



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of E.L., Department of  
Human Services

Discrimination Appeal

CSC Docket No. 2020-1865

ISSUED: FEBRUARY 9, 2021  
(SLD)

E.L., a Training and Staff Development Officer, Department of Human Services (DHS), appeals the determination of the Assistant Commissioner, DHS, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, a Hispanic male, filed a complaint with the Office of Equal Employment Opportunity and Affirmative Action (EEO/AA), alleging that four senior management employees had colluded and discriminated against him based on his race and ethnicity in violation of the State Policy. Specifically, the appellant alleged that Respondent One, a Caucasian male; Respondent Two, a Caucasian female; Respondent Three, a Caucasian female; and Respondent Four, a Caucasian female, all colluded to reassign the appellant to Vineland Developmental Center (Vineland) in August 2018, based upon a pretextual EEO complaint that he claimed he was never notified about in writing and which was never investigated. The appellant also claimed that after his reassignment his office was “ransacked” and personal items including, folders, certificates, training materials, a Certified Public Manager (CPM) binder and “years” of other materials were “destroyed.”

Additionally, the appellant complained that Respondent Three treated Caucasian employees assigned to the Central Office differently than other employees; and that although Respondent Three notified employees of a Caucasian’s relative’s passing, she failed to do the same upon the death of an African-American employee. The appellant also complained that DHS had “historically been top-heavy White,”

and that five minority employees were moved from the Central Office to another location, all within a short period of time. The appellant claimed that it was a “racial cleansing of Central Office” and left a Caucasian female to supervise an “all-White Leave Unit.” The appellant also asserted that the Workforce Training and Development Unit was known as the “Minority Unit” or “M-Unit.” Finally, the appellant alleged that the amount and type of work assigned to him, and the destruction of his property was a form of retaliation.

Initially, it is noted that because the appellant’s complaint indicated that there was a possible conflict of interest, the matter was referred to this Agency’s EEO/AA, which interviewed individuals and reviewed relevant documentation. The investigation determined that there was no probable cause to substantiate a violation of the State Policy on the basis of the appellant’s race or ethnicity. Specifically, the EEO/AA noted that a complaint had been filed against the appellant in August 2018 alleging discrimination on the basis of sex and that the complainant felt intimidated by the appellant’s comments and demeanor. As a result of the complaint and due to a perceived operational need, Respondent Two reassigned the appellant to Vineland. However, the EEO/AA noted that due to several mistakes, the complaint was forwarded to DHS’ Human Resources (HR) to investigate rather than to the EEO/AA. It further noted that since the complaint was not forwarded to the EEO/AA, Respondent One was unaware of the complaint and was not involved in the appellant’s reassignment. Moreover, the EEO/AA noted that the investigation confirmed that Respondent Three had spoken with the appellant regarding his interest in a reassignment in 2017 and August 2018. However, despite the appellant’s assertions to the contrary, the record revealed that the training unit at Vineland was being expanded, and it had requested that he remain. As a result, it was determined that notwithstanding the failure to properly process the complaint filed against him, the appellant’s reassignment to Vineland was supported by both an operational need and a reasonable business judgement. Moreover, the investigation did not find any evidence that his reassignment was based on any discriminatory or retaliatory animus.<sup>1</sup>

With regard to the appellant’s claim that his office was “ransacked” and his belongings destroyed, the investigation revealed that the appellant’s office space was needed for operational reasons and that his personal items were boxed and stored for him. The investigation noted that some work-related materials, which were State property, were destroyed. Specifically, it noted that old outdated training materials and old VHS format training tapes were disposed of.

Additionally, it was noted that although minority employees who were interviewed had heard that Respondent Three mistreated some employees, none of the witness stated that they personally had experienced discrimination. Moreover,

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<sup>1</sup> However, it was noted that appropriate corrective action would be taken regarding the failure to forward to the complaint to the EEO/AA.

the investigation did not find any evidence which established that Caucasian employees were treated more favorably or that official emails were used in a discriminatory manner. The EEO/AA also noted that although an African-American employee “jokingly” referred to the training unit, which consisted of five minority employees as the “M-Unit” or “minority unit,” the witness could not say that employees were moved on the basis of their race. Further, it was noted that personnel records revealed that four Caucasian employees were also reassigned from the Central Office to other locations due to operational needs between August 2018 and April 2019. Also, despite the appellant’s claims of an “ethnic cleansing” at the Central Office, as of September 2019, there were 17 minority employees and 15 Caucasian employees at the Central Office. Furthermore, it noted that out of all 645 employees assigned to the Central Office in August 2018, 404 (62.6%) were Caucasian; 154 (23.9%) were African-American; 42 (6.5%) were Asian; 41 (6.4%) were Hispanic; and four (approximately 0.6%) were American Indian or Alaska Native. In May 2019, there were 667 employees assigned to the Central Office, 415 (62.2%) were Caucasian; 158 (23.7%) were African-American; 45 (6.7%) were Asian; 44 (6.6%) were Hispanic; and five (approximately 0.7%) were American Indian or Alaska Native. The investigation also revealed that due to the decrease in training activities at the Central Office, an African-American employee indicated that he thought he was underused prior to his reassignment. Therefore, based on the foregoing, the EEO/AA determined that the appellant had not substantiated that he had been subject to discrimination or retaliation.

On appeal, the appellant reiterates that he was subjected to discrimination and retaliation by officials “who turn a blind eye” to the truth and who “protect unprincipled individuals” and he demands that they be forced to vacate the offices they hold. Additionally, the appellant asserts that the determination letter was:

. . . full of partial truths, misleading statements, incomplete quotes, bias assumptions taken a [sic] face value and unverified statements which were taken as facts, which were than used as the bases [sic] to find against [him].

He maintains that the determination is full of “deceit and lies” which is completely one-sided and “shameful.” The appellant contends that by not finding discrimination, with regard to his complaint is further evidence of a cover-up. The appellant also asserts that the investigation report does not “read” like a *bona-fide* investigation nor does it appear that it was completed by a “serious and experienced investigator.” In this regard, the appellant argues that it is obvious that the investigator only saw and heard what was beneficial to DHS as evidenced by his determination that the appellant’s work assignments were not retaliatory; and the fact that the determination letter merely reported what Respondent Two, Respondent Three Respondent Four and Respondent One said with no attempts to confirm their statements. The appellant contends that the investigator in this matter was either

“contributing to the new narrative” or the investigator was “gullible and inept” and thus, his appeal should be upheld.

Additionally, the appellant disputes that there was an actual complaint filed against him. In this regard, the appellant asserts that he was never informed as to who filed an EEO complaint against him, or what the allegations were, nor was he interviewed regarding the matter. Rather, he maintains that Respondent One, Respondent Two, Respondent Three and Respondent Four, colluded to have him permanently reassigned to a different location and used this “complaint” as the basis for his “immediate removal.” In this regard, the appellant argues that the EEO/AA noted that the DHS’ HR failed to forward the complaint to EEO/AA and that this failure was proof that Respondent Two and Respondent Four “agreed to deceive and hide the truth of their actions.” Furthermore, the appellant argues that the “investigator” in HR was not an “investigator” as his title was Guardian Services Specialist 2 and that although he never met the “investigator,” that due to the “investigator’s” association with Respondent Four there was “no doubt in [the appellant’s] mind that . . . [the individual] is white.” due to his association with Respondent Four as under Respondent Four’s direction 13 people of color were moved out of the Central Office.

The appellant also demands that he be provided with the name of the female employee who filed the complaint so that he can defend himself. The appellant argues that by using the phrase “discrimination based on sex” the EEO/AA was being deceitful, dishonest and misleading, and that the whole statement was only to give the impression that there was a violation. Moreover, the appellant maintains that he has trained thousands of employees, and none of those individuals would ever say they heard him use demeaning, discriminatory or foul language, or that they had heard him yell or scream. The appellant also claims that the statement in the determination letter that the complainant withdrew the complaint since he “no longer posed a threat” was the “most defamatory, slanderous, and libel declaration made” in the determination letter. He argues that he was “treated like a criminal” when the appointing authority “removed” him without “just cause.” The appellant also claims that it does not make sense that Vineland wished for him to stay when he was supposedly sent there because he was a “threat.” Moreover, he claims that “management” at Vineland told him that they did not request that he stay and therefore, it is clear that the investigator never verified what he was told.

Moreover, the appellant disputes that he filed a discrimination complaint on the basis of his national origin in February 2019 and argues that this assertion by Respondent One forms the basis of the appellant’s complaint against him. The appellant maintains that he told Respondent One he had not filed a complaint, that such a claim “bordered on harassment” and he requested that he not be contacted regarding the matter. The appellant also disputes that that determination letter establishes that Respondent One did not have anything to do with his reassignment.

In this regard, he reiterates that no proof was presented that the initial complaint against him even existed.

The appellant argues that Respondent Two only reported the “sham” complaint he supposedly made<sup>2</sup> because she was angry that he showed up at the Central Office. The appellant explains that he repeatedly questioned Respondent Two regarding the complaint against him but that she gave conflicting answers. The appellant maintains that he told Respondent Two that she and Respondent Four “lied straight to [his] face to have [him] removed” and that there “never was an EEO complaint filed against” him. The appellant argues that the complaint against him, and the “bogus” complaint that he supposedly made, which Respondent Two reported, were merely made to “cover-up” their actions. The appellant notes that there was a witness to his conversation with Respondent Two, who the appellant told “to be careful since he too was a Puerto Rican and could be targeted” like the appellant was. Finally, the appellant notes that Respondent Two had him escorted from the office by the Human Services Police.

With regard to his allegations concerning Respondent Three, the appellant maintains that the EEO failed to interview any minority employees in the OWDT which is clear evidence that the investigator was “unable or unwilling to obtain accurate background information that would reveal” Respondent Three’s “dislike and limited interaction” with minority staff members. The appellant maintains that the first three employees that Respondent Three hired were Caucasian, and that she became angered when a Caucasian male decided to not accept a position. The appellant also maintains that in 2017 Respondent Three hired a Hispanic female who she then fired on Christmas eve, and she hired an African-American female whose “contract” she did not renew. The appellant also complains that Respondent Three assigned filing and scanning duties to himself and another minority employee (duties that were historically assigned to clerical staff) and that Respondent Three became angry and defensive when she was unable to provide them with “meaningful” projects. The appellant contends that it was clear that Respondent Three had no prior training experience and only three years or less of supervisory experience, but yet she would not accept any suggestions or recommendations from him. The appellant maintains that Respondent Three treated minority employees horribly, including an African-American female she would belittle and whom the investigator in this matter refused to interview. The appellant claims that Respondent Three’s attempts to get him out of the unit date back to 2017, when she offered him the opportunity to move to a new location. The appellant argues that although Respondent Three claimed it was because he was the most senior employee, he does not believe she offered the position and/or notified the next two senior employees. The appellant claims that Respondent Three also became “fixated” on when the training coordinator at Vineland would retire and repeatedly asked him about it. The

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<sup>2</sup> The appellant claims that the “complaint” that was referred to Respondent One was because he wore a pin that said: “Discrimination of Hispanic Staff exists.”

appellant asserts that it was obvious that Respondent Three saw that retirement as a way to get him out of the Central Office. He notes that it was only eight days after the individual's retirement that he was "removed" from his position and reassigned to Vineland. He maintains that it was obvious that the temporary reassignment was to be permanent from the start since Respondent Three told another employee to take the appellant's name off the email list for the Central Office birthdays because he "would not be returning to central office [sic] anymore."

Additionally, the appellant maintains that despite what is indicated in the determination letter, the Training Unit actually grew and continued to report to Respondent Three, just not at the Central Office. He notes that the Training Unit was moved to a new location with "an entire[ly] new composition," except for one African-American male employee who had been in the unit while at the Central Office. The appellant maintains that none of the new employees had any training background, they were all minority employees, and were handpicked by Respondent Four and Respondent Three, and was therefore referred to as the "M-Team." The appellant argues that their actions clearly evidence that race played a part in the move of the unit as Respondent Three, Respondent Four and Respondent Two have repeatedly demonstrated their "discriminatory biases by separating employees by the color of their [skin], intentional or not." The appellant maintains that there was "no doubt" that the creation of an all minority unit and the movement of that unit out of the Central Office was an intentional and well executed move to remove 13 minority employees from the Central Office. The appellant asserts the EEO failed to interview any individuals "who were victims of [Respondent Three] and failed to interview those who had first-hand knowledge" of the discrimination that occurred within the Training Office. The appellant also maintains that a Caucasian friend of Respondent Three was brought into the Training Office, but was not moved out of the Central Office when the unit was moved because she was not a minority and was a personal friend of Respondent Three, and was therefore "protected." The appellant maintains that this is just more evidence of the discriminatory treatment Respondent Four and Respondent Three engaged in against minority employees and that any "reasonable person" would agree that these examples were suspicious. The appellant also maintains that it has been a common practice within the DHS to promote Caucasian employees faster and to higher positions than minority employees. The appellant maintains that if the EEO had conducted a fair and impartial investigation then it would have easily found the same "compelling information" and by failing to find discrimination substantiates that the investigation was not complete or thorough. The appellant claims that even a cursory investigation would have revealed evidence of "White Privilege" and favoritism, as well as other employees who were afraid of retaliation.

The appellant argues that he has repeatedly reported the "corrupt administrators" at DHS, including Respondent Two, Respondent Four, Respondent Three and Respondent One, but his complaints and requests for investigations to a

number of “Government [sic] top officials” have been ignored, and a “blind eye” has allowed those individuals to destroy DHS and harm employees based on the “color of the employees’ skin.” The appellant reiterates that there has been a “racial cleansing of the Central Office” and that Respondent Three’s discriminatory behavior and actions have destroyed the training unit. Moreover, he argues that Respondent Three has provided “no meaningful service,” has no knowledge of what the department, divisions, psychiatric hospitals of developmental centers were doing and has taken credit for others’ work. The appellant asserts that these are the reasons that Respondent Three wanted him out of the Central Office.

With regard to his belongings being destroyed, the appellant argues that he was never told that they would be destroyed, nor was he told to come remove the items. Moreover, he maintains that he was never told that his office in Central Office was given to another employee in October 2018, who he claims was forced to destroy the appellant’s items. The appellant maintains that he was only told to pick up his items in February 2019, when he was told that his reassignment was being made permanent. He argues that the fact they only told him to pick-up his items after he questioned who was in his office, clearly substantiates his claims that Respondent Two, Respondent Three, Respondent Four and Respondent One’s actions were “malicious and intentional.” In this regard, he notes that one of the items destroyed was his CPM certificate and manual that he paid over \$500 for and which he cannot replace.

With regard to the appellant’s claim that DHS is “top heavy white” and has engaged in “racial cleansing,” he maintains that the determination letter supports his claims, as it notes that approximately 62% of the employees in the Central Office are Caucasian yet only 6.1% were Hispanic. Moreover, he maintains that Respondent Four, Respondent Three, Respondent Two and others purposely promoted Caucasian employees while denying minority employees promotions. Moreover, he maintains that they also disciplined minority employees in a disproportionate fashion and coerced them to “give up” their titles or face suspensions. The appellant claims that Respondent Four, Respondent Three and Respondent Two’s actions were nothing more than “thuggery.” The appellant also argues that he had requested that, the former Director of EEO/AA, recuse herself from this matter as he knew that he “was not going to get a fair investigation.”<sup>3</sup>

Finally, as a remedy, the appellant demands that “equitable corrective action” be taken and certain findings be made. Specially, that all of the named individuals be found to have violated the State Policy and made false accusations against him, and that his discrimination complaint be upheld. Additionally, that the named individuals immediately surrender their positions and be demoted to their last

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<sup>3</sup> In response to EEO/AA’s submission, the appellant reiterates his arguments. Additionally, he makes several personal attacks against the former Director of EEO/AA, which will not be listed nor addressed in this matter.

permeant title and barred from serving in their current positions. The appellant also demands that certain minority employees receive appointments<sup>4</sup> and/or be reinstated to previously held positions with backpay.

In response, the EEO/AA reiterates that the investigation did not substantiate a violation of the State Policy. Initially, the EEO/AA noted that in 2019, the appellant filed a complaint with the Division of Equal Employment Opportunity/Affirmative Action, Department of Human Services (DHS EEO/AA). Subsequently, the DHS EEO/AA was notified that the appellant also filed complaints with the New Jersey Division on Civil Rights (DCR) and the United States Equal Employment Opportunity Commission (EEOC). However, due to a conflict of interest, these complaints were referred to this Agency's EEO/AA for investigation. See *N.J.A.C. 4A:7-3.2(e)*. As a result, the EEO/AA conducted an investigation but determined that there was not sufficient evidence to substantiate a violation of the State Policy.

The EEO/AA maintains that it conducted a thorough and impartial investigation of the appellant's allegation that he had been the subject of discrimination based on race and that the four directors, Respondent One, Respondent Two, Respondent Three, and Respondent Four, had colluded against him by reassigning him based on the pretext of a false EEO complaint. The EEO/AA notes that its investigation included interviews of the appellant's and other witnesses, and an analysis of relevant documents. However, it determined there was no evidence of discrimination against the appellant, nor of collusion resulting in his reassignment based on a false complaint.

The EEO/AA argues that the appellant has failed to support his burden of proof as required by *N.J.A.C. 4A:7-3.2(m)4*. It notes that instead, the appellant merely argues that the determination letter was "full of partial truths, misleading statements, incomplete quotes, bias assumption . . . and unverified statements taken as fact." With regard to the appellant's assertion that there was never an EEO complaint filed against him, The EEO/AA notes that a DHS employee made a complaint against the appellant via an email to Respondent Four, dated August 3, 2018, in which the employee alluded to a hostile work environment and intimidation. The EEO/AA notes that although Respondent Four characterized the complaint as "EEO-related," instead of forwarding the complaint to the DHS' EEO Officer, it was instead forwarded to an individual in DHS' HR who performed investigation into the alleged misconduct. Moreover, although the employee was instructed to forward any EEO-related complaints to Respondent One, the DHS' EEO Officer, the employee's

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<sup>4</sup> One of the individuals that the appellant demands to be hired was B.T., whose name appeared on an open-competitive eligible list. However, a review of agency records reveals that B.T.'s name was not listed on any of the seven certifications that were issued from the subject eligible list, whether due to her non-interest in the location of the position or because she was not reachable based on the number of eligibles certified.

employment was discontinued before the complaint was forwarded. In the interim, the complainant withdrew the complaint as the appellant was reassigned, and no longer posed a “threat.” The EEO/AA notes that the need to protect confidentiality outweighed any benefit the appellant could derive from the disclosure. Further, the investigation revealed that despite the appellant’s assertions concerning Respondent One, Respondent One never received the complaint and thus was not involved with the appellant’s reassignment to Vineland.

With regard to the appellant’s allegation that he was “disciplined as a ‘perpetrator’ and treated as a ‘violatee’ and a ‘criminal,’ ” the EEO/AA notes that there is nothing in the record that suggests that he was labeled or treated as a criminal or that he was disciplined in any way. Rather, the EEO/AA notes that it recognizes management’s discretion to mitigate any potential harm in the case of a *bona fide* complaint. In this matter, the investigation established that a credible complaint was filed on August 3, 2018, and that Respondent Four and Respondent Two took action to mitigate a potentially hostile work environment and/or further intimidation by reassigning the appellant to Vineland. The EEO/AA also disputes that the DHS labeled him “a threat.” Rather, the investigation revealed that the only mention of “threat” was in a letter dated September 23, 2018, in which the complainant stated she was withdrawing the complaint because the appellant had been reassigned and “did not pose a current threat.” There was no evidence that the letter was disseminated to anyone outside of DHS’ HR, or that anyone else at DHS referred to the appellant as a “threat.” Moreover, the EEO/AA maintains that any “image” that allegedly was created was a result of the appellant’s own discussions of the matter with others.

With regard to the appellant’s allegation that he was “removed” on August 20, 2018, without just cause, the EEO/AA notes that the Respondent Four and Respondent Two exercised their duty to maintain a work environment free from any prohibited discrimination and/or harassment and to take employee complaints that allege the same seriously. The EEO/AA notes that although the complaint should have been directly referred to Respondent One, the EEO Officer, the complaint was referred to an investigator within DHS’ HR with the reasonable expectation that the matter would be investigated or that it would be referred to the EEO Officer if appropriate. Respondent Four and Respondent Two’s actions to mitigate the workplace issues detailed in the complaint were prudent and within their discretion to immediately address, regardless of the subsequent procedural errors.

Moreover, the EEO/AA’s disputes the appellant’s allegation that the characterization of the complaint against him in the determination letter of “discrimination based on sex,” was intended to preliminarily categorize the nature of the complaint, while maintaining confidentiality. Further, that characterization was not used as a device to label or punish the appellant. Furthermore, the investigation found no evidence that the appellant’s professional reputation suffered

as a result of the August 3, 2018 complaint or his resulting reassignment to Vineland. In this regard, the EEO/AA notes that the appellant states on appeal that Vineland management insists that it was never provided any reason for his reassignment, just that he was to report to Vineland. As such, the EEO/AA maintains that his reassignment was not intended to damage his reputation or harm him professionally. The EEO/AA also maintains that, despite the appellant's disagreement that there was a need for his services at Vineland, the record evidences that the Chief Executive Officer of Vineland requested to keep the appellant at Vineland.

The EEO/AA also disputes the appellant's allegations that there was a "racial cleansing" of DHS' HR by Respondent Four; that Respondent Four removed 13 people of color from DHS' HR between April 2018 and April 2019; and that there was "no doubt in [his] mind" that, due to the association with Respondent Four, the investigator who was originally assigned to investigate the complaint against him was Caucasian. Specifically, the EEO/AA restates the numbers and percentages of employees by race at DHS in August 2018 and May 2019. The EEO/AA notes that in terms of percentages, there was a slight net reduction in both African-American and Caucasian employees and a slight increase in each of the remaining minority categories. The EEO/AA asserts that it is common for a certain level of turnover in State agencies, but there was no evidence that Respondent Four or anyone else orchestrated an effort to remove minorities and replace them exclusively with Caucasian employees.

The EEO/AA notes that the appellant also makes several new allegations on appeal concerning, including: the complainant was not named; he never filed a complaint; a complaint cannot be withdrawn; Respondent Three constantly belittled, threatened and humiliated D.F., an African-American female former employee, bringing D.F. to tears; his future promotions will be impeded by the allegations/investigation; and he was not allowed to retrieve his belongings. In response, the EEO/AA reiterates that the August 3, 2018 complainant was not named to preserve confidentiality, and such disclosure would provide no benefit to the appellant and would be harmful to the complainant and the EEO complaint process. With regard to the appellant's assertion that he never filed a complaint, the EEO/AA notes that Respondent One's February 2019 letter was generated as a result of the appellant wearing a pin that stated, "Does Discrimination of Hispanic Staff exist" when he retrieved his belongings. This incident was properly referred to the EEO by Respondent Two, who, as a supervisor, is required under the State Policy to immediately refer any allegations of prohibited discrimination to that agency's EEO Officer. The EEO/AA maintains that even if the appellant did not intend to file a complaint by displaying the pin, he did file a charge with the EEOC and a complaint with the DCR, which also contributed to the administrative investigation being conducted. The EEO/AA asserts that in this matter, since it was not made aware of the August 2018 complaint until April 2019, and the complainant had already

indicated she did not wish to continue, and the appellant had already been reassigned, it determined that in its discretion there was no need to investigate the matter. In this regard, the EEO/AA asserts that even if the allegation in the original complaint was not substantiated, there was no opportunity for the appellant to return to the DHS' HR as the unit he was part of had been disbanded. The EEO/AA also notes that although the appellant tried to withdraw the complaint that was reported by Respondent Two, it was determined that as the appellant was alleging a present sense of discrimination, it was appropriate to investigate the matter. The EEO/AA notes that with regard to D.F., it has no record of a complaint against Respondent Three regarding these allegations. Moreover, it notes that during the investigation, two witnesses stated that they heard complaints by the appellant and others regarding Respondent Three, but neither experienced any discriminatory treatment. With regard to the appellant's concerns about future promotions, the EEO/AA notes that there is no official record of any violation or discipline against the appellant as a result of the August 2018 complaint. Moreover, it reiterates that his reassignment to Vineland was not disciplinary but was intended to mitigate a potential hostile work environment, and that the reassignment became permanent due to operational needs. Therefore, the EEO/AA found no evidence indicating any impediments to future job prospects related to this matter. Finally, the EEO/AA notes that the record does not evidence that the appellant attempted to retrieve any belongings prior to February 19, 2019, when he was shown to his personal belongings which had been packed and stored due to his previous workspace being no longer used.

## CONCLUSION

Initially, *N.J.A.C.* 4A:7-3.1(a)3 provides that it is a violation of the State Policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories: 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(a)3 further provides that the policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development. *N.J.A.C.* 4A:7-3.1(h) states, in pertinent part, retaliation against any employee who alleges that she or he was the victim of discrimination/harassment is prohibited by this policy. No employee bringing a complaint shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation. Finally, *N.J.A.C.* 4A:7-3.2(m)4 provides that the burden of proof in State Policy appeals lies with the appellant.

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that an adequate investigation was conducted, and that the investigation failed to establish that the appellant was discriminated against in violation of the State Policy. The EEO/AA appropriately analyzed the available documents in investigating the appellant's complaints and concluded that there was no violation of the State Policy. The appellant argues that the EEO/AA's investigation was not sufficient since it failed to interview all relevant witnesses or to challenge the testimony provided by the respondents. However, other than restating his allegations, the appellant has failed to establish what relevant information those witnesses would provide concerning the appellant's allegations regarding the complaint against the appellant, his reassignment and the boxing of the items in his office. Moreover, the appellant has failed to present any evidence that would establish that the EEO/AA's determination was incorrect. In this regard, the appellant argues that Respondent Three, Respondent Two, Respondent Four and Respondent One conspired to remove him and other minorities from the Central Office. However, despite the appellant's many allegations he has provided no substantive evidence that Respondent Three, Respondent Two, Respondent Four or Respondent One's actions were due to the appellant's race or in retaliation for previously filed discrimination complaints. In this regard, although the EEO/AA acknowledges that the EEO complaint filed against the appellant was not properly forwarded to it, the investigation did not reveal that it was due to the appellant's race. The EEO/AA noted that the investigation revealed that a complaint had been filed, and it was within the authority of the appointing authority to separate complainants and respondents as a result of an EEO complaint. Moreover, the investigation revealed that due to a decrease in work in the Training Unit at the Central Office, which the appellant admits was occurring prior to his reassignment, and an increase in training work at Vineland, the appellant's reassignment to Vineland was appropriate. Further, the investigation revealed that despite the appellant assertions to the contrary, neither Respondent One nor Respondent Three were aware of the complaint filed against the appellant.

Moreover, the EEO/AA considered the appellant's allegations and determined that the number of minority employees assigned to Central Office had slightly increased, and there was no evidence that there had been an "ethnic cleansing." Further, although the appellant claims that certain minority employees were improperly removed, or not hired, the record establishes that B.T., one of the individuals the appellant claims was improperly removed/not hired, was not certified to any location as she was not reachable for appointment to any of the locations that were certified.

Finally, the Commission does not find the remainder of the appellant's arguments persuasive as most are just generalized allegations of widespread bias or discrimination against Hispanics or other minorities by DHS, which are not substantiated by the evidence in the record. Accordingly, the investigation was

thorough and impartial, and 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 3<sup>RD</sup> DAY OF FEBRUARY, 2021

*Dolores Gorczyca*

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