



**STATE OF NEW JERSEY**

In the Matter of T.L.,  
Department of Labor and Workforce  
Development

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket No. 2017-1278

Discrimination Appeal

**ISSUED:** April 6, 2018 (WR)

T.L., a former Business Representative 1, Department of Labor and Workforce Development,<sup>1</sup> appeals the determination of the Equal Employment Officer, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, an African-American, filed a discrimination complaint in December 2015 with the Office of Diversity and Compliance (OD&C), alleging that C.S., an African-American and then Director of Workforce, discriminated against him on the basis of his race and his light skin color. In response, the OD&C determined that the appellant's complaints did not implicate the State Policy. Specifically, the appellant first alleged that C.S. represented him during a grievance hearing, which denied him the opportunity to represent himself and also to face his accusers. He also alleged that C.S. relied on the outcome of that hearing to remove him from his supervisory position in the Camden office and gave him the option to either transfer to the New Brunswick office or a voluntary demotion and transfer to the Trenton office. The appellant alleged that he opted for the voluntary demotion and transfer to the Trenton office under duress from C.S. and former Assistant Commissioner M.E.C, a Caucasian. The OD&C determined that the appellant's complaint that C.S. represented him and denied him the opportunity to face his accusers did not violate the State Policy and was without merit because the

<sup>1</sup> Agency records indicate that the appellant received a general resignation, effective October 20, 2017.

appellant admitted that management has the right to represent managers in grievance hearings. Regarding his demotion and transfer, the OD&C found that the fact that two separate grievances and four subordinates in the Camden office complained about him provided legitimate business reasons for C.S. to transfer him to another office.

Second, the appellant alleged that he did not receive accolades for his work after C.S. was appointed as director of his area, whereas he had received them before her appointment. The appellant alleged that C.S. would have given him more respect if he was of a different race or a darker skinned African American. The OD&C found the appellant's claim unfounded, as he failed to establish a nexus between C.S.'s alleged animus towards him and his skin color.

Third, the appellant alleged that he was assigned out-of-title duties, including data entry, which he found challenging due to issues with his eyesight. The appellant further alleged that his coworkers laughed at him for being relegated to performing data entry, which was discriminatory. The OD&C found that the appellant failed to present any evidence that his assignment of out-of-title duties violated the State Policy. The OD&C also found that the appellant admitted that his coworkers laughed at him because he was performing perfunctory duties and not because of his protected status.

Fourth, the appellant alleged that C.S. was upset that he used email to communicate with Talent Network Directors and he was prohibited from working with them. The appellant further alleged that, in a meeting with C.S.; J.D., a Caucasian and an Assistant Director; and D.L., a Caucasian and a Chief of Business Services; he was informed that he would begin reporting to J.D. and that he could possibly be promoted to the title of Business Representative Supervisor. The appellant requested that the promotion be to a title in the "Chief series," to which he alleges that C.S. refused and told him, during a heated exchange, that his performance had been poor. The OD&C found that the appellant failed to present a nexus between C.S.'s actions and discrimination based on his race or skin color.

Fifth, the appellant claimed that in a meeting on the same day of the meeting referenced in his fourth allegation, he was reassigned to work in the Elizabeth office and asked to leave the premises and he believed that security would be called if he did not immediately cooperate. The appellant alleged that C.S. manipulated the system to have him investigated and removed from the premises because he disagreed with the negative things she said and her evaluations of his work. The OD&C found no evidence of a discriminatory reason to remove the appellant from the workplace. Rather, it was revealed that several coworkers filed a Workplace Violence complaint against him, which triggered his reassignment and removal from the premises.

Sixth, the appellant asserted that C.S. had been “rotten and mean spirited” towards him. He also indicated that he once told his immediate supervisor D.L. that C.S. got worse after her husband died, but denied saying that C.S. “got hers, she took me out of Camden and God took her husband out of Camden.” The OD&C determined that the appellant failed to establish a nexus between his claim and any discriminatory animus on the part of C.S. However, it revealed that three staff members reported that the appellant said C.S. “got hers, she took me out of Camden and God took her husband out of Camden.” One witness indicated that the appellant’s behavior raised safety concerns because he was “aggressive and irrational” when he made that statement. The OD&C determined that while the appellant’s comment did not raise any issues under the State Policy, it did provide context to the incident and served as a non-discriminatory reason why he was escorted from the premises.

Seventh, the appellant alleged his efforts to demonstrate loyalty were not recognized. For example, the appellant claimed that he once attended a south Jersey managers meeting and overheard some employees speaking negatively about C.S., which he reported to J.D. The appellant asserted that he was instructed not to attend the meetings anymore. He also stated that one of the employees who spoke negatively about C.S. was promoted, which the appellant claimed was evidence of “black on black discrimination.” The OD&C determined that the appellant’s allegation was baseless, as it did not implicate the State Policy. It also found that the appellant’s own statement provided at least three compelling reasons why he was not promoted: four employees had filed grievances against him, he had problems performing data entry work and he was informed of a promotional opportunity if he improved his performance.

Eighth, the appellant alleged that Deputy Commissioner A.F. was responsible for C.S.’s discriminatory actions because he did not like One Stops and did not appreciate his success at the Camden One Stop. The appellant stated that he believed that A.F. targeted him because he was an aggressive manager who wanted the One Stops to succeed. He also asserted that C.S. made it clear that “they did not move without checking with” A.F. The OD&C concluded that the appellant’s allegation did not implicate the State Policy because he admitted that A.F.’s alleged animus was not discriminatory, but rather due to his alleged dislike of One Stops. It also concluded that the appellant provided no evidence to support his claim that A.F. allowed C.S. to discredit or discrimination against him due to his dislike of One Stops.

Ninth, the appellant alleged that, while in an elevator with the Commissioner and A.F., the Commissioner complimented him regarding the Talent Network programs, but A.F. said “he wasn’t my choice.” The OD&C determined that this allegation did not invoke the State Policy.

Finally, the appellant asserted that C.S. and A.F. should return him to a manager's title and "this does not have to go any further." He also indicated that he "didn't care why this was done to [him], what is important is that [he] can get back to work." The OD&C determined that this allegation did not invoke the State Policy.

On appeal to the Civil Service Commission (Commission), the appellant reiterates his claim that C.S. discriminated against him due to his race and the color of his skin. The appellant asserts that while he does not know why C.S. discriminated against him, he does know that "black people and skin color has always been an issue, when you add in class, wealth, power and things like island identity; confusion sets in and you have all types of black on black discrimination." The appellant also posits that "most light skin Black women prefer to have dark skin mates. For that reason sometimes subconsciously light skin woman do not like light skin men or vice versa."

The appellant complains that he is "paid to sit at a desk and do nothing all day" because his "employer refuses to promote or employ [him] with any work tasks whatsoever." He questions what he has "done wrong to warrant such mistreatment" and states that "a general consensus shared by most whites and sell out blacks" is that he is "dangerous." The appellant concludes that he was "ousted for being too proud of a Black Man that could do a good job." He also indicates that he never made an ADA accommodation request because he knew that he would not perform data entry duties for long. However, he asserts that it "was an insult" to be assigned those duties and C.S.'s reason for assigning him those duties was "because we can."

The appellant states that his attempt to please "this administration" made him an enemy of it and "they did not like [him] very much shortly after [his] Reentry efforts." He claims that his program cost less than a grant-funded one with ties to C.S. and accuses C.S.'s husband of receiving "some kind of re-entry grant possibly from the State of New Jersey." He contends that C.S. did not want him to reveal her ties and special interests in Camden. The appellant further contends that the "New Jersey Department of Labor's upper management is in collusion with the Governor's office to ruin [his] career." In this regard he alleges that A.F. prodded C.S. to take him down because A.F. dislikes One Stops and him "being just a light skin man [that] nobody cared [about] made it easier for [C.S.] to target" him.

The appellant claims C.S. did not entertain his request for a promotion. Rather, he states that she "lost it" and "verbally cited [his] poor performance." He asserts that he has not had a Performance Assessment Review (PAR) in "several years" and notes that he has not been issued any written reprimands. Regarding the grievance filed against him, he claims that C.S. should have defended him in the matter, or allowed him to defend himself. Had she represented him more

vigorously, the appellant asserts that C.S. “would have found that the [three] women in the grievance were all racists just as much as [he] was allegedly angry. But there was no due process because [C.S.] had her marching orders, and she meant to carry them out” and remove him from the Camden office. The appellant reiterates that it was easier for C.S. to act against him due to her prejudice against his light complexion. Moreover, the appellant contends that C.S. used the grievance “to bolster her career on two fronts; she could get rid of an aggressive over performing manager and clear out the way for some possible malfeasance of her interests via her connections to the greater Camden South Jersey community.”

The appellant complains that the OD&C “failed dismally” in the investigation because the matter was assigned to a new employee who “purposely failed in his responsibility to investigate anyone other than whom they thought would serve their only interest.” He contends that the investigation was too brief and superficial. The appellant claims that he experienced “house negro, field negro, light skin, dark skin classification issues” that the appointing authority “has spun into a web so historically relevant that the best position that [OD&C] could take was to deny” his claim.

The appellant demands that the Equal Employment Opportunity (EEO) Officer “gain some insight in to the skin color dynamics of Black on Black discriminatory relationships in the workforce” and suggests that the EEO Officer take educated herself about African-American history. The EEO Officer, he claims, is “blinded by . . . a false sense of superiority because she is from an island and maybe her roots do not extend themselves to slavery in the American south.” He also complains that “she was rude, crass and her arrogance was atrocious as she tried to keep telling [him that he] was abrasive and aggressive.”

Regarding the finding that the appellant was unable to establish a nexus between a pattern of C.S.’s actions and a violation of the State Police, the appellant argues that “the nexus of the pattern should have been clear to [the EEO Officer] if she would have approached [his] complaint with the historical context framed within [his] complaint.” The appellant claims that if the EEO Officer “would have done her job without bias leaning favorably towards the administration, she would have found her nexus.” He further complains that the EEO Officer refused to accept those connections and C.S.’s possible motive of “light skin on light skin discrimination” as the only “nexus” and that she did not need to be a historian to make these connections. Finally, the appellant argues that him being supervised by six different supervisors was “resultant of some type of discrimination and/or mismanagement and speaks for itself.”

The appellant claims that C.S.’s “discriminatory practices against” him have damaged his reputation, family life and career and placed him under “extreme duress.” He also claims that his assignment to an office in Elizabeth exacerbated

his medical infirmities. As a remedy, the appellant requests a Manager position and 8.5 million dollars.

In response, the OD&C reiterates its findings that the appellant failed to establish a nexus between C.S.'s alleged behavior and his protected status. It asserts that the appellant presents no new evidence in his appeal to overturn its determination and argues that if the Commission entertains this appeal on any of the bases cited by the appellant, "then every single employee of African descent can file a complaint simply because he or she is present in a workforce in America." Moreover, the OD&C argues that the appellant's arguments are, at times, contradictory. For instance, it observes that while the appellant asserted that C.S.'s allegedly adverse actions against him were motivated by a discriminatory animus, he also claimed that C.S.'s special interests in Camden and the appointing authority's collusion with the Governor's office to ruin his career were the reasons for his alleged adverse treatment.

Regarding the handling of his grievance, the OD&C observes that the appellant failed to argue that C.S. handled his grievance differently than she handled grievances by non-African-American employees or dark skinned African American employees. Moreover, the OD&C notes that C.S. explained during the investigation that the appellant consistently refused to perform his assigned duties and that she placed him under the supervision of several managers with varying management styles in an attempt to get him to work. In sum, the OD&C argues that the State Policy requires more than the appellant's "mere feelings that discrimination based on race or skin color is afoot, and [the appellant] offered none in his initial complaint and none in the within appeal. Thus, the OD&C requests that the appellant's appeal be dismissed.

## CONCLUSION

*N.J.A.C.* 4A:7-3.1(a) provides that under the State policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. Additionally, *N.J.A.C.* 4A:7-3.1(b) states that it is a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background or any other protected category set forth in (a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another. Finally, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)3.

The Commission has conducted a review of the record and finds that an adequate investigation was conducted. While the appellant reiterates his claims on appeal, he has not presented any evidence whatsoever to support his claims of discrimination. For instance, the appellant's assertion that the failure to provide him work assignments is de facto proof of discrimination falls short because he offers nothing to support his bare assertion. Instead, the appellant appears to instead rely on the existence of racism in society at large as the basis of C.S.'s discriminatory animus towards him. However, a finding of a violation of the State Policy requires more than a described action and the existence of racism in society at large, it requires a discriminatory act. As indicated above, the appellant has failed to provide any evidence of a discriminatory act. Furthermore, the appellant's belief that C.S.'s antipathy towards him was motivated by her interests in Camden or that she was acting on A.F.'s orders undercuts his claim of her discriminatory motivation. Thus, the appellant has not presented any evidence whatsoever to support his claim of discrimination. The appellant has therefore failed to meet his burden of proof in this matter. *See N.J.A.C. 4A:7-3.2(m)3*. Accordingly, under these circumstances, no basis exists to find a violation of the State Policy.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 4<sup>th</sup> DAY OF APRIL, 2018



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