

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

LASHONDA D. COLEMAN,

Petitioner.

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CHARGE NO.: **2021SF2367**

EEOC NO.: **21BA11228**

ALS NO.: **22-0309**

ORDER

This matter coming before the Commission on February 8, 2023, by a panel of three, Commissioners Elizabeth A. Coulson, Demoya R. Gordon, and Stephen A. Kouri II presiding, upon the Request for Review (“Request”) of LaShonda D. Coleman (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2021SF2367, and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.²

DISCUSSION

On March 19, 2021, the Petitioner filed a charge of discrimination with the Respondent, perfected on January 20, 2022, alleging that Edwardsville Community Unit School District (“Employer”) subjected her to harassment because of her race, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On July 13, 2022, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

The Petitioner began working for the Employer in April 2014 as a school counselor, responsible for completing 504 plans³ for students and providing academic, career, personal, and social support. In the fall of 2020, Assistant Principal Erin Foley became the Petitioner’s supervisor. On December 11, 2020, the Petitioner attended a disciplinary meeting, addressing a list of students for whom the Petitioner had failed to properly distribute 504 plans. During that meeting, the Petitioner stated that she felt harassed because of her race by Secretary Mary Emerick and other employees. After an investigation into the harassment allegations, the Employer informed the Petitioner on March 8, 2021, that her complaint had not been substantiated.

¹ In a request for review proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

² This order is entered pursuant to a 3-0-0 vote by the Commissioners.

³ Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...” 29 U.S.C. § 701.

The Petitioner stated that the following instances of race harassment occurred by the Employer: In 2015 or 2016, School Resource Officer Renth (first name unknown) took fingerprints and a “mugshot” of her minor son without her knowledge or consent. On March 28, 2016, Assistant Principal Beth Crumbacher accused her of “invoking poor behavior from a student” and scheduled a meeting with the Vice Principal to discuss her actions. On December 1, 2016, Science Teacher / Union President Robert Unzicker let her know how long he had worked for the Employer and sent emails to her requesting to remove a student in an “uncanny tone.” On January 2, 2018, Science Teacher / former Union President Dave Boedeker sent her an email requesting a student be removed from his class. On February 21, 2018, Mary Leone sent her emails making it seem as though she should have been aware of a new form and process for handling homebound applicants and addressed her as if Leone were her supervisor. On February 21, 2019, Emerick video-recorded her and two students without their consent. On August 12, 2020, former Secretary Jenny Kaffer told her that Brenda Ohm had told another employee that she was going to sabotage her career and make her look incompetent. In August 2020, Foley asked her what she did as school counselor. Foley tried to evaluate her when she was not due to be evaluated.⁴ On December 11, 2020, Foley misinformed Director of Diversity, Equity, and Inclusion and Student Services Cornelia Smith that she had failed to schedule classes for, correspond with, or complete 504 plans for 10 to 12 students. On January 20, 2021, the Employer asked her for examples of the race harassment she alleged. On March 8, 2021, Foley began peeking at her through her office window. On March 18, 2021, she caught Foley peeking through her office window. On August 31, 2021, she received a written reprimand dated August 26, 2021, indicating that she had not completed 504 plans as of August 28, 2021. On August 31, 2021, Foley sent her a text message asking if she was “gone for the spay.”

The Petitioner stated that the performance concerns raised on December 11, 2020, and August 26, 2021, were accurate, in that she did not complete the tasks indicated. She stated that she did not believe that the tasks she was expected to complete and the deadlines she was given were realistic.

The Petitioner stated that she did not report Ohm’s August 2020 statement to anyone. She stated that she first alleged harassment due to her race in December 2020. The Employer conducted an investigation, and then informed her on March 8, 2021, that her allegations were found to be unsubstantiated.

The Petitioner stated that other school counselors were also unable to meet 504 requirements. Those counselors were not supervised by Foley, and the Petitioner did not know if anyone else received disciplinary action. The Petitioner stated that she was the only Black school counselor.

According to Foley, the Petitioner was the only school counselor she supervised, and the two shared case management responsibilities. Foley denied intentionally providing misinformation about the Petitioner’s work performance or the students. Foley stated that all of the students named on December 11, 2020, were on their shared caseload. She also stated that, as part of her job duties, she

⁴ The investigation report indicates that the Petitioner stated that this incident took place in September 2021, then changed the date to October 2021, and then changed the date to October 2020 or January 2021.

routinely walked through the building and observed employees' work. Foley stated that the August 26, 2021, memorandum and the August 31, 2021, text message contained typos, and that she was not plotting against the Petitioner.

Smith stated that the Petitioner complained of race harassment first during the December 11, 2020, disciplinary meeting that addressed concerns that the Petitioner was not scheduling students appropriately, not completing 504s as trained and instructed, and not responding to student, parent, or faculty communications or responding inappropriately. Smith stated that she conducted an investigation, which included interviewing the alleged harassers, and found no evidence that the harassment had occurred.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D)(3). Under the Act, substantial evidence is "evidence which a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance." 775 ILCS 5/7A-102(D)(2).

The Petitioner argues that the Employer subjected her to harassment because of her race, Black. In order to establish a *prima facie* case of harassment, the Petitioner must allege misconduct that is "sufficiently severe or pervasive 'to alter the conditions of [her] employment and create an abusive work environment.'" *Motley v. Ill. Human Rights Comm'n*, 263 Ill. App. 3d 367, 374 (4th Dist. 1994). This occurs when the workplace is permeated with discriminatory intimidation, ridicule, and insult. *Harris v. Forklift Sys., c*, 21 (1993). The harassment must be related in some way to the Petitioner's claimed protected class. See *Sola v. Ill. Human Rights Comm'n*, 316 Ill. App. 3d 528, 542 (1st Dist. 2000). The Commission will consider "the severity of the alleged conduct, its frequency, whether it is physically threatening or humiliating (or merely offensive), and whether it unreasonably interferes with the employee's work performance" in determining whether it is severe or pervasive enough to alter the conditions of the Petitioner's employment. See *Robinson v. Perales*, 894 F.3d 818, 828 (7th Cir. 2018).

The Petitioner has failed to establish that any aggrieved acts by the Employer, detailed above, were based on her race. Because the Petitioner has not provided evidence that the Employer unlawfully discriminated against her, she cannot find relief under the Act.⁵

⁵ Because the Commission determines that the Petitioner did not establish that any of the aggrieved acts listed by the Petitioner were motivated by race, we need not address whether any of the earlier acts are time-barred from being considered as part of the Petitioner's harassment claim. See *Gusciara v. Lustig*, 346 Ill. App. 3d 1012, 1020 (2d Dist. 2004) (holding that a complainant can recover for acts outside the jurisdictional time period if those acts are related to acts within the period as part of the same hostile environment claim). Such an analysis would require scrutiny into the relatedness of the aggrieved acts, and the Respondent's investigation report did not contain the necessary detail.

For the foregoing reasons, the Commission concludes that the Petitioner has not presented sufficient evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The dismissal of Petitioner's charge for lack of substantial evidence is hereby **SUSTAINED**.
2. This is a final Order. A final Order may be appealed to the Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Edwardsville Community Unit School District as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS	)	
	)	Entered this 14th day of FEBRUARY 2023.
HUMAN RIGHTS COMMISSION	)	

Commissioner Elizabeth A. Coulson

Commissioner Demoya R. Gordon

Commissioner Stephen A. Kouri II