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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of S. C-G, Department  
of Corrections

CSC Docket No. 2015-987

Discrimination Appeal

ISSUED: **AUG 24 2015** (CSM)

S. C-G, a Correction Sergeant with the Department of Corrections (DOC), appeals the attached determination of the Commissioner that the appellant did not present sufficient evidence 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).

The appellant, an African American female, filed a complaint with the DOC's Equal Employment Division (EED) alleging that she had been subjected to "disparate actions ... as a result of an investigation that violated my due process rights and civil liberties." Specifically, the appellant asserted that she was the only Correction Sergeant disciplined as a result of an incident that allegedly occurred prior to the date of a prison escape. The EED investigated the matter and determined that the appellant was one of 13 staff members who received disciplinary charges related to the inmate escape, including three Correction Lieutenants, eight Senior Correction Officers, and one Correction Officer Recruit. Additionally, the investigation found that males and females, as well as Caucasian, African American, and Hispanic staff members received disciplinary charges related to the same inmate escape. Therefore, the investigation was unable to substantiate the appellant's claims.

On appeal, the appellant states that she was interviewed by Correction Major B.R. on three separate occasions regarding the incident that occurred on July 3, 2014 and assigning B.R. to investigate the incident created a conflict of interest. The appellant claims that she was threatened by B.R. and reluctantly changed her statements to her so that she would not be unjustly pulled from her job assignment.

The appellant maintains that a prudent, impartial investigator should have been assigned to review the matter of the escape to ensure that the DOC would have a clear understanding of the events leading up to the July 3, 2014 incident. The appellant details her version of the events that led up to the escape and states that her request to transfer to another institution was denied.

In response, the EED states that its investigation did not find any evidence of race or gender disparity with regard to the disciplinary charges as males and females, as well as Caucasians, African-Americans, and Hispanic staff members received disciplinary charges as a result of the escape incident. Moreover, the investigation did not find any evidence to suggest that the Correction Major who conducted the administrative investigation into the escape did so in any improper manner. In this regard, the EED emphasizes that the appellant did not allege that the Major engaged in any discriminatory conduct. Rather, the appellant simply states that the Correction Major should not have conducted the investigation. In addition to that type of investigation being outside of the jurisdiction of the EED, the EED notes that is commonplace for a Correction Major to conduct an administrative investigation into a significant event such as an escape. Finally, the EED provides a copy of the disciplinary charges issued to the appellant as well as a chart that provides the breakdown of all custody staff who received discipline as a result of the inmate escape.

## 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. Further, *N.J.A.C.* 4A:7-3.1(c) provides that it is a violation of the State 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. 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 she was discriminated against based on her gender or race. Initially, *N.J.A.C.* 4A:7-3.2(m)1 requires that employees filing State Policy appeals which raise issues for which there is another specific appeal procedure utilize those procedures. Therefore, since the appellant was disciplined for alleged discriminatory reasons, she must pursue her appeal through the

disciplinary process.<sup>1</sup> Regardless, the investigation clearly determined that there was no evidence of race or gender disparity with regard to the disciplinary charges as males and females, as well as Caucasians, African-Americans, and Hispanic staff members received disciplinary charges as a result of the escape incident. Moreover, the EED does not have jurisdiction to review the conflict of interest in the administrative investigation since the appellant did not specify how the alleged conflict of interest implicated the State Policy.

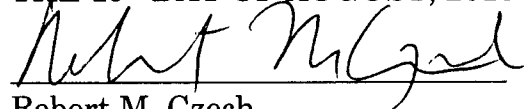
Accordingly, the Commission finds that the EED's investigation was thorough and impartial, and the record supports a finding that there was no violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

### 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 19<sup>th</sup> DAY OF AUGUST, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

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<sup>1</sup> The appellant appealed the 20 day suspension she received as a result of this incident and the matter is pending at the Office of Administrative Law.

Attachment

c: S. C-G..  
Victoria Kuhn, Esq.  
Mamta Patel  
Joseph Gambino



State of New Jersey  
DEPARTMENT OF CORRECTIONS  
WHITTLESEY ROAD  
PO BOX 863  
TRENTON NJ 08625-0863

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

GARY M. LANIGAN  
Commissioner

September 8, 2014

St. [REDACTED] Carter-Green  
[Mailed to Home Address]

Dear Ms. Carter-Green:

Please be advised that the Department of Corrections Equal Employment Division (EED) has completed its review of your Special Report wherein you alleged that you have been subjected to "disparate actions...as a result of an investigation that violated my due process rights and civil liberties." The Department of Corrections will not tolerate retaliatory conduct, or behavior that constitutes discrimination and/or harassment. As a result, an EED investigation was opened.

During your investigation interview with the EED investigator, you provided that, "I have pending disciplinary charges. Twenty days suspension is still pending. I have not received the discovery...On August 14, 2014, I was disparately treated when I was the only Sergeant disciplined and served a twenty day suspension for incidents that allegedly occurred prior to the date of the escape. I was not advised of the dates of these alleged incidents by Custody Administration." By way of background, the EED investigator determined that you were referencing disciplinary charges that stem from an investigation into an inmate escape from Southern State Correctional Facility (SSCF). The EED investigator further reviewed the escape investigation report, spoke with staff members at SSCF, and determined that you were one of thirteen (13) SSCF staff members who received disciplinary charges as related to the inmate escape, including three (3) Lieutenants, eight (8) officers and one (1) corrections officer recruit. In addition, there was no evidence to indicate any race or gender disparity with regard to the disciplinary charges. Rather, both males and females received disciplinary charges and white, black and Hispanic staff members received disciplinary charges for issues related to the same inmate escape incident.

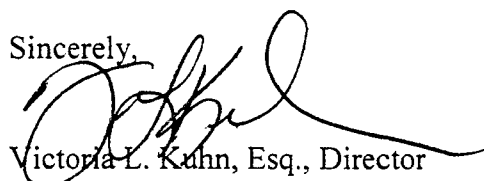
Based on the foregoing, the investigation did not substantiate a violation of the *Policy Prohibiting Discrimination in the Workplace*. More specifically, the investigation did not find evidence to support the allegations that you have been singled out for

disparate treatment due to receiving disciplinary charges as related to the inmate escape incident.

If you wish to appeal this determination, you must submit a written appeal to the New Jersey Civil Service Commission, Division of Merit System Practices & Labor Relations, Written Record Appeals Unit, P.O. Box 312, Trenton, New Jersey 08625-0312, postmarked or delivered within twenty (20) days of your receipt of this determination. The burden of proof is on the Appellant. Your appeal must include a copy of this determination, the reason for the appeal and the specific relief requested. Please be advised that pursuant to P.L. 2010, c. 26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

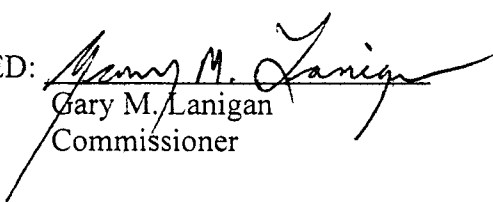
At this time, the EED also reminds you that the *Policy Prohibiting Discrimination in the Workplace* prohibits retaliation against any employee who files a discrimination complaint or participates in a complaint investigation or opposes a discriminatory practice. Furthermore, this matter remains confidential and the results of the investigation must not be discussed with others.

Sincerely,



Victoria L. Kuhn, Esq., Director  
Equal Employment Division

APPROVED:



Gary M. Lanigan  
Commissioner

c: Ronald Riggins, Associate Administrator (ASL), SSCF