

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012SF0066</b>
	)	EEOC NO.: <b>21BA12205</b>
<b>MARION MAKEDA-PHILLIPS,</b>	)	ALS NO.: <b>12-0126</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Lauren Beth Gash<sup>1</sup>, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Marion Makeda-Phillips (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2012SF0066 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 Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On July 17, 2011, Petitioner filed a charge of discrimination with the Respondent alleging that the State of Illinois Secretary of State (“Employer”) harassed her in retaliation for opposing unlawful discrimination, in violation of Section 6-101(A) of the Illinois Human Rights Act (“Act”).

On November 28, 2010, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner had worked for Employer for several years when she was transferred to work under a new supervisor, in December 2009. One of Petitioner’s duties was processing and delivering the mail. According to Petitioner, the supervisor almost immediately began to closely monitor her work and criticize Petitioner for making mistakes and working slowly.

In March 2011, Petitioner filed a charge with Respondent, complaining of the supervisor’s behavior, but later withdrew it. Petitioner filed another charge in April 2011, the subject of ALS No. 12-0269, alleging that the supervisor harassed her due to her race and in retaliation for filing the previous charge. Petitioner filed a third charge in May 2011, the subject of ALS No. 12-0127, again alleging that the supervisor harassed her and gave her a verbal warning due to her race and in retaliation for filing the previous charges. Petitioner filed a fourth charge in June 2011, the subject of

<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.

<sup>2</sup> 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.”

ALS No. 12-0125, alleging that the supervisor harassed her due to her race and in retaliation for filing the previous charges. The charge in this case follows the previous four and complains that the supervisor's behavior continued into July 2011: the supervisor addressed her in a loud and inappropriate way, and ordered a door left open near Petitioner's office. Another supervisor chastised her for a mistake she had made months before.

Petitioner has not presented an actionable case for harassment. Harassment must be so severe and pervasive that it alters the conditions of employment and creates an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 17, 20 (1993). The actions Petitioner describes (repeated emails, close monitoring, speaking to Petitioner loudly, ordering a door left open, and critiquing mistakes) do not rise to that level. It was the supervisor's job to monitor Petitioner's job performance and critique it when warranted, and the supervisor can order a door left open even if Petitioner finds it personally distracting. "Heavy-handed management" is unpleasant but not necessarily motivated by discriminatory animus, and so not actionable. Patel v. Allstate Insurance, 105 F.3d 365 (7<sup>th</sup> Cir. 1997).

A *prima facie* case of retaliation requires evidence that the Petitioner engaged in a protected activity, that they suffered an adverse action, and that there is evidence of a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035 (3rd Dist. 2000). The newer allegations (being criticized for a mistake, loud speaking and the door being left open) would not qualify as "adverse actions." See In the Matter of: Linda M. Hartman and City of Springfield Police Department, IHRC, Charge No. 1993SF0365 (October 4, 1999), 1999 WL 33252975 (Ill.Hum.Rts.Com.) (adverse action must be sufficiently severe or pervasive to constitute a term or condition of employment). As to the alleged pattern of harassment, Petitioner cannot establish a nexus: the actions she categorizes as retaliatory began long before Petitioner filed her first complaint in March 2011. "[T]he adverse act must come after the complainant has engaged in a protected activity." Bregenhorn and C.C.Services, Inc., ALS No. S10596, 2004 WL 3312882 at 6 (Ill. HRC.Apr 2, 2004).

Accordingly, the Petitioner has not presented any 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 the Petitioner's charge is hereby **SUSTAINED**.
2. This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and State of Illinois Secretary of State, as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS** )  
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**HUMAN RIGHTS COMMISSION** )

**Entered this 22nd day of October 2018.**

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Lauren Beth Gash