



STATE OF NEW JERSEY

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

In the Matter of F.A., Department of
Corrections

CSC Docket No. 2016-3743

Discrimination Appeal

ISSUED: DEC 15 2016 (CSM)

F.A., a Senior Correction Officer with the Department of Corrections (Corrections), appeals the determination of the Commissioner of Corrections, that the appellant did not present sufficient evidence to support a finding that he had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, an Iranian-American, filed a complaint with Corrections' Equal Employment Division (EED) alleging that he had been discriminated against based on national origin/race. Specifically, the appellant claimed that K.P., a Correction Sergeant, asked him why he needed a copy of his work schedule, and, when he indicated it was in support of his request seeking an excusal from jury duty, she replied "it is the patriotic duty of every citizen of this county to participate in jury duty." The EED investigated the matter, which included interviewing witnesses and reviewing documentation, and found that K.P. acknowledged that she could not provide the appellant with a copy of his work schedule, that she would not assist him in being excused from jury duty, and that it is your duty as a citizen to participate in jury duty. However, K.P. denied that her comments were connected to the appellant's national origin, nationality, or race and the investigation determined that the statement she made did not rise to the level of a violation of the State Policy. Nevertheless, the EED determined it was appropriate to return the matter to the administration for remedial action.

On appeal, the appellant states that he was just trying to put together his request for an excuse from jury duty and it made K.P. irritated. The appellant

states that K.P. refused to assist him and argued with him about the importance of the obligation for jury duty. As an Iranian-American, the appellant asserts that K.P.'s use of the term "patriotic act" was a direct reference to terrorism and security of this country and when she used this derogatory statement, she implied that he must be an unpatriotic person. Thus, the appellant maintains that this derogatory and demeaning reference is harassment, regardless of K.P.'s intent. As such, the appellant maintains that K.P.'s statement does in fact rise to the level of a violation of the State Policy.

Although provided the opportunity, the EED did not present any additional information or argument for the Civil Service Commission (Commission) to 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(b) states, in pertinent part, that it is a violation of the State Policy to use derogatory or demeaning references regarding any of the protected categories and that a violation can occur even if there was no intent on the part of an individual to harass or demean another. Additionally, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(3).

The Commission has conducted a review of the record and finds that the appellant has not established that he was subjected to discrimination in violation of the State Policy. The investigation included interviewing witnesses and reviewing documentation and found that K.P. acknowledged that she could not provide the appellant with a copy of his work schedule, that she would not assist him in being excused from jury duty, and that she stated that it is your duty as a citizen to participate in jury duty. However, no witnesses were able to corroborate that her statement was based on the appellant's national origin, nationality or race. Moreover, K.P. denied that her comments were connected to the appellant's national origin, nationality, or race. Regardless, the Commission agrees with the investigation's conclusion that such a statement did not rise to the level of a violation of the State Policy. As noted on the New Jersey Courts' website, jury service:

[I]s a cornerstone of our democracy and as U.S. citizens, we have the responsibility and an obligation to serve as a juror. With the exception of voting, jury duty is the most significant way in which we take part in the democratic process.

Thus, given the context of the situation regarding the appellant's request pertaining to his jury service, an alleged use of the word "patriotic" is not a violation of the State Policy.

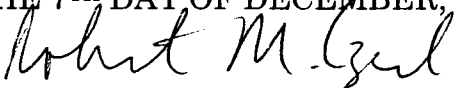
Accordingly, the Commission finds that the EED's investigation was thorough and impartial, and the record does not support a finding that there was a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

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 7TH DAY OF DECEMBER, 2016



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