

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**

SANDRA HALL,)	
)	
Petitioner,)	
)	
vs.)	DOAH Case No. 24-1189
)	SBA Case No. 2024-0079
STATE BOARD OF ADMINISTRATION,)	
)	
Respondent.)	
)	
)	
)	
)	

FINAL ORDER

On June 20, 2024, Administrative Law Judge E. Gary Early (hereafter “ALJ”) submitted his Recommended Order to the State Board of Administration (hereafter “SBA”) in this proceeding. A copy of the Recommended Order indicates that copies were served upon the *pro se* Petitioner, Sandra Hall and upon counsel for the Respondent. No exceptions, which were due by July 5, 2024, were filed by either party. A copy of the Recommended Order is attached hereto as Exhibit A. The matter is now pending before the Chief, Defined Contribution Programs for final agency action.

STATEMENT OF THE ISSUE

The State Board of Administration adopts and incorporates in this Final Order the Statement of the Issue in the Recommended Order as if fully set forth herein.

PRELIMINARY STATEMENT

The State Board of Administration adopts and incorporates in this Final Order the Preliminary Statement in the Recommended Order as if fully set forth herein.

STANDARDS OF AGENCY REVIEW OF RECOMMENDED ORDERS

The findings of fact of an Administrative Law Judge (“ALJ”) cannot be rejected or modified by a reviewing agency in its final order “...unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings were not based upon competent substantial evidence....” See Section 120.57(1)(l), Florida Statutes. *Accord, Dunham v. Highlands Cty. School Brd*, 652 So.2d 894 (Fla. 2nd DCA 1995); *Dietz v. Florida Unemployment Appeals Comm.*, 634 So.2d 272 (Fla. 4th DCA 1994); *Florida Dept. of Corrections v. Bradley*, 510 So.2d 1122 (Fla. 1st DCA 1987). A seminal case defining the “competent substantial evidence” standard is *De Groot v. Sheffield*, 95 So.2d 912, 916 (Fla. 1957), in which the Florida Supreme Court defined it as “such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred” or such evidence as is “sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached.”

An agency reviewing an ALJ’s recommended order may not reweigh evidence, resolve conflicts therein, or judge the credibility of witnesses, as those are evidentiary matters within the province of administrative law judges as the triers of the facts. *Belleau v. Dept of Environmental Protection*, 695 So.2d 1305, 1307 (Fla. 1st DCA 1997); *Maynard v. Unemployment Appeals Comm.*, 609 So.2d 143, 145 (Fla. 4th DCA 1993). Thus, if the record discloses any competent substantial evidence supporting finding of fact in the ALJ’s Recommended Order, the Final Order will be bound by such factual finding.

Pursuant to Section 120.57(1)(l), Florida Statutes, however, a reviewing agency has the general authority to “reject or modify [an administrative law judge’s] conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over

which it has substantive jurisdiction.” Florida courts have consistently applied the “substantive jurisdiction limitation” to prohibit an agency from reviewing conclusions of law that are based upon the ALJ’s application of legal concepts, such as collateral estoppel and hearsay, but not from reviewing conclusions of law containing the ALJ’s interpretation of a statute or rule over which the Legislature has provided the agency with administrative authority. *See Deep Lagoon Boat Club, Ltd. v. Sheridan*, 784 So.2d 1140, 1141-42 (Fla. 2d DCA 2001); *Barfield v. Dep’t of Health*, 805 So.2d 1008, 1011 (Fla. 1st DCA 2001). When rejecting or modifying any conclusion of law, the reviewing agency must state with particularity its reasons for the rejection or modification and further must make a finding that the substituted conclusion of law is as or more reasonable than that which was rejected or modified.

FINDINGS OF FACT

The State Board of Administration adopts and incorporates in this Final Order the Findings of Fact set forth in the Recommended Order as if fully set forth herein.

CONCLUSIONS OF LAW

The State Board of Administration adopts and incorporates in this Final Order the Conclusions of Law set forth in the Recommended Order as if fully set forth herein.

ORDERED

The Recommended Order (Exhibit A) is hereby adopted in its entirety. While Petitioner’s deceased daughter, Carolyn, who was a member of the FRS Investment Plan, had entered into a Marital Settlement Agreement with her ex-husband stating that Carolyn

was to retain ownership of 100% of the funds in her retirement plan account, that language was insufficient to override a separate beneficiary designation that Carolyn had filed, prior to the divorce, naming her ex-spouse as the 100% beneficiary of her FRS Investment Plan account. As such, Petitioner's request for relief hereby is denied.

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the State Board of Administration in the Office of the General Counsel, State Board of Administration, 1801 Hermitage Boulevard, Suite 100, Tallahassee, Florida, 32308, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days from the date the Final Order is filed with the Clerk of the State Board of Administration.

DONE AND ORDERED this 10 day of September 2024, in Tallahassee, Florida.

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**



Daniel Beard
Chief of Defined Contribution Programs
State Board of Administration
1801 Hermitage Boulevard, Suite 100
Tallahassee, Florida 32308
(850) 488-4406

FILED ON THIS DATE PURSUANT TO SECTION 120.52, FLORIDA STATUTES WITH THE DESIGNATED CLERK OF THE STATE BOARD OF ADMINISTRATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED.



Hillary Eason,
Agency Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order was sent by email transmission to Sandra Hall, *pro se*, at [REDACTED] and by UPS to [REDACTED] and by email transmission to Ian C. White, iwhite@ausley.com; jmcvaney@ausley.com, Ausley & McMullen, P.A., 123 South Calhoun Street, P.O. Box 391, Tallahassee, Florida 32301, this 10 day of September, 2024



Ruth A. Smith
Assistant General Counsel
State Board of Administration of Florida
1801 Hermitage Boulevard
Suite 100
Tallahassee, FL 32308

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SANDRA HALL,

Petitioner,

vs.

Case No. 24-1189

STATE BOARD OF ADMINISTRATION,

Respondent.

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on May 21, 2024, by Zoom conference, before E. Gary Early, a designated Administrative Law Judge (ALJ) of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Sandra Hall, pro se



For Respondent: Ian C. White, Esquire
Ausley McMullen
123 South Calhoun Street
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

Whether Petitioner, Sandra Hall, is entitled to receive the proceeds from her deceased daughter's Florida Retirement System (FRS) Investment Plan account.

EXHIBIT A

PRELIMINARY STATEMENT

On March 5, 2024, the State Board of Administration (Respondent or the SBA) filed its Response to Sandra Hall's Request for Intervention received February 21, 2024. Petitioner requested that the benefits from Petitioner's daughter, Carolyn Hall's (Carolyn), interest in her FRS Investment Plan be transferred in full to Petitioner and Carolyn's father, Ronald Hall. The SBA denied Petitioner's request pursuant to section 121.4501(20), Florida Statutes.

On March 9, 2024, the SBA filed its final agency action letter and notified Petitioner of her right to a hearing on the agency decision. On March 17, 2024, Petitioner timely filed her FRS Investment Plan Petition for Hearing (Petition) with the SBA in which she alleged that the terms of Carolyn's Marital Settlement Agreement (MSA) and Final Judgment of Dissolution of Marriage constitutes a legally enforceable waiver of any right that Carolyn's ex-husband had to her retirement plan, including rights as a beneficiary. On March 26, 2024, the SBA referred the Petition to DOAH.

The final hearing was scheduled for May 21, 2024, and was held as scheduled. At the final hearing, Petitioner testified on her own behalf. Petitioner's Exhibits P-6 through P-9 were received in evidence. Respondent presented the testimony of Allison Olson, its Director of Policy, Risk Management, and Compliance with the Office of Defined Contribution Programs. Respondent's Exhibits R-1 through R-6 were received in evidence.

A one-volume Transcript of the proceedings was filed on June 3, 2024. At the conclusion of the hearing, the parties agreed that post-hearing submittals would be due 10 days from the date of the filing of the Transcript. Petitioner filed her post-hearing submittal on May 30, 2024, before the Transcript was filed. The SBA timely filed its Proposed Recommended Order on June 13,

2024. Each has been duly considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Carolyn was an employee of the State of Florida, and a member of FRS enrolled in the Investment Plan. At the time of her death, Carolyn had roughly eight years of creditable state service.

2. In July 2017, Carolyn designated her then-husband, Charlie Plaza, as the sole beneficiary of her FRS Investment Plan account.

3. In September 2023, during their marriage dissolution proceeding, Carolyn and Mr. Plaza entered into the MSA.

4. In the MSA, the parties each retained 100% of the funds in their respective retirement accounts and each waived all interest in the other's retirement accounts.

5. The MSA included the following with regard to the rights of Mr. Plaza to Carolyn's retirement account:

The Wife shall retain one hundred percent (100%) of any and all funds [in] her retirement accounts. The Husband waives any and all interest he may claim in the Wife's retirement accounts.

The language was reciprocal.

6. On October 6, 2023, a Final Judgment of Dissolution of Marriage was entered which incorporated the MSA. Carolyn and Mr. Plaza were then legally divorced.

7. On December 12, 2023, a tragically short period after the divorce became final, Carolyn was killed in a state of Florida work-related car accident.

8. On the date of Carolyn's death, Charlie Plaza was still designated as the sole beneficiary of her FRS Investment Plan account.

9. At the time of her death, Carolyn was not married and had no children, but she was survived by both of her parents.

10. Petitioner was appointed personal representative of the estate.

11. Mr. Plaza was asked by Petitioner to waive his rights as the beneficiary of his ex-wife's retirement account. Inexplicably, Mr. Plaza, despite having disclaimed any interest in Carolyn's account in the MSA, refused to waive the benefits.¹

12. Petitioner, in her capacity as personal representative, requested that the SBA disburse the proceeds of Carolyn's FRS Investment Plan account to Petitioner and Carolyn's father as the legal heirs to the estate.

CONCLUSIONS OF LAW

A. Jurisdiction

13. DOAH has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to sections 120.569 and 120.57(1), Florida Statutes (2023).

14. Respondent, the SBA, is the agency charged by the Legislature with the duty to oversee the administration of the FRS Investment Plan.

B. Burden and Standard of Proof

15. Petitioner bears the burden of proving her entitlement to receive proceeds from Carolyn's Investment Plan by a preponderance of the evidence. § 120.57(1)(j), Fla. Stat.; *Wilson v. Dep't of Admin., Div. of Ret.*, 538 So. 2d 139, 141-42 (Fla. 4th DCA 1989); *Dep't of Transp. v. J.W.C., Inc.*, 396 So. 2d 778 (Fla. 1st DCA 1981).

16. A hearing involving disputed issues of material fact under section 120.57(1) is a *de novo* hearing, designed to formulate, rather than review, agency action. § 120.57(1)(k), Fla. Stat.; *Moore v. Dep't of HRS*, 596 So. 2d 759, 761 (Fla. 1st DCA 1992).

C. Standards

¹ Actually, there is a fairly obvious explanation. It will not be discussed here as Mr. Plaza's character is not at issue.

17. FRS offers two retirement plans: the Pension Plan, a defined benefit plan; and the Investment Plan, a defined contribution plan. §§ 121.021(3), 121.051, and 121.451, Fla. Stat.

18. The SBA administers the FRS Investment Plan and has the authority to adopt rules necessary to administer the Investment Plan. § 121.4501(8), Fla. Stat. Carolyn was enrolled in the Investment Plan, and her FRS Investment Plan account is a state-administered retirement plan under chapter 121.

19. Respondent, as an agency of the State of Florida, has only those powers granted to it by the Legislature. *See, e.g., Pesta v. Dep't of Corr.*, 63 So. 3d 788 (Fla. 1st DCA 2011).

20. The rights of FRS members are contractual between the member and the State of Florida. § 121.011(3)(d), Fla. Stat.; *Demichael v. Dep't of Mgmt. Servs., Div. of Ret.*, 334 So. 3d 691 (Fla. 1st DCA 2022). A party to a contract is presumed to know and understand the contents, terms, and conditions of a contract before signing it, and any inquiries concerning the ramifications of the contract should be made before signing it. *See Semerena v. Dist. Bd. of Trs. of Miami Dade College*, 282 So. 3d 974, 977 (Fla. 3d DCA 2019).

D. Analysis

21. Section 121.4501(20), entitled designation of beneficiaries, provides that:

(a) Each member may, by electronic means or on a form provided for that purpose, signed and filed with the third-party administrator, designate a choice of one or more persons, named sequentially or jointly, as his or her beneficiary for receiving the benefits, if any, which may be payable pursuant to this chapter in the event of the member's death. If no beneficiary is named in this manner, *or if no beneficiary designated by the member survives the member*, the beneficiary shall be the spouse of the deceased, if living. If the member's spouse is not alive at the time of the member's death, the beneficiary shall be the living children of the

member. If no children survive, the beneficiary shall be the member's father or mother, if living; otherwise, the beneficiary shall be the member's estate. The beneficiary most recently designated by a member shall be the beneficiary entitled to any benefits payable at the time of the member's death. However, for a member who dies prior to his or her effective date of retirement, the spouse at the time of death shall be the member's beneficiary unless the member designates a different beneficiary subsequent to the member's most recent marriage. (emphasis added)

22. Petitioner argues that Mr. Plaza waived any and all rights to Carolyn's FRS Investment Plan account based on the waiver in the MSA reciprocally executed by Carolyn and Mr. Plaza.

23. The Florida Supreme Court has addressed the issue of whether a divorce settlement overrides a beneficiary designation as follows:

[W]e hold that absent a marital settlement agreement providing who is or is not to receive the death benefits or specifying who is to be the beneficiary, courts should look no further than the named beneficiary in the separate document of the policy, plan, or account. General language in a marital settlement agreement, such as language stating who is to receive ownership, is not sufficient enough to override the plain language of the beneficiary designation in a separate document. The spouse, who owns the policy, plan, or account following dissolution of marriage, is otherwise free to name any individual as the beneficiary; however, *if the spouse does not change the beneficiary, the beneficiary designation in the separate document controls.* (emphasis added).

Crawford v. Barker, 64 So. 3d 1246, 1248 (Fla. 2011).

24. Petitioner has largely relied on section 732.703(2), Florida Statutes, which provides, in pertinent part, that:

A designation made by or on behalf of the decedent providing for the payment or transfer at death of

an interest in an asset to or for the benefit of the decedent's former spouse is void as of the time the decedent's marriage was judicially dissolved or declared invalid by court order prior to the decedent's death, if the designation was made prior to the dissolution or court order. The decedent's interest in the asset shall pass as if the decedent's former spouse predeceased the decedent.

25. Though section 732.703(2) standing alone would support Petitioner's position, section 732.703(4)(j) provides that "Subsection (2) does not apply: (j) To state-administered retirement plans under chapter 121." Thus, the statutory presumption in section 732.703(2) is not applicable.

26. Since Mr. Plaza is the beneficiary designated by Carolyn, and since he survived Carolyn, the plain language of section 121.4501(20) requires a conclusion that Mr. Plaza is entitled to the proceeds of Carolyn's FRS Investment Plan account.²

RECOMMENDATION

Upon consideration of the findings of fact and conclusions of law set forth herein, it is RECOMMENDED that the State Board of Administration enter a final order upholding its decision that the designated beneficiary to Carolyn Hall's FRS Investment Plan account is entitled to the proceeds of that account pursuant to section 121.4501(20).

² The undersigned recognizes the inequity of the conclusion that Carolyn's ex-husband is entitled to the unearned and unwarranted windfall that he waived by mutual agreement during the divorce proceedings. However, the law as it relates to the SBA must be applied as written. Since this case largely centers on the MSA, the remedy for a breach of that agreement, if any, may be sought in the circuit court that ratified, approved, and incorporated the MSA in the Final Judgment of Dissolution of Marriage.

DONE AND ENTERED this 20th day of June, 2024, in Tallahassee, Leon County, Florida.



E. GARY EARLY
Administrative Law Judge
DOAH Tallahassee Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of June, 2024.

COPIES FURNISHED:

Ian C. White, Esquire
(eServed)

Sandra G. Hall
(eServed)

E. Lamar Taylor, Interim Executive Director
and Chief Investment Officer
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.