



STATE OF NEW JERSEY

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

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

CSC Docket No. 2023-933

Discrimination Appeal

ISSUED: June 12, 2024 (SLK)

L.P., a Sergeant with the Division of State Police (State Police), Department of Law and Safety, appeals the determination of the Director, Office of Equal Employment Opportunity (EEO), which was unable to substantiate that he was subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, L.P., a Hispanic male, made various allegations against R.P., a former Sergeant First Class,¹ who is a Caucasian male, that R.P. subjected him and others to violations of the State Policy.² However, the investigation was unable to substantiate any of the allegations against R.P. Further, in *In the Matter of L.P.* (CSC, decided October 12, 2022), the Civil Service Commission (Commission) denied L.P.’s appeal in that regard.

Additionally, L.P. filed a subsequent allegation that a co-worker called him “lazy.” The EEO did not open a formal investigation as it concluded that the allegation did not implicate the State Policy. However, it noted that it would take appropriate corrective action. L.P. did not appeal this determination. L.P. also alleged that V.G., a former Captain,³ who is a Caucasian male, H.W.-S, a Caucasian

¹ R.P. retired from State service effective July 31, 2022.

² L.P. also presents allegations against O.D., a Hispanic and Caucasian male Sergeant. One of those allegations was substantiated, and the other matter was forwarded for corrective action.

³ V.G. retired from State service effective October 31, 2021.

female Lieutenant, and D.C., a Caucasian female Senior Public Safety Telecommunicator, First Responder, retaliated against L.P. for filing complaints with the EEO and reporting possible EEO violations to R.P. As part of his retaliation claim, L.P. made various allegations. Further, L.P. alleged that R.P. mocked an Asian accent on the phone when speaking with a Sergeant, and the EEO indicated that it would take appropriate corrective action to address this State Policy violation. However, the EEO determined that the other allegations did not implicate the State Policy because there was not a sufficient causal nexus between L.P. reporting matters and the unfavorable events that he described. Accordingly, it did not open a formal investigation regarding the other allegations. Thereafter, the appellant filed an appeal with the Commission.

It is noted that although L.P. made numerous allegations on appeal, many of which the EEO indicates were not part of his initial complaint, in L.P.'s final submission on appeal, he indicates that his is only looking to confirm two issues which he states that the EEO avoided. Specifically, L.P. requests a determination as to whether a "525," a disciplinary Reportable Incident Form, that was issued against him in the summer of 2020, is deemed retaliation in violation of the State Policy. L.P. also requests to know if the EEO had any involvement in having V.G. "forced out" from the State Police. Accordingly, the decision in this matter shall only address these issues.

Specifically, on appeal, L.P. indicates that the majority of the first 525 that was issued against him was filled with content that H.W.-S. provided, which included a theft of time charge regarding a training class for a body worn camera (BWC), a radio request follow-up, and other items presented to the EEO. Referring to the BWC training class, he states that he emailed H.W.-S. requesting to take four hours, which was the time allotted for this class. He states that he provided three different copies of the training order to the EEO. L.P. presents that when he was questioned by H.W.-S. about the class, he provided her a training order for the class and the class specifics. Then, H.W.-S. denied the four hours and advised the Training Bureau that this class does not exist. When he was interviewed by the Office of Professional Standards (OPS) concerning the accusation that he tried to take time for a non-approved State Police class, he emailed H.W.-S. which was provided to the EEO. He claims that this email would exonerate him, but he is not allowed to review internal documentation associated with this issue. Concerning the radio incident, L.P. states that he followed up a radio request that he made many months ago, and he advised H.W.-S. about it. However, this incident led to a charge that he did not follow the chain of command although he asserts that this incident has nothing to do with chain of command and is a fabricated issue. L.P. claims that H.W.-S. is attempting to create a false pattern against him. He believes that the pattern is an attempt to obtain progressive discipline against him.

In response, the appointing authority, represented by Shaun Boparai, Deputy Attorney General, states, regarding the subject 525 that was filed against L.P. by

Lieutenant C.C., a Caucasian male, in the summer of 2020, L.P. explained that the matter originated with H.W-S. when she notified her chain of command that L.P. changed his scheduled "Well Trooper" day to a holiday without requesting the change through the proper chain of command. Further, it was alleged that L.P. did not follow the chain of command when having timesheets approved in 2019. L.P. believed R.P. found the possible timesheet/chain of command violation and notified V.G. about it. L.P. stated that he was informed by an OPS Sergeant that V.G. told C.C. to file the 525. L.P. asserted that V.G. had C.C. file the 525 against him instead of himself so that V.G. could continue to retaliate against him but make it appear that the adverse action was coming from others to make it more difficult to prove that he was retaliating. L.P. also noted that he discovered that he was considered "detached" from the Expungement Unit in February 2021, which led him to submit a request that he be deemed "transferred" because that was a more desirable designation. However, in March 2021, L.P. was notified that a 525 was filed against him based on an investigation that commenced in June 2020. L.P. believed that the 525 was filed on a delayed basis to prevent him from receiving the more preferential status of being "transferred" instead of "detached," because a "detached" employee was considered as someone with "baggage."

Moreover, the appointing authority provides that L.P. presented an issue concerning him attending BWC training in June 2020. He stated that he submitted his timesheets on June 25th, but H.W.-S. waited until July 24th to enter notes that the training course was not approved. The appointing authority indicates that it was unclear if it was determined whether L.P. was found to have committed an infraction or just a mistake. Additionally, L.P. alleged that in September 2020, H.W-S. told him that she would be inspecting his vehicle so that he could log two hours for vehicle preparation on his timesheet. Five days later, after she inspected his vehicle, H.W-S. advised L.P. that he could only take one hour, and then subsequently changed her mind stating that he could not take any time. Thereafter, a 525 was filled out against him where one of the charges involved improper use of vehicle maintenance time from a previous incident. L.P. believed that someone who was familiar with the disciplinary issues, V.G., R.P., or C.C., contacted H.W.-S. and told her not to approve any vehicle maintenance time for him, because if it was approved and entered in his timesheet, it would be harder for him to be found guilty of theft of time. However, the appointing authority indicates that the EEO did not investigate the foregoing allegations that the 525 had been issued against L.P. due to retaliation for a prior EEO complaint because, other than conjecture, L.P. offered no evidence.

In reply, L.P. indicates that an internal complaint was filed by R.P. against him in June 2022 regarding overtime. He states that not only was he interviewed about the complaint, but his timesheet was audited to confirm his answers. L.P. asserts that during his interview, he learned that before R.P. was separated from employment, he issued multiple 525s against individuals and engaged in more retaliation. L.P. claims that C.C. advised that he was ordered to issue 525s against

him, but the EEO excluded this. He contends that there is an audio recorded statement by an OPS investigator to support this assertion. L.P. highlights that retaliation for filing a State Policy complaint is a violation of the State Policy. Therefore, he questions why the EEO did not include this statement in its determination. Further, L.P. contends that C.C.'s response that "it looks good," referring to the 525 against him, is a lie. L.P. argues that the subject 525 is textbook retaliation and fabrication. He requests that the Commission compel the EEO to provide a thorough investigation concerning all parties involved in the subject 525.

Concerning V.G., L.P. presents J.K., a Caucasian female who is a former Public Safety Telecommunicator who resigned in good standing, effective February 12, 2021, and R.M., a Caucasian female who is a former Public Safety Telecommunicator, who resigned effective May 7, 2021, were "forced out by termination or resignation" after receiving harsh rebuking for minor infractions. L.P. indicates that he advised the EEO about this since they were most likely witnesses to R.P.'s sexually victimizing behavior and possibly being sexually victimized by him. Shortly thereafter, V.G. was transitioned out or "kicked out" of the Communications Bureau, and then he abruptly retired with 25 years and 11 months of service. L.P. states that there were multiple individuals who were forced to retire in lieu of discipline. L.P. asserts that this a common practice by the EEO, where employees resign before there is a negative determination against them, and then a cover story is made up, which is what he claims is what happened with V.G. He requests that the Commission compel the EEO to explain the actual outcome against V.G.

Additionally, L.P. states that R.P.'s sexual harassing behavior was out in the open where there were many witnesses. Further, he reiterates that there is an audio recording where C.C. indicates that he was advised to issue the 525 against him. L.P. claims that there were only two individuals who could have made the 525 order against him, V.G., and O.R., a Caucasian and Hispanic male who is a retired Captain.⁴ He reiterates that V.G. was "forced out" and O.R. retired earlier than planned and prior to L.P.'s "punitive transfer" from Woodridge to Hope Station, which is a longer commute and lacks promotional opportunities. He states that his union representative stated that the subject 525 issued was "a hit job." L.P. presents that when H.W.-S. and C.C. were interviewed during his 525 investigation, they told the OPS investigator nothing but positive things about him, and only R.P. had negative things to say. Therefore, he questions why C.C. would issue the subject 525 if he only had positive things to say about him. L.P. indicates that on his 525, there were allegations regarding two employees that were there before C.C.'s time as Regional Supervisor, and the allegations are false. Therefore, since the charges involved employees before C.C.'s time, he questions why C.C. would state that the 525 "looks good," and believes this indicates that he was ordered to issue the 525. However, L.P. asserts that the EEO did not address this issue. Further, although C.C. claimed that he did not know that there were State Policy complaints filed against R.P., he says

⁴ O.R. retired from State service effective March 31, 2022.

that he should have been aware of them through their Early Warning System. Therefore, L.P. questions why the EEO does not mention this. L.P. compares the subject 525 to officers “planting drugs” on an individual which is done when that individual is problematic to the officers. L.P. states that R.P.’s work girlfriend and another employee who were under H.W.-S.’s supervision had to be retrained, and H.W.-S. violated policy to obtain favorable outcomes that helped perpetuate R.P.’s behavior. Therefore, he asserts that H.W.-S. and R.P. colluded to create outcomes, and this shows the EEO’s reluctance to hold individuals accountable who were aiding R.P.

L.P. believes that the EEO is trying to achieve certain outcomes. He reiterates his assertion that R.P. engaged in inappropriate sexual behavior for over 20 years, and since it was out in the open, even a minimal investigation would have located other victims. Further, individuals like V.G. helped to perpetuate R.P.’s behavior and were forced to retire instead of being held accountable by the EEO. He presents that R.P. was allowed to retire with his suspension voided with the forfeiture of accrued benefit time while out on an indefinite paid leave which meant that he would not be on the Attorney General’s list for suspended and terminated law enforcement officers. L.P. indicates that prior to R.P.’s retirement, he issued another 525 against him. He provides that R.P.’s 10-day suspension was listed in the Attorney General’s 2022 Major Discipline Report, but his 70-day suspension for exposing himself to multiple females is not in the report. However, he states that there was an article on nj.com about police academy instructors that references the State Police which advised there was a State Trooper who engaged in similar behavior as R.P. Additionally, he asserts that R.P.’s assignment to the academy, where he worked with impressionable youth, did not turn out well, which the EEO can provide greater details.

In summary, L.P. alleges that the EEO is trying to achieve certain outcomes, which is why the EEO has never answered his questions and now refuses to respond. L.P. provides that although the EEO will state that it cannot interview V.G. because he is retired, he claims it is the EEO who forced him to retire to undermine his case. He requests that the Commission determine that the 525s were issued against him in retaliation, and it should re-open cases with H.W.-S., C.C., and other current employees. Further, L.P. desires that the Commission provide safeguards to ensure that the EEO completes a thorough and proper investigation and to avoid further tampering in this case. He also asks that the Commission investigate complaints filed against this group from other personnel in the Communications Bureau. Additionally, he believes the scope of the investigation should be expanded into other R.P. assignments since his behavior was pervasive. He states that there are other female victims who have been reluctant to come forward. L.P. notes that he has filed several 525 complaints against H.W.-S., G.H., and C.C. He provides that he has started litigation against the State, and once there is discovery, he asserts that he will be able to provide the answers that the EEO is hiding once these documents are provided.

CONCLUSION

N.J.A.C. 4A:7-3.1(h) provides, in pertinent part, that no employee bringing a complaint under the State Policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation. *N.J.A.C.* 4A:7-3.1(h)4 indicates that imposing or threatening to impose disciplinary action on an employee for reason other than legitimate business reasons is an example of prohibited action taken against an employee because the employee has filed a State Policy complaint. Moreover, *N.J.A.C.* 4A:7-3.2(m)4 states that the appellant shall have the burden of proof in all discrimination appeals brought before the Commission.

In this matter, L.P., in essence, alleges that there is a conspiracy. He asserts that R.P. engaged in inappropriate sexual behavior in violation of the State Policy. Further, L.P. claims that certain employees, including V.G., were aware of the inappropriate behavior, but they allowed R.P. to perpetuate this behavior. Additionally, L.P. filed State Policy complaints against R.P. due to this behavior, which led to R.P., V.G., and others to retaliate and issue fabricated disciplinary actions against him. The record is unclear if L.P. actually received discipline. Thereafter, L.P. filed State Policy complaints claiming that these disciplinary actions were filed in retaliation for him filing prior State Policy complaints, which is also a violation of the State Policy. However, instead of investigating the matter, the EEO forced R.P., V.G., and other employees to separate from employment so that they could not be held accountable, and their alleged inappropriate actions could be covered up.

Initially, it is noted that L.P. is an unclassified employee, and the record is unclear if the appointing authority afforded him a disciplinary process regarding the 525s that he presents. If it did, then the Commission would not have jurisdiction over L.P.'s retaliation claim as this is a defense that he needed to present during the appointing authority's disciplinary process. *See In the Matter of A.K.* (CSC, decided January 19, 2022). However, if the appointing authority did not afford L.P. a disciplinary process, then the Commission does have jurisdiction. *See In the Matter of F.C.* (CSC, decided April 29, 2020). Regardless, on appeal, L.P. has not presented one document, one statement from a confirming witness, or any other evidence that could potentially substantiate his claim that the 525s issued against him were not for legitimate business reasons but were in retaliation for his prior State Policy complaints against R.P. Similarly, L.P. has not presented any evidence that the EEO chose not to investigate his claims and otherwise "forced" employees to be separated from employment so that these employees could not be held accountable for their allegedly retaliatory behavior. It is emphasized that mere speculation, without evidence, is insufficient to support a State Policy violation. *See In the Matter of T.J.* (CSC, decided December 7, 2016). Thus, there is not a sufficient basis to disturb the

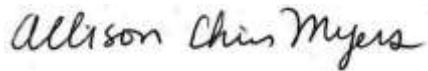
appointing authority's determination in this matter. Accordingly, L.P. has not satisfied his burden of proof.

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 12TH DAY OF JUNE, 2024



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Dulce A. Sulit-Villamor
Deputy Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: L.P.
Joanne Stipick
Shaun Boparai, DAG
Records Center
Division of EEO/Affirmative Action