



**STATE OF NEW JERSEY**

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

In the Matters of K.P., Department of  
Corrections

CSC Docket No. 2019-3416

Discrimination Appeal

**ISSUED: APRIL 17, 2020 (SLK)**

K.P., a Correctional Police Sergeant with the Department of Corrections, appeals the decision of the Director of the Equal Employment Division (EED), which did not substantiate her allegation that she was subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, K.P., alleged that she was subjected to discrimination based on creed by Correctional Police Majors R.G. and D.G. Specifically, K.P. alleged that the Majors were overly critical over her work in an attempt to force her out as the second-shift Shift Commander so that it could be bid upon by Correctional Police Lieutenant P.A. She indicated that she is a Christian and her creed causes her to adopt a calm, professional management style while P.A. yells, screams and manages in an unprofessional manner. K.P. believes that the Majors prefer P.A.'s management style. She indicated that the Majors were aware that she was enrolled in school seeking a graduate degree in religious studies and when they thought that K.P. was going to retire, she alleged that she overheard D.G. laugh when P.A. stated, "Yeah, you go pray for us and let us run the jail. We'll handle things here." K.P. presented that on October 16, 2018, she was pulled from her shift command because D.G. was upset when she made him look bad in the morning meeting where D.G. claimed that K.P. advised him about an incident involving an inmate that involved urine, although K.P. told D.G. that urine was not involved.

However, K.P. claimed that D.G. ordered her to issue a charge against the inmate and use fabricated language to substantiate the charge. K.P. indicated that on November 8, 2018, she was again pulled from her shift command where three inmates were involved in a physical altercation and placed on a certain status and when their custody status changed because charges were served on them, K.P. did not notify R.G., who was the on-call Major, of this change in custody status. Lastly, K.P. claimed that her union representative confirmed that the Majors were targeting her by “nitpicking” her work performance.

The EED conducted an investigation that included interviews with K.P., R.G., D.G. and witnesses. Additionally, relevant documents were reviewed. The investigation found that the Majors’ actions were based on legitimate business reasons. Further, P.A. denied ever making the alleged statement and the Majors denied ever hearing it. Additionally, P.A. claimed that she never ridiculed K.P.’s religion and even prayed with K.P. Concerning the bodily fluid incident with the inmate, K.P. was pulled from her shift command while the matter was being investigated. Also, D.G. claimed that K.P. did, in fact, advise him that an inmate threw urine at an officer. However, at the morning meeting, he learned that a corresponding charge had not been written and it was only then where K.P. insisted that the inmate threw a fluid at an officer that was not urine. Accordingly, he advised K.P. to write up the charge. Concerning the three inmates who got in a physical altercation, the investigation revealed that K.P. did not inform the on-call Major that their custody status changed, as required. Therefore, she was properly pulled from her shift command while the matter was reviewed. Further, after making this mistake, K.P. was given retraining on her duties as a Shift Commander.

On appeal, K.P. states that contrary to the determination letter, she did write the charge related to the inmate bodily fluid incident. Therefore, the reason she was pulled from her shift command could not be that she did not write the charge. She states that she never told D.G. that urine was thrown on an officer. Further, the officer never said that urine was thrown on him. The charge was written because D.G. ordered her to write it after she reported the incident. In reference to the physical altercation with the three inmates, she presents that she did write a report regarding this incident. However, the third-shift Lieutenant who relieved her that night, admitted that he accidentally shredded it. She claims that had her report not been shredded, D.G. would have received it and that she did not violate any directive on how to report the incident. Further, when the third-shift commander informed R.G. that he accidentally shredded it and he would have received it otherwise, R.G. responded by saying that it would not have made a difference as she should have called him. K.P. indicates that it was only after she complained through her union representative that she received a clear explanation as to why she needed to be retrained. She indicates that her retraining was reduced from five to three days and she received a letter from D.G. on her second day of

training regarding the reporting procedures. K.P. indicates that the EED investigator interviewed her on the third day of retraining and she provided D.G.'s letter to the investigator. She presents that this was during the sixth week of being pulled from her bidded post. K.P. states that based on the letter, she now understands the reporting process and is fully committed to following her directives from her supervisors. K.P. asserts that although P.A. denies making the statement as indicated above, she did in fact say it, and D.G. did laugh at it. K.P. highlights that her Performance Assessment Review from D.G. indicates no issues with her job performance and she received an exceptional rating.

Although given the opportunity, the appointing authority did not respond.

### CONCLUSION

*N.J.A.C.* 4A:7-3.1(a) states, in pertinent part, that employment discrimination or harassment based upon a protected category, such as creed is prohibited.

*N.J.A.C.* 4A:7.3-2(m)4 states, in pertinent part, that the appellant shall have the burden of proof in all discrimination appeals.

In this matter, K.P. alleged that R.G. and D.G. discriminated against her based on her creed. She indicated that she is a Christian and her creed causes her to adopt a calm, professional management style. K.P. believes that the Majors prefer P.A.'s, management style which she asserts involves yelling, screaming and managing in an unprofessional manner. The Civil Service Commission notes that that even if this is true, disagreements between co-workers, such as a disagreement on the best management style, cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). Additionally, K.P. alleged that when the Majors thought she was going to retire, she overheard D.G. laugh when P.A. stated, "Yeah, you go pray for us and let us run the jail. We'll handle things here." The investigation indicated that P.A. denied making the statement and D.G. denied hearing the statement. Further, K.P. has not presented any witness who could confirm that the statement was made. Additionally, K.P. presents two incidents where she was pulled from her commander shift. The investigation revealed that there were legitimate business reasons as to why this was done even though K.P. disagrees with this assessment. Additionally, she claims that the Majors were "nitpicking" her work performance as they wanted P.A. to replace her as a shift commander. However, even if it is true that K.P.'s removals from her position as a shift commander were unjustified and the Majors were "nitpicking" her work performance because they preferred P.A. as the shift commander, she has not presented any witnesses or documentation to substantiate that the reason the Majors wanted to replace her with P.A. as the shift commander, or any other actions

taken against her, were because of her creed. A review of K.P.'s State Policy complaint indicates that she identified Correctional Police Sergeant T.T. and Correctional Police Lieutenant M.S. as witnesses. Presumably these witnesses were investigated as part of the EED investigation and did not substantiate the allegations. However, even if they were not, K.P. has not provided evidence that indicates that the reason for any of the Respondents' actions were based on K.P.'s creed. Mere speculation, without evidence, is insufficient to support a State Policy violation. See *In the Matter of T.J.* (CSC, decided December 7, 2016).

### 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 15<sup>TH</sup> DAY OF APRIL, 2020

*Deirdre' L. Webster Cobb*

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