

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MICHAEL PHILLIPS,)	No. ED96077
)	
Appellant,)	Appeal from the Circuit Court of
)	St. Louis County
v.)	
)	
MISSOURI DEPARTMENT OF)	Honorable Sandra Farragut-Hemphill
MENTAL HEALTH,)	
)	
Respondent.)	Filed: July 12, 2011

Petitioner Michael Phillips (Phillips), a program manager employed by Community Alternatives Missouri (CAMO), appeals from the decision of the Department of Mental Health Hearing Administrator determining that two counts of verbal abuse were substantiated against Phillips. Phillips claims that the Department of Mental Health (DMH) erred in finding him guilty of both counts of verbal abuse against two separate “consumers” because DMH misapplied and ignored the DMH definition of verbal abuse.

AFFIRMED.

Division Four holds: DMH found the testimony of the other support staff witnesses present at the time of the incident between Phillips and L.S. more credible than the testimony of Phillips. DMH also found the testimony of the other support staff members more credible than the testimony from Phillips regarding the incident between Phillips and M.M. We defer to the agency’s decision regarding the credibility of witnesses and find there is sufficient competent and substantial evidence on the record to support DMH’s decision that Phillips is guilty of two counts of verbal abuse. DMH’s finding that Phillips was “demeaning, non-therapeutic, and undignified” in speaking to both L.S. and M.M. is not arbitrary or capricious. We find no error in the DMH Hearings Administrator’s decision to substantiate these two counts of verbal abuse against Phillips and place his name on the DMH Disqualification Registry.

Opinion by: Kurt S. Odenwald, P.J.
Robert G. Dowd, Jr., J. and Keith M. Sutherland, Sp. J., Concur.

Attorney for Appellant: Christopher M. Smith

Attorney for Respondent: Chris Koster and Michael R. Cherba

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