

On appeal, the appellant argues that while the EED substantiated the claims of sexual conversations conducted by M.S., it did not address her allegations of direct sexual harassment by M.S. towards her. The appellant claims that M.S.'s harassing behavior stressed her to the point of not being able to sleep and being physically ill because of her situation at work. Additionally, the appellant claims that when she reported M.S.'s action to Correction Sergeant J.S., he made her worse by laughing at her and making remarks such "where is your buddy, you miss him" when M.S. was out of work. Further, the appellant states that while the EED investigation was ongoing M.S. had been moved to another area, but since the EED determination, M.S. was moved back to his normal work area making the situation uncomfortable for her. In this regard, the appellant argues that M.S. should not be permitted to work with her and that he should be transferred or at the very least moved to another area where they would not be in contact at all.

In response, the EED states that its investigation included witness interviews, and a review of evidence pertinent to the allegations. It asserts that it found that M.S. had engaged in inappropriate conversations of a sexual nature. Specifically, a witness confirmed the M.S. sat in an office with other male officers and shared stories of a sexual nature about inmates at EMCF. M.S. acknowledged that he shared such stories with officers on one occasion. However, M.S. denied to investigators that he shared such stories with the appellant and no witnesses could confirm that M.S. had shared such stories with the appellant. The EED adds that the allegations against J.S. could not be substantiated. Further, the EED argues that based on its findings, remedial action was taken against M.S. as he was issued a State Policy violation letter and a formal Letter of Counseling. Moreover, the EED asserts that it recommended that M.S. and the appellant would no longer have to work together so closely. In this regard, the EED indicates that the DOC does not permanently transfer employees for first time violations of the State Policy of this nature. Furthermore, the EED argues that the remedial action taken against M.S. was appropriate. Finally, the EED maintains that the appellant's complaint included allegations that did not touch upon the State Policy and that those allegations were forwarded to the Department's Special Investigation Division for review.

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. *N.J.A.C.* 4A:7-3.1(c) provides that it is a violation of this policy to engage

in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment.

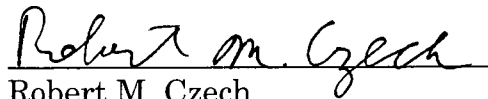
In the instant matter, the Commission has conducted a review of the record and finds that an adequate investigation was conducted. Specifically, the relevant parties were interviewed in this matter and the appropriate documents and records were reviewed. Specifically, the EED interviewed witnesses and M.S. The EED investigation found that M.S. had violated the State Policy when he sat in an office with other male officers and shared stories of a sexual nature about inmates at EMCF and took appropriate corrective action. However, the EED could not substantiate the appellant's claims regarding J.S. On appeal, the appellant merely disagrees with the determination and the corrective action but provides no arguments, evidence or other basis for her appeal. Therefore, the appellant has not sustained her burden of proof in this matter. Accordingly, based on the foregoing, 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 23RD DAY OF NOVEMBER, 2016



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