

**STATE OF NEW JERSEY**

In the Matter of B.M.,  
Department of Corrections

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

CSC Docket No. 2020-871

Discrimination Appeal

**ISSUED:                  JUNE 5, 2020          (JET)**

B.M., a Correctional Police Officer with the Department of Corrections, appeals the determination of the Director, Equal Employment Division (EED), Department of Corrections, which found that the appellant 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).

B.M. (a Hispanic female) filed a complaint with the EED, alleging that S.W., a female Senior Correctional Police Officer subjected her to discrimination on the basis of sex/gender, sexual harassment, and retaliation. Specifically, the appellant alleged that S.W. referred to the appellant as a “bitch” and intentionally used her upper left side to bump into the appellant’s breast area. The appellant also alleged that several inmates threatened her as S.W. was removed from the unit due to a complaint she had filed against her. After an investigation was conducted, the EED did not substantiate a violation of the State Policy. Specifically, the EED determined that there was no substantive evidence to show that the appellant was subjected to discrimination, sexual harassment, or retaliation in violation of the State Policy. The EED interviewed S.W. who denied the allegations, and it determined that there was no nexus between the appellant’s allegations and any protected categories under the State Policy. As such, and the investigation did not substantiate a violation of the State Policy.

Additionally, the EED indicated that the appointing authority investigated a separate workplace violence complaint the appellant had filed against S.W., and it was determined that S.W. did not come into physical contact with the appellant, and the inmates denied that the appellant was threatened. It is noted that a Preliminary Notice of Disciplinary Action (PNDA) was issued July 18, 2018, and the appointing

authority alleged that the appellant falsified the aforementioned domestic violence matter. However, the charges were dismissed on October 4, 2018.

On appeal, the appellant asserts, among other things, that S.W. referred to her as “bitch,” “Puerto Rican bitch,” and “stupid.” The appellant explains that S.W. bumped into her, gestured, glared at and yelled at her in retaliation. The appellant states that, despite multiple complaints, the appointing authority has not addressed her concerns. The appellant adds that she does not want her reputation tarnished, as S.W. plans to retire soon. Moreover, the appellant contends that she should not be subjected to such behavior as the State Policy is a zero tolerance policy.

Despite being provided with the opportunity, the EED did not provide a response or any further evidence or information in response to the appellant’s appeal.

## 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. The appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(3). 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). The appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(3).

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that the appellant has not established that she was subjected to discrimination in violation of the State Policy. The record reflects that the EED conducted a proper investigation. It interviewed the relevant parties in this matter and appropriately analyzed the available documents in investigating the appellant’s complaint. The appellant did not provide any witnesses or substantive

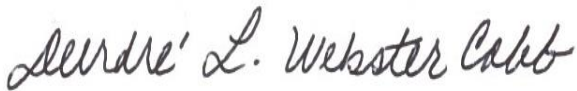
evidence to show that she was subjected to sex/gender discrimination or sexual harassment, and S.W. denied the allegations. Further, the appointing authority conducted an investigation into a separate workplace violence matter, and there was no substantive evidence that S.W. came into physical contact with the appellant. As such, the appellant has not provided any information in this matter to refute the underlying EED determination. As such, the underlying determination was correct when it determined that there was no violation of the State Policy. Additionally, the allegations the appellant now provides on appeal do not evidence that she was discriminated against based on any of the above listed protected categories in the State Policy. The appellant has not provided a nexus between such allegations and any of the above noted protected categories of the State Policy to show that a violation occurred. Moreover, there is no evidence to show that the appellant was singled out or that she was subjected to retaliation as described above. Moreover, the Commission has consistently found that disagreements between co-workers 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). Other than the appellant's allegations in this matter, she has failed to provide any evidence that she was discriminated or retaliated against in violation of the State Policy. Accordingly, she has not satisfied her burden of proof in this matter.

### 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 DAY 3<sup>RD</sup> OF JUNE, 2020



---

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher Myers  
Director  
Division of Appeals  
& Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c: B.M.  
Leila Lawrence  
Mamta Patel  
Records Center