



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of J.M., Department of
Health

CSC Docket No. 2023-446

Request for Reconsideration

ISSUED: September 21, 2022 (SLK)

J.M., a Planner/Scheduler, Computerized Maintenance Management with the Greystone Park Psychiatric Hospital (GPPH), Department of Human Services, requests reconsideration of *In the Matter of J.M.* (CSC, decided August 24, 2022) which denied his appeal regarding his claims of violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, J.M., who is male, sent emails to The Office of Diversity and Equity Services (ODES) documenting his allegations of a hostile work environment, harassment and retaliation, which he alleged resulted in him being placed on the “do not enter list” for GPPH and him being placed on leave with pay status since June 2021. The ODES indicated that a review of the emails revealed numerous work-related issues which culminated in an incident at a Quick Check he visited while on his break. J.M. reported seeing the same employees when he goes out on break and he reported seeing employees who were always by the doors at work when he was leaving for a break. The emails documented that he was sent for a Fitness for Duty Examination with a medical professional, where treatment was recommended, which he declined. The ODES indicated that although J.M. expressed frustration over his current employment status, and the narrative of his emails alleged that he was subjected to a hostile work environment, harassment, and retaliation, his issues were work-related. Therefore, the ODES found that there was no nexus to implicate the State Policy and his work-related issues did not warrant an State Policy investigation. It did indicate that J.M.’s emails were referred to Employee Relations for further review and further action as it deemed appropriate. In its previous decision, the Civil Service Commission (Commission) found that as

J.M. did not provide ODES any evidence, or potential witnesses or evidence, that could confirm that the alleged hostility towards him was based on his membership in a protected class, it properly determined that there was no nexus between the alleged behavior and the State Policy and there was no need for a State Policy investigation.

In his request, J.M. states that he has been subjected to harassment, gender bashing, and slandering/defamation which created a hostile environment and warrants a proper investigation. He asserts that he provided many emails and statements from co-workers who witnessed threats made to him and the slandering/defamation of his character to the administration, co-workers, and supervisors. J.M. presents that he was labeled as “mental” and told he needed to be prescribed medication before returning to work because he was the cause of situations at work. He states that while he tries to avoid people at work, these people follow him to his work areas, his car, where he takes breaks and when he goes into a store.

J.M. describes the conversation where he was called in to speak with Human Resources, his supervisor, and a union representative after the “Quick Check” incident where it was reported that he threw his hands up and was talking to himself. He states that the incident was fabricated. J.M. presents that he was outraged when Human Resources questioned whether he wanted to hurt certain employees who J.M. said had been following him as he has been trying to avoid these individuals. Thereafter, he went back to Quick Check where the cashier said that GPPH employees had asked her if she felt threatened by him after he had earlier spoken to her because one of the employees said that J.M. is known for talking to himself. J.M. indicates that he asked his union representatives to get a statement from the cashier, but they did not. He states that he does not understand how his talking to people at Quick Check was allowed to be taken back to GPPH after the cashier indicated that she never felt threatened by him.

J.M. states that he was escorted from the GPPH grounds by Human Services Police because of hearsay and slander. He presents that an employee wrote a statement that said that he had threatened this employee. J.M. explains that he was called to see Human Resources because this employee said that he had threatened him. J.M. advised that he had not threatened this employee, and this was one of the employees who was slandering him. However, Human Resources advised him that he was going to be prohibited from working until this was investigated. Thereafter, he presents that Human Services Police escorted him out of the GPPH grounds. Subsequently, J.M. indicates that Human Resources advised him to return to work on Tuesday. J.M. states that when he returned from lunch on Tuesday, his key card was not working. Further, when other Human Resources employees learned that he was present because of his key card issue, they indicated that he was not supposed to be there, and he was again escorted off the grounds by Human Services Police and a union representative.

J.M. describes another incident of alleged harassment and slander when he received a phone call from an employee who accused him of having COVID because someone stated that he had posted on Facebook that he had COVID. J.M. responded that since the person calling did not see the posting that she was calling based on a slanderous accusation. The employees replied that she still needed to know to ensure safety at GPPH and he indicated that he did not and her call was unprofessional, and he hung up. J.H. states that the accusation stemmed from a joke that he posted months earlier which did not mention that he had COVID and an investigation would have clearly revealed that the posting was a joke. However, he presents that he never received an apology.

J.M. indicates that he emailed many times that he just wants to be left alone and he has received conflict and harassment from many people. He contends that after he filed grievances, there have been retaliatory emails written against him. He says that his grievances and pleas for help have been ignored. J.M. states that he is known as the black, big, bald guy with big arms, which is gender bashing. He presents that he has filed grievances against several employees and one of the employees accused him of sexual harassment only after he had asked that her slander and rumors stop. He states that all the accusations against him are fabricated.

J.M. presents that there was an incident while he was on break sitting against a wall where he was accused of threatening an employee by not letting the employee sit on the wall. However, he has a statement from another employee on his behalf which was not mentioned. The alleged threatened employee's daughter said that her mother was having chest pains after being threatened by J.M., but then J.M. pointed out that he sits where he does on the wall because there is a camera there and the employee and her daughter left. J.M. then advised Human Services Police because he was threatened and there was a witness. He states that Human Resources made him feel like his story was not true until his witness confirmed the story.

J.M. states that there was another incident involving a co-worker and the co-worker's friend. He presents that the friend asked the co-worker that she sees him hanging out with J.M., but she wanted her to know that J.M. is stalking another female employee. The co-workers replied that J.M. is not like that and asked why the friend was bringing this up. The friend indicated that the alleged stalked employee was concerned about her safety since J.M. was "crazy." The co-worker replied that J.M. is not thinking about the alleged stalked employee and that the employees spreading these rumors should get a life. J.M. questions why the co-worker's statement, which is evidence of slander and defamation, was not included.

J.M. asserts that the accusation that he has something against two employees because they are gay is absurd. He states that he had lunch with one of these employees for three years and he never discriminated against her. J.M. claims that this employee is the reason he filed his discrimination complaint after she accused

him of having a problem with her and her wife. However, he states that he did have a problem with them slandering him for a five-year period. J.M. claims that these two employees have followed and harassed him. However, he denies stating, “Oh, these bitches don’t know I’m about that life” or any other disparaging remark. J.M. claims that people have changed their statements to fit an ongoing slanderous attack against him.

J.M. presents that he has been a State employee since 1987 and he previously never had any negative or derogatory things said about him. He previously had never been accused of having mental problems. J.M. indicates that he has reached out for help at GPPH, but he has been turned away. He has asked his union to get statements from witnesses that he presented, but it has not. Further, J.M. indicates that there have been statements from witnesses on his behalf, but that still did not prevent him from being removed from work. He claims that the employee that he allegedly harassed was solely put in his department in order to continue the slandering of his name. J.M. reiterates his claim that he has been prevented from working based on hearsay, false accusations and slander which has led to harassment against him. However, he feels his union is not defending him. He indicates that he just wants to be left alone. J.M. presents that he has changed his break times and has tried to avoid people who have made the statements against him.

J.M. submits photos in support of his request.¹ He presents that there is a photo of a White Jeep driven by the two employees who accused (accusers) him regarding the “Quick Check” incident. He states that he frequently sees a truck with one of the accusers in the passenger side, double parked near his car when he was on breaks or at Quick Check. J.M. indicates that when he showed the photo to his supervisors and other staff, they agreed that the driver was wearing a Human Services Police Officer uniform, but he did not work at GPPH. He states that when he reported to Human Resources that he was seeing this man, he was told that he was paranoid. J.M. states that he took a photo on the date of the incident which shows that there was no one outside or in the accusers’ vehicle. He provides that when he told Human Resources that he was being followed for months and being harassed by the accusers, he began to take photos at the Quick Check. He believes that even after he changed his break times, the accusers were always there. He states that he has now isolated himself for years due to these incidents.

Additionally, J.M. submits unsigned statements from a Plumbing Supervisor, an Occupational Safety Officer 1, and a friend who attest to his good character. He

¹ J.M. originally emailed his request for reconsideration, which included the photos he describes. He was advised that he needed to send his request in the mail. Although his request indicates that photos are attached, there are no photos attached to his mailed in request for reconsideration. The emailed photos show a White Jeep parked at the Quick Check on May 21, 2012, at 10:18 AM, June 14, 2021 at 10:12 AM, and June 30, 2021 at 10:11 AM. There is also a March 15, 2021, photo at 10:13 AM, showing a woman talking to a man who appears to be wearing a badge.

also submits an email from the cashier at Quick Check who says positive things about his personality and describes her encounter with the accusers from the “Quick Check” incident. She indicates that she informed the accusers that she was fine after she communicated with J.M. She states that J.M. never bothered, disturbed her or any other Quick Check employees, or otherwise made anyone feel unsafe. To the contrary, she states that he makes her day when he comes into the store as he is always so joyful and in good spirits.

He also submits a statement from E.D.² who says that there was a 2015 incident where the woman who accused J.M. of stalking her said, “This fat girl out here trying to get what I had...my leftovers!” referring to J.M.³ E.D. replied, “From my understanding you never had him, but you’re going around here telling people at Greystone that he has been stalking you!” E.D. advised J.M. regarding the incident and J.M. said that he was going to have his union representative get a statement from him, but he was never contacted. E.D. also states that she has heard this individual say negative things about J.M. at other times.

In response, the ODES states that it does not have an additional submission to present and it stands by its submission that was submitted in response to the original appeal.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a petition for reconsideration shall be in writing signed by the petitioner or his or her representative and must show the following:

1. The new evidence or additional information not presented at the original proceeding, which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

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, J.M. has not met the standard for reconsideration as the new evidence that he presents, which includes photos and statements, were all available prior to the original proceeding and should have been presented at that time. Further, J.M. has not presented anything that indicates that the Commission made a clear material error in the original proceeding. Moreover, even if the “new” evidence

² E.D. indicates that he works at GPPH. However, there is no record of E.D. in personnel records.

³ J.M. indicates that he had filed a complaint against the woman for sexual harassment, but the investigation determined that there was no evidence of sexual harassment.

had been presented with the original appeal, it would not have changed the outcome. Photos that allegedly show that his accusers from the “Quick Check” incident are always at the Quick Check at the same time that he is there or that a woman was speaking with a man in a Human Services Police Officer uniform, are not evidence that his accusers engaged in any behavior toward J.M. due to his membership in a protected class or in retaliation for any prior State Policy complaints. Similarly, statements from others who attest for his character or even that he was wrongfully accused of certain behavior at the Quick Check, is not evidence that anyone engaged in any behavior towards him based on his membership in a protected class in violation of the State Policy. Moreover, while E.D’s statement potentially is evidence that J.M. was sexually harassed, J.M. indicates that his sexual harassment claim against this employee was already investigated and no evidence of sexual harassment was substantiated.

As stated in the prior decision, the mere fact that he is male and had conflicts with female co-workers is not sufficient, without confirming evidence, that the alleged hostile behavior towards him was because he was male. Mere speculation, without evidence, is insufficient to support a State Policy violation. *See In the Matter of T.J.* (CSC, decided December 7, 2016). Accordingly, as J.M. did not provide the ODES any evidence, or potential witnesses or evidence, that could confirm that the alleged hostility towards him was based on his membership in a protected class, it properly determined that there was no nexus between the alleged behavior and the State Policy and there was no need for a State Policy investigation.

ORDER

Therefore, it is ordered that this request 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 21ST DAY OF SEPTEMBER, 2022

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