punishment.

¶ 24 DCFS filed a memorandum of law in support of its final administrative decision alleging that its interpretation and application of its rules was neither plainly erroneous or inconsistent with long-settled constructions of law. DCFS alleged that excessive corporal punishment as described in juvenile cases is not applicable under the language of allegation of harm No. 11 because excessive corporal punishment is not necessary to uphold an indicated report, and that plaintiff was properly indicated for causing significant bruising to Z.L. with an instrument, and, that, in any event, there was excessive corporal punishment.

¶ 25 Plaintiff filed a reply alleging that DCFS had failed to demonstrate how the cited juvenile cases are inapplicable. Plaintiff further alleged that DCFS was incorrect in its conclusion that its decision does not require a finding of excessive corporal punishment to uphold the indicated report, and that her corporal punishment was not excessive.

¶ 26 The circuit court entered a written order finding that the issue presented only a question of fact, and that DCFS' decision was not against the manifest weight of the evidence. Accordingly, the court affirmed the final administrative decision entered in the case.

¶ 27 On appeal, plaintiff contends that the evidence presented at the administrative hearing does not constitute abuse under the Act, and that the indicated report for allegation of harm, no. 11, should be expunged. She maintains that the harm suffered by Z.L. did not fall within the Act's definition of an abused child because the actual harm did not constitute excessive corporal punishment, as required under the Act. DCFS responds that the director's decision to uphold the indicated finding under allegation no. 11 for cuts, bruises, welts, abrasions, and oral injuries ((89 Ill. Adm. Code 300, app. B, No. 11 (2007)) was not clearly erroneous.

¶ 28 On appeal from an administrative review action, we review the agency's decision, not that of the circuit court. *Julie Q. v. Department of Children and Family Services,* 2011 IL App (2d) 100643, ¶26. An agency's decision on a question of law is not binding on the reviewing court, and is reviewed *de novo. Julie Q*, ¶26. We review a mixed question of fact and law under the clearly erroneous standard of review. *Slater v. Department of Children and Family Services*, 2011 IL App (1st) 102914, ¶33. "This standard of review is deferential to the agency's expertise in interpreting and applying the statutes that it administers." Slater, ¶33. An agency's decision is clearly erroneous when the reviewing court is left with the definite and firm conviction that an error has occurred. *Slater*, ¶33.

¶ 29 The Act "requires DCFS to maintain a central register of all cases of suspected child abuse or neglect reported and maintained under the Act." *Slater*, ¶23; see also 325 ILCS 5/7.7 (West 2008). After a report is made, the child protective service unit must investigate and determine whether those reports are "indicated," "unfounded" or "undetermined." 325 ILCS 5/7.12, 7.14 (West 2008). The Act defines "an indicated report" as "a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists." 325 ILCS 5/3 (West 2008). The definition for an "abused child" includes when a child whose parent or any person responsible for the child's welfare "inflicts excessive corporal punishment." 325 ILCS 5/3(e) (West 2008).

¶ 30 " ' "Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.' " *Slater*, ¶23 (quoting 89 Ill. Adm. Code 300.20 (2010)). Under the Illinois Administrative Code, appendix B to the DCFS chapter "describes the specific incidents of harm which must be alleged to have been caused by the acts or omissions of the persons identified in Section 3 of the [Act] before [DCFS] will accept a report of child abuse or neglect." 89 Ill. Adm. Code 300, app. B (2007). Since appendix B references section 3 of the Act, these provisions are not meant to be read in isolation, but are meant to be read together. *In re Marriage of Barile*, 385 Ill. App. 3d 752, 762 (2008).

¶ 31 In doing so, it is apparent that, the plain and ordinary meaning of the appendix and section 3 of the Act show that an indicated finding of abuse should be made where there is a specific harm (as described in appendix B) which was caused by a specific act or omission of the child's caretaker (as described in section 3 of the Act). 89 Ill. Adm. Code 300, app. B (2011); 325 ILCS 5/3 (West 2008). In other words, where a child receives harm such as bruises (89 Ill.

Adm. Code 300, app. B, No. 11 (2011)) from an act of excessive corporal punishment, an indicated report should be made against the child's caretaker (325 ILCS 5/3(e) (West 2008)).

¶ 32 "A subject of an indicated report may request that DCFS amend the record of the report or remove the record of the report from the State Central Register." *Slater*, ¶24 (citing 325 ILCS 5/7.16 (West 2004)). "If DCFS does not do so, the subject of the report has the right to an administrative hearing within DCFS to determine whether the record of the report should be amended or removed." *Slater*, ¶24 (citing 325 ILCS 5/7.16 (West 2004)). "During the hearing, DCFS has the burden of proof in justifying the refusal to amend, expunge, or remove the record, and DCFS must prove that a preponderance of the evidence supports the indicated finding." *Slater*, ¶24 (citing 89 Ill. Adm. Code 336.100(e) (2010)). "After the hearing, the Director receives the ALJ's recommendation and may accept, reject, amend, or return the recommendation." *Slater*, ¶24 (citing 89 Ill. Adm. Code 336.220(a)(2) (2010)). "The Director's decision is the final administrative decision by DCFS." *Slater*, ¶24 (citing 89 Ill. Adm. Code 336.220(a)(2) (2010)). "If the subject of the report prevails, the report is released and expunged." *Slater*, ¶24 (citing 325 ILCS 5/7.16 (West 2004)).

¶ 33 At issue in this case is an indicated report alleging harm under no. 11 for cuts, bruises, welts, abrasions, and oral injuries. 89 Ill. Adm. Code 300, app. B, No. 11 (2007). Plaintiff asserts that the indicated report should have been expunged because the actual harm suffered by Z.L. did not amount to excessive corporal punishment. See 325 ILCS 5/3(e) (West 2008). Plaintiff contends that the indicated report can only be based on evidence of excessive corporal punishment because DCFS found that plaintiff's actions did not create a substantial risk of physical injury, the other basis for the report. DCFS maintains that allegation no. 11 for cuts, bruises, welts, abrasions or oral injuries, could be based on multiple categories of harm for an abused child. See 325 ILCS 5/3(a), (b), (e) (West 2008). Those categories provide:

> " 'Abused child' means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:
>
> (a) inflicts, causes to be inflicted, or allows to be inflicted upon such child physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;
>
> (b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;
>
> ***
>
> (e) inflicts excessive corporal punishment." 325 ILCS 5/3(a), (b), (e) (West 2008).

¶ 34 The ALJ found that "no competent evidence was presented that [plaintiff's] conduct during the time that she cared for the minors ever created a REAL AND SIGNIFICANT DANGER of physical injury to them 'which would likely cause disfigurement, death or impairment of physical health or loss or impairment of bodily functions." DCFS asserts that despite this finding, allegation no. 11 could be based on a finding of abuse under section 3(a) or (b). We disagree. Though the ALJ was considering allegations nos. 10 and 60, the decision clearly found that the evidence did not support a finding of abuse such that it was likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function. The ALJ's decision did not mention any finding as to the infliction of injury or a

substantial risk of injury when considering allegation no. 11. Rather, the ALJ concluded that he did not need to find excessive corporal punishment to enter an indicated finding, but even if the standard applied, the corporal punishment inflicted by plaintiff was excessive and unnecessary. The ALJ concluded that the evidence did not support a finding of substantial risk of injury which is likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function. Accordingly, allegation no. 11 could only be premised on a finding of excessive corporal punishment.

¶ 35 "Not every cut, bruise, or welt constitutes an allegation of harm." 89 Ill. Adm. Code 300, app. B, No. 11 (2007). The appendix lists several factors to be considered when determining whether an injury which resulted in cuts, bruises or welts constitutes an allegation of harm:

> "— the child's age (children aged 6 and under are at a much greater risk of harm).
>
> — child's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap, particularly as they relate to the child's ability to seek help.
>
> — pattern or chronicity of similar incidents.
>
> — severity of the cuts, bruises, welts, or abrasions (size, number, depth, extent of discoloration).
>
> — location of the cuts, bruises, welts, or abrasions.
>
> — whether an instrument was used on the child.
>
> — previous history of indicated abuse or neglect." 89 Ill. Adm. Code 300, app. B, No. 11 (2007)[2].

[2] We note that DCFS cites to these factors, as amended in 2011, but we will consider the factors as outlined at the time of the ALJ's review. See 35 Ill. Reg. 2861 (eff. Feb. 8, 2011).

¶ 36 While it is undisputed that plaintiff punished Z.L. by paddling her, these factors do not support a finding of abuse based on excessive corporal punishment. The evidence showed that Z.L., age 14, was having behavioral problems at school including defiance, disrespect and insubordination. Z.L. had also flaunted the court's authority in Ohio by lying to a magistrate there. Her older brother, who was found credible by the ALJ, testified that Z.L. did not want structure, that she was a manipulative liar who mutilated herself, and that plaintiff would only use a paddle as a last resort. In addition, a psychiatrist had reported that Z.L. is experienced and knows how to work the system. That same report indicated that the children were attached to plaintiff and were doing well under the care of plaintiff who left a positive impression on the psychiatrist.

¶ 37 The evidence further showed that the paddling occurred after plaintiff learned that Z.L. failed to attend an alternative after-school program, and that she sustained three bruises, on her thigh, forearm and lower lip, which did not need any medical treatment. Caffey's notes indicated that the bruise to Z.L.'s lower lip might have occurred as a result of Z.L. biting her lip. There was no allegation that plaintiff struck Z.L. in her face. Though an instrument, a wooden paddle, was used, there was no indication that the paddling was done in a vicious manner, but rather, as punishment for Z.L. failing to attend an after-school program. This was the only reported incident, one evening and the following morning, in which plaintiff paddled Z.L. The other indicated reports against plaintiff were expunged and the ALJ questioned whether the report concerning L.L. took place, given the minors' history of lying and that no bruises were reported.

¶ 38 Other Illinois cases have considered whether the corporal punishment inflicted was excessive. In *In re J.P.*, 294 Ill. App. 3d 991, 994 (1998), the respondent mother disciplined her daughter with a wooden spoon on her buttocks, over clothing, to cause a "sting" to get her daughter's attention. In one instance, the discipline caused a bruise, but the report was not made

until six months after that incident. *J.P.*, 294 Ill. App. 3d at 994. The reviewing court considered other cases involving corporal punishment before concluding that the respondent's use of the wooden spoon was not excessive corporal punishment to support a finding of abuse. *J.P.*, 294 Ill. App. 3d at 1002-05; see also *In re F.W.*, 261 Ill. App. 3d 894, 903 (1994) (hitting with hands and a two-foot board with protruding metal brackets were not reasonable forms of corporal punishment); *In re D.L.W.*, 226 Ill. App. 3d 805, 810-11 (1992) (punching in the face, grabbing the throat, kneeing the groin, and spanking the bare buttocks with a board were not reasonable forms of corporal punishment); *People v. Sambo*, 197 Ill. App. 3d 574, 581-82 (1990) (hitting with a plastic bat, kicking, throwing liquor in the face, and pulling hair were not reasonable forms of corporal punishment); *In the Interest of L.M.*, 189 Ill. App. 3d 392, 398-99 (1989) (beating with a belt and stick and causing "whip marks" were not reasonable forms of corporal punishment); *People v. Tomlianovich*, 161 Ill. App. 3d 241, 242-43 (1987) (hitting with a paddle and causing sustained bruising was not a reasonable form of corporal punishment).

¶ 39 In *In re B.H.*, 389 Ill. App. 3d 316, 317 (2009), the respondent adoptive mother got into a physical fight with the minor daughter after the minor had been punished and would not comply with subsequent requests. During the fight, the respondent bit and scratched the minor's face. The minor was treated at the hospital for her injuries. The reviewing court found that the respondent's actions stemmed from the original punishment as the minor continued to defy respondent. The court concluded that the corporal punishment was excessive as the respondent's "biting and scratching exceeded the bounds of reasonableness." *B.H.*, 389 Ill. App. 3d at 320; but see *In re S.M.*, 309 Ill. App. 3d 702 (2000) (belt used in corporal punishment was not excessive, but as a last resort for repeatedly disobedient daughter).

¶ 40 While the instant case does not involve an adjudication of wardship, these cases offer guidance regarding excessive corporal punishment. In this case, the evidence clearly shows that

plaintiff administered corporal punishment, not in a vengeful manner, but as a punishment for Z.L.'s behavior. Plaintiff used a wooden paddle and Z.L. had two bruises and bit her lower lip. She did not require any medical attention. The record showed that Z.L. frequently lied and manipulated situations. Her brother testified that Z.L. did not want to live with plaintiff because she did not like structure. Plaintiff used the paddle as a form of punishment, but did not use the paddle excessively. The facts of this case do not support the allegation no. 11 as there was no excessive corporal punishment or other basis for abuse under the Act, and we thus find the decision entered by DCFS clearly erroneous. Accordingly, we reverse the DCFS decision, and order that the indicated report of abuse, allegation No. 11, be expunged. *Slater*, ¶33.

¶ 41 Reversed with directions.