



**STATE OF NEW JERSEY**

In the Matter of T.T.,  
Department of Corrections

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

CSC Docket No. 2018-1079

Discrimination Appeal

**ISSUED: NOVEMBER 2, 2018 (JET)**

T.T., a Senior Correctional Police Officer with South Woods State Prison, Department of Corrections, appeals the determination of the Director, Office of Legal and Regulatory Affairs, Equal Employment Division (EED), Department of Corrections, which found that she failed to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, the appellant, an African American female, is serving at South Woods State Prison (SWSP) as a 4-day Facility 3 Kitchen Relief Officer and as a “float” one day a week. In her initial EED complaint, she alleged that J.K., a Caucasian Correctional Police Sergeant, and J.S., a Caucasian Correctional Police Lieutenant, discriminated against her based on race and gender. Specifically, she alleged that, beginning in January 2016 on various occasions, J.K. and J.S. prohibited her from leaving early from her shift. She also alleged that she regularly observed Caucasian Officers leaving early from their shifts, which was permitted by J.S. and J.K. The appellant also alleged that an African American male who was formerly assigned to the School Area was not permitted to leave early. The appellant also indicated that J.K. reported to B.L., a Correctional Police Lieutenant, and to S.S., a Correctional Police Sergeant, that she had attempted to leave early, and as a result, she was confronted by B.L. and S.S. and humiliated. After an investigation was conducted, the EED determined that there was no evidence to corroborate a violation of the State Policy. The investigation revealed that the School Area Officers work from 7:00 A.M. to 3:00 P.M. and the appellant works from 7:30 A.M. to 3:30 P.M., and the witnesses, including those named by the appellant,

advised that the Officers leave their posts only five to 10 minutes before the end of their shifts. Further, the investigation confirmed that civilian employees in the School Area leave the work area at approximately 2:50 to 2:55 P.M. and turn in their equipment before the end of their shift at 3:00 P.M. The witnesses stated that they informed the appellant that she was not permitted to leave as her shift does not end until 3:30 P.M. and she attempted to leave the work area before the end of her shift at 2:50 P.M. J.K. indicated that on one occasion the appellant became argumentative when she was told she was not authorized to leave 30 minutes early, and he ordered the appellant to return to her post as she would have to continue to work until at least 3:20 P.M. Additionally, the investigation revealed that the witnesses denied that they yelled or spoke to the appellant in the presence of other individuals, but rather, they addressed her attempts to leave early in a private area.

On appeal, the appellant argues that she was lied to and she did not attempt to leave early from the work area. The appellant acknowledges that the Officers are assigned to a different work location and are assigned to a different shift than she works. Nonetheless, they have the same supervisor, D.R., a Correctional Police Sergeant, and he would have verbally advised the appellant had she attempted to leave the work area. The appellant maintains that she was not insubordinate to her supervisors and J.K. and J.S. only spoke to her on two occasions, and they would have written her up had the behavior continued. The appellant alleges that she is now being subjected to retaliation and is being labeled as a "snitch." Further, the appellant asserts that a Caucasian Correctional Police Sergeant leaves 30 minutes early on Fridays, and an African American male was not allowed to leave early from the same shift. The appellant adds that B.L. and S.S. humiliated her in front of the inmates, civilian staff, and a coworker despite that she was pregnant at the time. The appellant states that D.R. told another officer that she was yelled at, and B.L. told D.R. what occurred since they are friends. The appellant adds that the cameras in her work area should be reviewed in support of her claims. The appellant argues that the investigation was not impartial or properly handled, as the EED did not interview all of the witnesses she named, that she was retaliated against when she returned from maternity leave, and she would have been allowed to leave early if she was a Caucasian male. Moreover, the appellant states that the EED determination was not issued on a timely basis.

In response, the EED maintains that the investigation was thoroughly conducted and there was no violation of the State Policy. The EED contends that the appellant named 13 witnesses and nine of them were interviewed and none of them substantiated the appellant's allegations, and the evidence and other witnesses did not substantiate a violation of the State Policy. The EED asserts that, although the appellant now states that one of her witnesses was not interviewed, she did not name him in her initial complaint or during the EED investigation. The EED explains that the Officers were observed leaving five to 10

minutes early from their posts, and there was no evidence that the appellant was subjected to adverse treatment by her superiors. The EED adds that the appellant is assigned to work the 7:30 A.M. to 3:30 P.M. shift, and the Officers who were the subject of her complaint are assigned to work from 7:00 A.M. to 3:00 P.M. Further, the EED states that there was an occasion where the appellant was stopped by her supervisor and advised that she could not leave early and was expected to work until at least 3:20 P.M. The EED explains that the videotapes of the appellant's work area were not reviewed as the dates that are the subject of the appellant's EED complaint occurred more than one year before she filed the complaint. Moreover, the EED contends that, due to a staffing shortage from December 2014 through May 2017, the appellant's EED determination was not issued until September 28, 2017. However, the delay did not have an adverse effect on the outcome of the investigation.

### 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. Additionally, retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by the State Policy. Examples of such retaliatory actions include, but are not limited to, termination of an employee; failing to promote an employee; altering an employee's work assignment for reasons other than legitimate business reasons; imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees). See *N.J.A.C.* 4A:7-3.1(h). It is noted that the burden of proof is on the appellant to provide information in support of her case. See *N.J.S.A.* 11A:2-6(b) and *N.J.A.C.* 4A:2-1.4(c).

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that the appellant has not established that the individuals named by the appellant engaged in conduct in violation of the State Policy. The record shows that the EED conducted an adequate investigation. It interviewed the relevant parties in this matter and appropriately analyzed the available documents in investigating the appellant's complaint. Specifically, the EED concluded that the witnesses could not corroborate the appellant's various allegations, and the record does not reflect any discrimination on the basis of race or sex/gender. Initially, the appellant's work schedule was confirmed as 7:30 A.M. to 3:30 P.M., and as such, she did not work the same shift as the other employees she alleged were permitted to leave early. Thus, the appellant's perception that she was discriminated against because they were leaving early from their shift which she was not also permitted to do was not confirmed. As noted above, it is the appellant's burden of proof to provide information in support of her appeal in this matter. Additionally, the record reflects that a witness confirmed that the appellant attempted to leave work early and her supervisor directed her to stay at her position until her shift ended, and the witnesses confirmed that the appellant's supervisor talked to her in private about the matter. The appellant has provided no substantive information to dispute the information provided by the witnesses. As such, there is no substantive evidence to confirm the appellant's allegations. Although the appellant mentions on appeal that she was on maternity leave and was pregnant at the time one of the incidents occurred, there is no nexus to show that she was discriminated against for those reasons.

While the appellant argues that the investigation was not adequately conducted, the EED confirmed that nine out of 13 witnesses named by the appellant were interviewed, and none of them substantiated her complaint. Although the appellant states that some of the witnesses she named were not interviewed, it is at the EED's discretion to interview as many or as few witnesses as it deems necessary in order to determine if there was a violation of the State Policy. While she suggests that other individuals should have been interviewed, the appellant has not shown how those witnesses would provide any additional information that would change outcome of the case. The Commission is satisfied that the EED properly interviewed the witnesses and that there was no finding of a violation of the State Policy, and as such, it is not now necessary to interview the witnesses the appellant names on appeal. With respect to the appellant's argument that she was retaliated against, she has presented no specific information on appeal pursuant to the above listed rule to substantiate that claim. Moreover, the appellant has failed to point to specific deficiencies in the investigation which would change the outcome of the case. Finally, while the investigation was not completed in a timely manner as proscribed in *N.J.A.C. 4A:7-3.2(l)2*, the appellant has not presented any evidence as to how that delay affected the results of the determination. Nevertheless, the EED is cautioned to, in the future, strictly adhere to the timeframes for State Policy matters presented in *N.J.A.C. 4A:7-3.2(l)2*. Accordingly, as the investigation was

thorough and impartial, no basis exists to find a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

**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 31<sup>st</sup> DAY OF OCTOBER, 2018



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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