



STATE OF NEW JERSEY

In the Matter of S.L., Department of
Law and Public Safety

**DECISION OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2025-2625

Discrimination Appeal

ISSUED: August 12, 2026 (SLK)

S.L., a Family Service Specialist 2 with the Department of Children and Families (DCF) represented by Justin Schwam, Esq., appeals the determination of a Chief Ethics and Compliance Officer with the Department of Law and Public Safety (DLPS),¹ which substantiated that the appellant violated the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, it was alleged that the appellant, a Caucasian male, discriminated against S.N., a former Administrator Employee Relations² with the Department of Labor and Workforce Development (DLWD) who is an African American female, based on color, race, religion and sex/gender. The determination letter indicates that the Office of Equal Employment Opportunity (EEO) could not compel the appellant to interview for the investigation. Therefore, it relied on the appellant's testimony in a related pending civil lawsuit to obtain his version of events.

S.N. alleged that the appellant used the "Wakanda sign" or "Wakanda" language with her which she found offensive as it was directed at her due to her race. Further, S.N. indicated that she advised the appellant that his use of this language was offensive, but she was unsuccessful in her request that the appellant cease to use this reference. Additionally, the investigation found that the appellant admitted to using the Wakanda references in exchanges with S.N. as he stated that S.N. also used

¹ The matter was transferred to the DLPS due to a conflict of interest.

² Agency records indicate that S.N. resigned in good standing, effective December 23, 2021.

Wakanda references. Additionally, the appellant explained that his intent in using these references was to demonstrate solidarity with S.N.

The investigation found that by the appellant's use of this language or symbol solely to one or more African American individuals, it appeared as though the appellant was treating employees differently based on their race. Therefore, the appointing authority determined in its May 12, 2025, letter that the appellant violated the State Policy. The determination noted that a violation of the State Policy could occur even if there was no intent to be offensive or harass.³

On appeal, the appellant presents that the alleged behavior occurred in or around 2018. Therefore, the appellant argues that the determination must be withdrawn because it is grossly and inexcusably untimely and is not based on substantial credible evidence. The appellant states that S.N. filed a complaint with the DLWD on or around early March 2020, which signifies that a timely determination should have been issued by July 1, 2020, or at least within 60 days after that date if an extension had been granted.

The appellant explains that S.N. was advised in or around March 2020 that because the DLWD believed it had a conflict, it forwarded the complaint to the DCF because the appellant was on union leave from DCF. However, DCF also believed it had a conflict and the matter was transferred to DLPS. The appellant asserts that partly because the DLWD did not issue a determination, S.N. initiated a New Jersey Law Against Discrimination (NJ LAD) lawsuit against the State and non-employer defendants with allegations similar to her State Policy complaint. Thereafter, the appellant states that in the Spring 2021, the DLPS Equal Employment Opportunity Officer (EEO) apologized to S.N. explaining that her complaint had been lost and an investigator was then being assigned. The appellant asserts that even though the determination states that he could not be compelled to be interviewed as part of the State Policy complaint investigation and it relied on the appellant's June 11, 2024, deposition regarding S.N.'s lawsuit, he was never asked to interview in connection with the State Policy complaint. Further, the appellant notes that in S.N.'s lawsuit against the appellant and other defendants, on December 2, 2024, the Superior Court granted summary judgment dismissing the complaint against them. He reiterates that even after the summary judgment he was not asked to interview concerning the State Policy complaint. Thereafter, the Court granted S.N.'s motion for reconsideration and the matter was scheduled for a settlement conference on May 14, 2025, just two days after the determination, which also led to S.N. filing a motion in Superior Court to reopen discovery regarding her lawsuit.

The appellant argues that there was no reasonable excuse for the determination not to be issued until May 12, 2025, as it had his deposition testimony,

³ The determination letter also describes other allegations that S.N. made against the appellant. However, as those allegations could not be substantiated, these allegations will not be discussed.

which was the only information that the determination relied on, since June 2024. Further, the appellant notes that the appointing authority knew that the “related pending litigation” was dismissed in December 2024. The appellant asserts that the untimely determination significantly prejudiced him in his defense in the lawsuit as S.N.’s lawsuit partly focused on the State’s failure to investigate her State Policy complaint against him. Further, the appellant contends that the determination that was issued after the lawsuit was initially dismissed complicates his legal matters that had already been resolved. The appellant believes that the timing of the determination is highly suspect as it came only days before the lawsuit settlement conference where, among other things, S.N. complained that the State failed to investigate her State Policy complaint. Therefore, the appellant argues that the determination should be considered untimely and the Civil Service Commission (Commission) should not relax the rules regarding the processing of State Policy complaints by extending the deadline for nearly five years, especially where the determination is timed to give the State a potential strategic advantage in a separate legal matter.

Regarding the merits, the appellant highlights that the alleged incident(s) occurred in 2018, nearly two years prior to S.N.’s State Policy complaint and nearly seven years prior to the determination. The appellant presents that while the determination states that it relied on the appellant’s deposition in connection with the lawsuit to determine that he used the language in question “solely to one or more Black individuals,” the deposition transcript demonstrates that he never made such a statement. Rather, the appellant admitted that around the time the movie “Black Panther” was released and became a box office blockbuster, S.N. and he used the term in text and verbal communication as a shorthand for solidarity or agreement and the finding that he used the term in connection with S.N.’s race is not supported by the evidence. The appellant explains that when the movie was released in February 2018, he watched it with his family and appreciated that the movie became a cultural phenomenon, which included using the term “Wakanda” to represent agreement and solidarity. The appellant indicates that he used the term with people of all races to express the concept of solidarity. The appellant claims that S.N. never objected to such references until the allegation appeared in her April 2021 lawsuit, which was dismissed on December 2, 2024. Therefore, the appellant contends that the determination should be dismissed as the evidence contradicts the finding that he only used the language “solely to one or more Black individuals.”

Additionally, the appellant argues that the determination lacks any evidence to support the finding that the use of the term is inherently racial and an unintentional violation of the State Policy. The appellant asserts that the evidence demonstrates that the use of symbols and language from “Black Panther” in casual conversation was no different from similar media-born catch phrases that express an inoffensive message and which have made their way into the broader cultural zeitgeist, such as “May the force be with you.” He contends that pop culture catch-

phrases spoken by Caucasian characters that derive from their own respective fictional culture do not become racialized merely because they are repeated by an African American individual to a Caucasian individual. He presents, for example, the phrase “Winter is coming,” from the television show “Game of Thrones,” is used to express a sense of foreboding doom. He believes that even though the characters in the show are Caucasian, if an African American used the phrase to express foreboding doom, the comments would not be a violation of the State Policy. He emphasizes that S.N. did not object to his using the phrase in 2018. Rather, after a series of unrelated incidents in 2019 which ended a 20-year friendship, she alleged in March 2020 that his use of the phrase violated the State Policy and in her subsequent 2021 lawsuit. Therefore, he argues that the determination fails to identify evidence to support the conclusion that his use of the phrase violates the State Policy and should be dismissed. In the alternative, the appellant requests that this allegation be transmitted to the Office of Administrative Law for a hearing.

In response, the appointing authority notes that the appellant has the burden of proof. It states that the appellant does not substantively challenge the facts relied upon in the determination. Rather, the appellant focuses on inapplicable and/or irrelevant factual assertions, as well as incomplete procedural information, which does not provide a basis to set aside the determination.

The appointing authority emphasizes that the appellant acknowledges the conduct in question. It asserts that directing Wakanda language and/or symbols to S.N., who identifies as an African American female and who objected to the same, implicates the prohibitions referenced in the State Policy. The appointing authority asserts that while the appellant may not have intended to discriminate against or harass S.N., his intent is irrelevant. Additionally, it contends that the appellant’s assertion that he uses these symbols and language with non-African American individuals is inapplicable to the evaluation as to whether a person within the protected category would find that this conduct implicated race or color. *See In the Matter of M.M.* (CSC, decided May 3, 2023) (where the Commission found that a Caucasian who used the term “they” in reference to African American violated the State Policy). In this matter, the appointing authority states that the appellant acknowledged using the symbols and language that is indisputably tied to a famous Afrocentric⁴ story and found this conduct directed to an African American female who found this behavior offensive.⁵ Therefore, it believes the determination should not be disturbed.

⁴ See *Black Panther: An Afrocentric Ethical Fable* (February 27, 2018), by Richard Thompson Ford (<https://law.stanford.edu/2018/02/27/black-panther-afrocentric-ethical-fable/>).

⁵ The appointing authority states it could also be argued that the Wakanda references are inherently race-based, and thus necessarily implicate the State Policy. *See Jones v. Costco Wholesale Corp.* 2024 Cal. App. Unpub. LEXIS 1210 (Ca. 4th App. Dist. 2024).

The appointing authority acknowledges that the determination was not issued within 180 days. However, it cites case law that indicates that this is not a basis to dismiss the case nor to find that the investigation was not impartial or thorough. It argues that to vacate the matter due to untimeliness would be contrary to the purposes of the State Policy.

The appointing authority presents that during S.N.'s interview as part of the investigation, she communicated her offense to the Wakanda references, including that she advised the appellant that she found the behavior offensive, although it acknowledges that the appellant denies that S.N. advised him of this. Further, S.N. identified one witness, but the EEO was unsuccessful in its attempt to interview the potential witness. The appointing authority states that the EEO reached out to the appellant for an interview by both telephone and email in October and December 2021, but he did not respond. However, due to the appellant's unique status as President of the Communications Workers of America, Local 1038, it could not compel his participation. Subsequently, the EEO became aware of the appellant's testimony in a lawsuit, and it received a copy of the transcript on February 20, 2025. Thereafter, the appointing authority states that its investigative report was submitted to the Director of the EEO on March 12, 2025. Subsequently, the report underwent DLPS' review process and the May 12, 2025, determination was issued. In other words, it asserts that the appellant chose not to proceed with an interview for three years while it took the appointing authority three months to go through its review process.

Concerning the alleged prejudice regarding "related pending litigation," a State Policy violation is not dependent on whether conduct meets the legal definition of harassment and discrimination. It asserts that the appellant cites no legal authority that some unidentified prejudice in a civil suit should impact a State Policy determination. Further, the appointing authority questions what prejudice the appellant could have received since he indicates that the civil suit was dismissed on December 2, 2024, more than five months before the determination was issued.

In reply, the appellant asserts that if the matter is not dismissed because the investigation is untimely, this would signify that the Commission's regulations are merely guidance. He states that the appointing authority cites no authority as to why it could leave an investigation open indefinitely. Therefore, the appellant contends once it became clear that the appellant was not responsive to an interview, it should have issued a determination in 2022, 2023 or 2024. The appellant argues that by having this matter be left open, his reputation has been prejudiced. Further, he now is at-risk of the determination's impact in the civil matter. He reiterates that the transcript indicates that he used the term "Wakanda" with non-African Americans and which contradicts the determination's finding that he used it solely with African Americans. Further, the appellant states that his transcript explained that he always used the term to express solidarity. The appellant argues that this matter is distinguishable from *M.M.*, *supra*, as that matter involved using the term

“they” in reference to African Americans which was a negative reference to race in the context of the comment while here there is no evidence that the appellant’s use of the term “Wakanda” was a negative reference to race. Similarly, the appellant asserts that this matter is distinguishable from *Jones, supra*, where the phrase “go back to Wakanda” was clearly a negative reference to race unlike the appellant’s use of the term “Wakanda.”

The appellant reiterates that S.N. did not advise him that she found his use of the term offensive as he first learned of her complaint years later in her State Policy complaint and lawsuit. However, the appellant states that the determination appears to contend that the use of the term “Wakanda” should be understood to be so inextricably associated with race that a Caucasian person referencing its symbols or language is objectively offensive to a reasonable African American person in any context and it cites scholarship from Standford University to support this position. The appellant asserts that this article does not support the determination that the use of the term “Wakanda” is objectively offensive to an African American person regardless of the context. Instead, the scholar describes “Wakanda” as “Afrocentric wish fulfillment” and observes that the Wakandans had camouflaged their home to appears to outsiders as:

[A] stereotypical impoverished Third World country-the kind of place the ignorant and bigoted might call a “s***hole” full of undesirable potential immigrants who will never ‘go back to their huts” if allowed to taste the pleasures of the advanced West.

The appellant believes that if he had repeated the scholarly research rather than merely using the term “Wakanda” in a manner demonstrated by the film’s characters when expressing agreement or concluding a conversation to connote solidarity, then perhaps S.N. could have reasonably viewed such comments as objectively offensive under the circumstances. However, he presents that the facts are that he and S.N. used the phrase “Wakanda” in casual conversation to indicate agreement about a particular plan of action. He emphasizes that S.N. did not object to his use of the term in 2018 and only objected due to unrelated events that ended their friendship in 2019, which then resulted in her State Policy complaint in 2020.

In a response to an inquiry from this agency,⁶ the appointing authority indicates that aside from the appellant’s deposition transcript, it did not have any

⁶ This agency reached out to the parties with the following inquiry:

The appellant asserts that he used the “Wakanda” language with other individuals in addition to the complainant, including Caucasian employees. Further, in the appellant’s deposition, he stated that he and the complainant also regularly communicated the phrase back and forth with each other.

materials or evidence regarding the alleged “back and forth” use of the “Wakanda” phrase between the parties nor did it possess any material or evidence of the appellant’s alleged use of the “Wakanda” phrase with any individual other than the complainant.

In reply to this agency’s aforementioned inquiry, the appellant believes that his sworn certification and deposition transcript are sufficient to meet his burden. He contends that the appointing authority’s response confirms it has no evidence to rebut his evidence and the determination should be dismissed without requiring further evidentiary production on his part. The appellant asserts that it is troubling that he was asked to produce evidence that is eight years old. Instead, if the Commission has questions, then he states that the matter should be transmitted to the Office of Administrative Law for a hearing. He reiterates that if the investigation had been completed timely, the appointing authority would have been in the best position to discover and analyze information contemporaneous with the complaint.

Despite the appellant’s objections to having to produce additional corroborative evidence to the credibility of his sworn testimony and certification, he submits answers to S.N.’s interrogatories dated July 26, 2022, regarding her lawsuit. The appellant’s interrogatory answer explains how S.N. used the symbols of “Wakanda,” *i.e.* cross arms, as part of the “back and forth” between them in 2018. The appellant’s stated in his interrogatory response:

In or around 2018, Defendant [the appellant] told Plaintiff that he had just recently watched the movie “Black Panther.” In response, Plaintiff crossed her arms in the manner portrayed by the citizens of Wakanda in “Black Panther,” which is an act demonstrating mutual respect and unity and is often accompanied by an exhortation, “Wakanda.” In the course of coordinating a plan to address a labor relations issue with Plaintiff via text message, Defendant [the appellant] replied to Plaintiff’s indication that they were in agreement on how to proceed in

The appellant asserts that he used the “Wakanda” language with other individuals in addition to the complainant, including Caucasian employees. Further, in the appellant’s deposition, he stated that he and the complainant also regularly communicated the phrase back and forth with each other.

We would like both parties to provide documentation, witness statements, and/or other evidence regarding the communications and the context of the appellant’s and the complaint’s use of the “Wakanda” phrase, back and forth.

Additionally, we would like both parties to produce documentation, witness statements, and/or other evidence as to who specifically, in addition to the complainant, the appellant used the phrase “Wakanda” with, the race other the other person, and the context of those communications.

a unified manner by texting, “Wakanda,” in lieu of or accompanied by “agreed.”

Additionally, the appellant attaches a June 7, 2018 text exchange between S.N. and the appellant where he used the term “Wakanda” as a closing salutation to connote “Agreed” in the context of their discussion about how to address a labor relations issue. The last two messages in the text exchange are as follows:

S.N: I agree it will work out with [D] and [D] it’s a good team She won’t have wiggle room for her [b***s***]

The Appellant: Agreed. Wakanda

However, the appellant acknowledges that he is unable to produce any evidence that he used the symbols and language of “Wakanda” with individuals of other races.

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, 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.

N.J.A.C. 4A:7-3.1(b) provides 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.

N.J.A.C. 4A:7-3.1(g)1 provides that, in pertinent part, the investigations shall be conducted in a prompt, thorough, and impartial manner.

N.J.A.C. 4A:7-3.2(1)2 and 3 provide, in pertinent part, that a final letter of determination shall be issued no later than 180 days from the initial intake of the complaint.

N.J.A.C. 4A:2-1.1(d) provides that except where a hearing is required by law, this chapter or *N.J.A.C.* 4A:8, or where the Civil Service Commission finds that a material and controlling dispute of fact exists that can only be resolved by a hearing, an appeal will be reviewed on a written record.

Initially, the appellant argues that the finding that he violated the State Policy should be vacated because the determination letter was issued five years after the complaint, which is well beyond the 180-day time required under *N.J.A.C. 4A:7-3.2(1)2* and 3. However, the Commission will not automatically set aside a determination letter due to untimeliness where there is sufficient evidence to find that a violation of the State Policy occurred. *See In the Matter of F.M.* (CSC, decided January 15, 2020). However, an adverse determination could be set aside if the delay in the investigation compromised the thoroughness of the investigation. *See In the Matter of S.J.* (CSC, decided April 9, 2014). In this case, while the appellant is not entirely without fault as he refused to be interviewed after the EEO made two attempts in 2021 to set up an interview time, the record is ambiguous as to why when it became clear that the appellant was not agreeing to be interviewed, it did not issue a determination at that time. The Commission warns the appointing authority that the time to issue a determination within 180 days is not a mere recommendation but is mandatory and future failures to comply could subject it to fines for non-compliance. However, as the record is clear that the appellant did communicate with S.N. using the “Wakanda” language, the Commission shall evaluate the allegation based on the record presented.

In this matter, S.N. filed a complaint that she found the appellant’s, a Caucasian male, use of this term “Wakanda, with her offensive as an African American female in violation of the State Policy. *See N.J.A.C. 4A:7-3.1(a)*

The appellant argues that he used the term to represent “solidarity” or “agreement” as it was used in the “Black Panther” movie. Further, he contends that his use of this phrase, which is part of popular culture, is the same as anyone, regardless of race, using other popular culture references, such as “May the force be with you” from Star Wars or “Winter is coming” from Game of Thrones. However, the Commission disagrees as indicated in the referenced scholarly research, the “Black Panther” movie is an Afrocentric story that has significance to the African American community that goes beyond mainstream popular culture. Therefore, even if there was no intent to harass or demean the appellant, the appellant’s use of the phrase could potentially be a violation of the State Policy, and its use must be evaluated in the context of the situation. *See N.J.A.C. 4A:7-3.1(b)*

On appeal, the appellant submits his 2022 answer to an interrogatory question regarding a lawsuit filed against him and others by S.N., where he certified that his answer was true, that in response to the appellant informing S.N. that he had seen the “Black Panther” movie, S.N. used a symbol from the movie, crossing one’s arm, which signifies unity and strength. Thereafter, in at least one text message exchange with S.N., the appellant ended the exchange with S.N. by signing off “Agreed. Wakanda.” However, the appointing authority’s determination letter indicates that S.N. found the appellant’s use of the “Wakanda sign” or “Wakanda” language offensive as it was directed to her due to her race. Further, S.N. also claimed that

she advised the appellant of his offense and unsuccessfully requested the appellant to cease using this reference, which the appellant denies. Therefore, the Commission finds that there are issues of material fact, including the parties' credibility, that cannot be resolved based on the existing record. Accordingly, the Commission refers this matter to the Office of Administrative Law for a hearing. *See N.J.A.C. 4A:2-1.1(d).*

ORDER

Therefore, it is ordered that this appeal be granted, in part. The matter shall be transmitted to the Office of Administrative Law for a hearing.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12TH DAY OF AUGUST, 2026



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