

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

**FILED**  
09 APR 14 PM 1:51  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS  
EEOC Case No. 15D200800802

DAFNEY L. COOK,

Petitioner,

FCHR Case No. 2008-02141

v.

DOAH Case No. 08-4983

CORRECTIONS CORPORATION OF  
AMERICA,

FCHR Order No. 09-035

Respondent.

**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Dafney L. Cook filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondent Corrections Corporation of America committed unlawful employment practices on the bases of Petitioner's race (Black) and sex (female) by subjecting Petitioner to different terms and conditions of employment, harassment, unfair discipline and termination; by subjecting Petitioner to sexual harassment; and by retaliating against Petitioner for having filed a grievance.

The allegations set forth in the complaint were investigated, and, on August 14, 2008, the Executive Director issued his "Determination: Adverse Inference Cause" finding that there was reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held by video teleconference on December 17, 2008, at sites in Jacksonville and Tallahassee, Florida, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order of dismissal, dated February 9, 2009.

Pursuant to notice, public deliberations were held on April 9, 2009, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 200, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Recommended Order.

### Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

### Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

### Exceptions

Petitioner filed exceptions to the Recommended Order in a document received by the Commission on February 23, 2009. The document contains five numbered exceptions.

With regard to exceptions to Recommended Orders, the Administrative Procedure Act states, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), Florida Statutes (2007); see, also, Bartolone v. Best Western Hotels, FCHR Order No. 07-045 (August 24, 2007).

A review of Petitioner's exceptions document suggests that it does not comply with this statutory provision.

Nevertheless, it can be said that each numbered exception in the document generally excepts to facts found, facts not found, and / or inferences drawn from the evidence presented.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

Petitioner's exceptions are rejected.

Dismissal

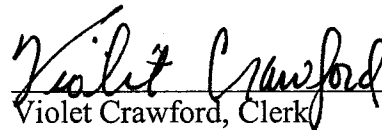
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 13<sup>th</sup> day of April, 2009.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Elena Flom; and  
Commissioner Billy Whitefox Stall

Filed this 13<sup>th</sup> day of April, 2009,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 200  
Tallahassee, FL 32301  
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

Dafney L. Cook  
2936 Eden Street  
Jacksonville, FL 32254

Corrections Corporation of America  
c/o Chelsie J. Roberts, Esq.  
Ford & Harrison, LLP  
300 South Orange Avenue, Suite 1300  
Orlando, FL 32801

Suzanne F. Hood, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 13<sup>th</sup> day of April, 2009.

By: *Violet Crawford*  
Clerk of the Commission  
Florida Commission on Human Relations

DATE: 02-20-2009

Send To: FCRR

Attention: Denise Crawford

Office Location: 2009 Apalachee Parkway Suite 100

Fax Number: 950-458-5291

From: Darney Cook

Phone Number: 950-767-8420

Number of Pages, Including Cover:

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REPLY ASAP

PLEASE COMMENT

PLEASE REVIEW

FOR YOUR INFORMATION

COMMENTS:

Darney Cook's Exceptions to the Recommended Order by the Florida Administrative Hearing Department. Case 08-4983

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Dafney L Cook  
2445 Dunn Avenue, Apartment 610  
Jacksonville, FL 32218

Denise Crawford, Agency Clerk  
Florida Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301

RE: CASE NO 08-4983

Dafney L. Cook, Petitioner, VS. Corrections Corporation of America, Respondent.

I humbly ask that the Florida Commission on human Relation forgive me for not filling my proposed findings of fact and conclusions of law. I do not have the money to pay for a transcript. I respectfully request that The Florida Commission on Human Relations would take into consideration the following list of exemptions to the recommendation made by The Florida Division of Administrative Hearings:

**EXCEPTION NO. 01**

The Petitioner's grievances against Chief Daniel Devers and Captain Michael Register based on race and sex which was filed in October of 2007. The Respondent failed to investigate and resolve the Petitioner's grievances in accordance with their Company Policy on Employee Grievances. The Petitioner was interviewed by the in-house Inspector Darlene Lister on November 8, 2007. During the interview, Inspector Lister spoke with the Petitioner concerning 1) Chief Devers and Captain Register subjecting her to an unofficial investigation based on the allegation of a white inmate. 2) that Chief Devers violate company policy on ethics when he under minded security by creating a divide-and-conquer environment telling new staff (officers) that "several dirty officers" work for the Respondent, most of who were black, and that it was the new offers' job to write up the old staff (officers) in order to get them fired. 3) That Captain Register refused to process disciplinary reports of a sexual nature written by the Petitioner as well as other Black female officers. 4) That Captain Register would not come to assistance of black female officers when called for help with disorderly inmate in the larger housing units. 5) White female not being required to work in the larger housing units on Captain Register's shift. 6) Captain Register purposely not having the Petitioner Relieved in order to force the Petitioner to work for him while he was the Captain. 7) Captain Register accusing the Petitioner of stealing time. The Petitioner give Inspector Lister a list of new officers and old officers who could confirm that Chief Devers did under mind security by telling new staff members that "several dirty officers" work for the Respondent and that it was their job to write up the old staff in order to get them fired. The Petitioner gave Inspector Lister all the required information concerning her being subject to an unofficial investigation by Chief Devers and Captain Register to include the white male inmate's name, and his department of corrections inmate number. The Petitioner gave Inspector Lister all the required information regarding Captain Register refusing to process her disciplinary reports of a sexual nature and a list of other black female officer whose discipline reports of a sexual nature were also not processed by Captain Register. The Responded alleged that the Petitioner's grievance were investigated and denied. However, at no time, did the Responded resolve the grievance in accordance with their Policy on Employee Grievances. The Responded never informed the Petitioner that their grievance against Chief Devers and Captain Register had been denied with reasons. After being interviewed by Inspector Lister concerning her grievance on Chief Devers and Captain Register, the Petitioner was assured on several different occasions by Lisa Johnson and Inspector Lister that Chief Devers and Captain Register needed to meet with the Petitioner in order to resolve the grievances. CCA Policy on Employee Grievance Section B Step 2 states the following: 1) Date grievance Received by First Supervisor, 2) date Meeting Held with Grievant, 3) Date Decision Communicated In Writing to Grievant, 4) Supervisor's Decision, 5) Reason, 6 and 7) Grievance Resolved or Grievance unresolved, 8) If Grievance Unresolved, give Reason, and then Last a Supervisor's Signature and the Grievant Signature. Subsequently, Petitioner's grievances against Chief Devers and Captain Register based on race and sex were never resolved by the Responded. In fact, while during the Administrative Hearing,, Chief Devers was not being true full when he testified that he had no knowledge that the Petitioner had filed a grievance against him based on race and sex prior to the Petitioner being terminated. See Petitioner's testimony, Lisa Johnson's testimony on grievance procedures, Chief Devers' testimony on his knowledge of grievance filed by Petitioner against him, and Exhibit by Respondent R-19 of Employee Grievance Form at Step 2.

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Feb. 20. 2009 5:12AM

No. 1352 P. 3

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**EXCEPTION NO. 2**

The Petitioner asserts that she was sexually harassed by Correctional Counselor Roderick Polite. Correctional Counselor Polite was in the position as a Supervisor over the Petitioner. Correctional Counselor Polite did have authority to change the terms and conditions of the Petitioner's employment as stated in the Correctional Counselors Job Description and as told to the Petitioner by the Respondent. See Petitioner's testimony concerning being removed from her assigned work area as directed by Correctional Counselor Polite on January 4, 2008. More over as stated on the Security officer's Chain of Command, the correctional counselor is directly over the correctional officer. The correctional counselor can be identified by the one striped burgundy solid bar worn on each shoulder of a correctional counselors' uniform. When a correction officer is assigned to the housing units, The correctional counselor's supervising position is in between the correctional officer and the housing's unit manager. When an unit manager leaves the facility at 5:00pm, the correctional counselor, in that housing unit, acts as the unit manager until 10:00pm, Monday through Friday. See Petitioner's testimony on Correctional Counselor Polite, Chief Devers testimony on a correctional counselors job description, Lisa Johnson's testimony when she states that Polite was a supervisor, and testimony on hours Correctional Counselor Polite worked. On January 10, 2008, The Petitioner was interviewed by Inspector Lister concerning Polite's harassment. Inspector Lister confirmed that Polite was in a supervisor's position and asked the Petitioner if she wanted to formally file a grievance against Polite. The Petitioner told Inspector Lister that she did not want to formally file a grievance against Polite, but simple asked not to have to work with Polite to prevent further harassment, to which the Respondent did not approve. The Respondent assigned Polite to work the same days as the Petitioner, in the same housing unit as the Petitioner, and on days when their shift would overlap the Petitioner would have to work directly with Polite for up to four hours. The Petitioner advised the Respondent of Polite's continued verbal harassment during shift change and when their shifts overlap to which the Respondent did nothing. Therefore, the Petitioner was sexually harassed.

**EXCEPTION NO 3.**

The Petitioner was subject to different terms and conditions by the Respondent. On February 15, 2008, at approximately 6:30pm, the Petitioner asked Captain Register if she could go home due to an incident, which had accrued a short time earlier, involving the Petitioner, Lisa Johnson, Chief Devers, and Warden Jason Medlin. The Petitioner was visibly upset by the incident as she was crying and unable to focus on their job duties. The Respondent tried to force the Petitioner to sign a Time Adjustment sheet which she did not agree with. The Respondent then threatened not to pay the Petitioner for her earned wages until she signed the Time Adjustment sheet. Warden Medlin threatened to take action against the Petitioner by alleging that the Petitioner was disrespectful in her tone when she stated to Lisa Johnson that she would not sign the Time Adjustment Sheet. Captain Register allowed the Petitioner to go home. Upon returning to work the next day, the Petitioner was advised by the Respondent that they would not be allowed in the facility until they bring a doctor's note stating they was fit for work. The Petitioner was seen by their primary doctor on February 20, 2008, and was allowed back to work by the Respondent. Lisa Johnson testified as to the reason the Respondent would require an employee produce a fit for work note from a doctor: 1) if the employee excessively call into work sick, 2) if the employee excessively ask to go home early due to being sick, and 3) if the employee had been off work for a long period of time due to being sick. The Petitioner asserted that she did not meet any these requirements. The Respondent had not evident to show how the Petitioner meet these requirements. Therefore,, the Respondent subjected the Petitioner to different terms and conditions.

**EXCEPTION NO 4.**

In March of 2008, the Petitioner applied for a correctional counselor's position in West 2 Unit. The Petitioner was highly recommended by members of the interview panel which included Chief H. Byrd and Unit Manager E. Henderson. As Chief of Security, Chief Devers had the final say on who would be selected for promotion. Chief Devers denied the Petitioner promotion in retaliation for the grievance she filed against him. The Petitioner had far more experience and tenure with the Respondent than any of the other females selected. The Petitioner had completed 58 college units at San Diego City College in San Diego, California. The Petitioner has more than six (6) years experience in corrections and employment with the Respondent. The Petitioner had been assigned to the larger housing units since its opening in April of 2005. While employed with the Respondent, the Petitioner has worked directly with the Facility's Senior Gang Coordinator to detect and deter inmate gang activity in the larger housing units. The Respondent worked directly with maintenance personnel, in the larger housing units, completing disciplinary reports on repairs and replacement of destroyed CCA property to include missing electrical components to light fixtures and call boxes, and the ongoing problem with bucked doors (inmates manipulating the locking mechanism to

allow the cell doors to be opened at will). The Respondent is familiar with Florida Statue Capt. 33, CCA's policies and procedures, Facility's Institutional Rules and Regulations, the Facility's Education Department, the Facility's Classification Department as it relates to an inmate's security level and housing location, Facility's 24 Hour Schedule as it relates to the larger housing units, inmate property, as well as with the inmate population at CCA in general. Officer Cooks, one of the females selected, had less than one years experience in corrections and employment with the Respondent. Officer Cooks did not have any experience working directly with large groups of inmates and had never been assigned to the larger housing units. Officer Fillmen, one of the females selected, had less than three years experience in corrections and employment with for the Responded. Officer Fillmen did not have a lot of experience working directly with large group of inmates and had never been assigned to the larger housing units. Officer Widemond, one of the females selected, was recently re-hired, for the third time by the Responded, and had never been employed with the Respondent for more than a year at a time. The Respondent alleges that the Petitioner was not selected for one of the positions because of her personnel and disciplinary records, including a prior allegation of excessive force against inmates. The Respondent is not being true full about the Petitioner's personnel and disciplinary records. The Petitioner filed formal grievances for all of the write ups in their personnel record, which the Respondent granted all but three (3). The Respondent provided no information to support their allegations that the Petitioner had prior allegation of excessive force against inmates. Therefore, the Respondent denied the Petitioner promotion in retaliation.

#### EXCEPTION NO 5.

On March 30, 2008, the Petitioner was assigned to the control room in South 2 Unit. The primary duty of a control room officer is to maintain the log and open doors for other officers. On March 30, Officer Amanda Sanders was assigned as the Perimeter Officer. The primary duty of a perimeter officer is to drive the mobile vehicle around the outside of the facility's perimeter road in order to maintain outside security. On March 30, the Petitioner had been temporary re-assigned by Captain Joseph Ruby to conduct a cell search in cell O-115 based probable cause. Officer Earl Long, who was the assigned O-Pod Officer, took the Petitioner's place as the control room officer in South 2 Unit until. Per the Fix Wing video footage in O-Pod, the Petitioner and Officer Sanders entered O-Pod escorting Inmate Juan C. Macedo at 10:41:07. The distance from the entrance of O-Pod to cell O-115 is approximately 40 yards. The Petitioner and Officer Sanders stop in front of cell 6 where Officer Sanders gives the Petitioner a set of handcuffs. Officer Sanders acted as the Interviewing officer for Inmate Jose Sandoval and the Petitioner was Officer Sander's Back up. The Petitioner and Officer Sanders enter cell O-115 to counsel with Inmate Sandoval at 10:43:12. Inmate Sandoval was sitting on the bottom bunk. Officer Sanders gave Inmate Sandoval several verbal orders to exit the cell and submit to a search; to which Inmate Sanders pretended he did not speak English. The Petitioner then advised Officer Sanders that Inmate Sandoval had been assigned to Lake City Correctional Facility for approximately two (2) years and spoke English. Officer Sanders then called Inmate Meccedo into the cell and asked him to translate her verbal order to Inmate Sandoval; to no avail. The Petitioner then advised Inmate Sandoval that he was going to confinement, for violation of Institutional Rules and Regulations, and gave Inmate Sandoval a verbal order to submit to handcuff. Inmate Meccedo then locked the Petitioner and Officer Sanders inside the cell with Inmate Sandoval. At that time, Inmate Sandoval jumped up off of his bunk, lunged at the Petitioner, and spit on her twice. The Petitioner responded to Inmate Sandoval's aggressive physical resistance by taking him to the floor with force. The Petitioner gained control of Inmate Sandoval's upper torso, and Officer Sanders gained control of Inmate Sandoval's legs. Then Petitioner then handed Officer Sanders the handcuffs and Officer Sanders placed handcuffs on Inmate Sandoval. Inmate Sandoval was given several verbal orders to stop resisting; to which he reluctantly complied. All Used of Force ceased. When Officer Mitchell Harbach arrived to assist the Petitioner and Officer Sanders, the Petitioner then slid the O-Pod Officer's Keys under the cell door to Officer Harbach. Officer Harbach unlocked the cell door and Lieutenant Mobley entered the cell O-115 at 10:46:38. Lieutenant Mobley gave the Petitioner and Officer Sanders the order to get Inmate Sandoval up on his feet for escort out of the housing unit. At that time, the Petitioner begin to searching the cell for contraband. Other officers arrived to assist with the incident and escorted Inmate Sandoval and Inmate Meccedo out of the housing unit. As recorded on the facility's Fix Wing video footage, the Petitioner did not participate in any other Use of Force on Inmate Sandoval or Inmate Meccedo. After searching the cell, the Petitioner and Officer Sanders exited O-pod with several contraband items collected. The Petitioner submitted a true full Use of Force Report and did not commit physical abuse on Inmate Sandoval. Officer Sanders submitted a true full Incident Report on the Use of Force involving Inmate Sandoval. Because the Petitioner and Officer Sanders did not have any conflicting information in the reports they submitted, Captain Ruby approved and signed off on the Petitioner's Use of Force involving Inmate Sandoval. The Petitioner and Officer Sanders were both interviewed by the in-house Inspector Lister



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on April 2, 2008, concerning the use of force involving the Petitioner, Officer Sanders, and Inmate Sandoval. Because there was no conflicting information, Inspector Lister did not complete an Inspector General Form 12. On April 3, 2008, in the 4:00pm hour, the Petitioner called into the facility and was advised by Warden Medlin, via telephone that she was on administrative leave due to the incident which accrued on March 30, 2008. Warden Medlin directed the Petitioner to call into the facility on administrative leave Monday through Friday at 8:00am and 5:00pm; to which the Petitioner complied. The Petitioner presented evidence that she did call into the facility as directed by Warden Jason Medlin. Chief Devers is not being true full about being present when the Petitioner was placed on administrative leave. Officer Sanders was not placed on administrative leave. On April 11, 2008, the Respondent wrongfully terminated the Petitioner. The Respondent is not being true full about receiving a completed DOC Inspector General's Investigation report prior to April 11, 2008. Inspector Raleigh Sistrunk, from the IG Officer, did not complete conducting his interrogation of Officer Sanders until April 14, 2008. Officer Sanders was not being true full when she changed her account of the Use of Force on April 14, 2008, involving herself, the Petitioner and Inmate Sandoval. Inspector Sistrunk did not interrogate the Petitioner until May 8, 2008. The Petitioner's Termination letter dated April 11, 2008, states, "This Physical Abuse was reported to the Inspector General's office Case #08-2 2995 for further disposition." Therefore, the Respondent wrongfully terminated the Petitioner.

As a Final Order, the Petitioner request that the Respondent pay back wages and benefits to the Petitioner, that the Petitioner be issued the right to sue the Respondent, and that the Petitioner not have to pay the Respondent's legal fees.

Sincerely

  
Darnley L. Cook

Feb. 20. 2009 5:09AM

No. 1350 P. 1

020

DATE: 02-20-2009

Send To: FCHR

Attention: Denise Crawford

Office Location: 2009 Apalachee

Parkway Suite 100  
Fax Number: 350-488-5191

From: Darney Cook

Phone Number: 950-767-7426

Number of Pages, Including Cover:

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COMMENTS:

Darney Cook's Exceptions to the  
Recommended Order by the Florida  
Administrative Hearing Department.  
Case 08-4983

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Dafney L. Cook  
2445 Dunn Avenue, Apartment 610  
Jacksonville, FL 32218

Denise Crawford, Agency Clerk  
Florida Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301

RE: CASE NO 08-4983

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The Petitioner was subject to different terms and conditions by the Respondent. On February 15, 2008, at approximately 6:30pm, the Petitioner asked Captain Register if she could go home due to an incident, which had accrued a short time earlier, involving the Petitioner, Lisa Johnson, Chief Devers, and Warden Jason Medlin. The Petitioner was visibly upset by the incident as she was crying and unable to focus on their job duties. The Respondent tried to force the Petitioner to sign a Time Adjustment sheet which she did not agree with. The Respondent then threatened not to pay the Petitioner for her earned wages until she signed the Time Adjustment sheet. Warden Medlin threatened to take action against the Petitioner by alleging that the Petitioner was disrespectful in her tone when she stated to Lisa Johnson that she would not sign the Time Adjustment Sheet. Captain Register allowed the Petitioner to go home. Upon returning to work the next day, the Petitioner was advised by the Respondent that they would not be allowed in the facility until they bring a doctor's note stating they was fit for work. The Petitioner was seen by their primary doctor on February 20, 2008, and was allowed back to work by the Respondent. Lisa Johnson testified as to the reason the Respondent would require an employee produce a fit for work note from a doctor: 1) if the employee excessively call into work sick, 2) if the employee excessively ask to go home early due to being sick, and 3) if the employee had been off work for a long period of time due to being sick. The Petitioner asserted that she did not meet any these requirements. The Respondent had not evident to show how the Petitioner meet these requirements. Therefore,, the Respondent subjected the Petitioner to different terms and conditions.

**EXCEPTION NO 4.**

In March of 2008, the Petitioner applied for a correctional counselor's position in West 2 Unit. The Petitioner was highly recommended by members of the interview panel which included Chief H. Byrd and Unit Manager E. Henderson. As Chief of Security, Chief Devers had the final say on who would be selected for promotion. Chief Devers denied the Petitioner promotion in retaliation for the grievance she filed against him. The Petitioner had far more experience and tenure with the Respondent than any of the other females selected. The Petitioner had completed 58 college units at San Diego City College in San Diego, California. The Petitioner has more than six (6) years experience in corrections and employment with the Respondent. The Petitioner had been assigned to the larger housing units since its opening in April of 2005. While employed with the Respondent, the Petitioner has worked directly with the Facility's Senior Gang Coordinator to detect and deter inmate gang activity in the larger housing units. The Respondent worked directly with maintenance personnel, in the larger housing units, completing disciplinary reports on repairs and replacement of destroyed CCA property to include missing electrical components to light fixtures and call boxes, and the ongoing problem with bucked doors (inmates manipulating the locking mechanism to

allow the cell doors to be opened at will). The Respondent is familiar with Florida Statue Capt. 33, CCA's policies and procedures, Facility's Institutional Rules and Regulations, the Facility's Education Department, the Facility's Classification Department as it relates to an inmate's security level and housing location, Facility's 24 Hour Schedule as it relates to the larger housing units, inmate property, as well as with the inmate population at CCA in general. Officer Cooks, one of the females selected, had less than one years experience in corrections and employment with the Respondent. Officer Cooks did not have any experience working directly with large groups of inmates and had never been assigned to the larger housing units. Officer Fillmen, one of the females selected, had less than three years experience in corrections and employment with the Respondent. Officer Fillmen did not have a lot of experience working directly with large group of inmates and had never been assigned to the larger housing units. Officer Widemond, one of the females selected, was recently re-hired, for the third time by the Respondent, and had never been employed with the Respondent for more than a year at a time. The Respondent alleges that the Petitioner was not selected for one of the positions because of her personnel and disciplinary records, including a prior allegation of excessive force against inmates. The Respondent is not being true full about the Petitioner's personnel and disciplinary records. The Petitioner filed formal grievances for all of the write ups in their personnel record, which the Respondent granted all but three (3). The Respondent provided no information to support their allegations that the Petitioner had prior allegation of excessive force against inmates. Therefore, the Respondent denied the Petitioner promotion in retaliation.

#### EXCEPTION NO 5.

On March 30, 2008, the Petitioner was assigned to the control room in South 2 Unit. The primary duty of a control room officer is to maintain the log and open doors for other officers. On March 30, Officer Amanda Sanders was assigned as the Perimeter Officer. The primary duty of a perimeter officer is to drive the mobile vehicle around the outside of the facility's perimeter road in order to maintain outside security. On March 30, the Petitioner had been temporary re-assigned by Captain Joseph Ruby to conduct a cell search in cell O-115 based probable cause. Officer Earl Long, who was the assigned O-Pod Officer, took the Petitioner's place as the control room officer in South 2 Unit until. Per the Fix Wing video footage in O-Pod, the Petitioner and Officer Sanders entered O-Pod escorting Inmate Juan C. Macedo at 10:41:07. The distance from the entrance of O-Pod to cell O-115 is approximately 40 yards. The Petitioner and Officer Sanders stop in front of cell 6 where Officer Sanders gives the Petitioner a set of handcuffs. Officer Sanders acted as the interviewing officer for Inmate Jose Sandoval and the Petitioner was Officer Sander's Back up. The Petitioner and Officer Sanders enter cell O-115 to counsel with Inmate Sandoval at 10:43:12. Inmate Sandoval was sitting on the bottom bunk. Officer Sanders gave Inmate Sandoval several verbal orders to exit the cell and submit to a search; to which Inmate Sanders pretended he did not speak English. The Petitioner then advised Officer Sanders that Inmate Sandoval had been assigned to Lake City Correctional Facility for approximately two (2) years and spoke English. Officer Sanders then called Inmate Meceado into the cell and asked him to translate her verbal order to Inmate Sandoval; to no avail. The Petitioner then advised Inmate Sandoval that he was going to confinement, for violation of Institutional Rules and Regulations, and gave Inmate Sandoval a verbal order to submit to handcuff. Inmate Meceado then locked the Petitioner and Officer Sanders inside the cell with Inmate Sandoval. At that time, Inmate Sandoval jumped up off of his bunk, lunged at the Petitioner, and spit on her twice. The Petitioner responded to Inmate Sandoval's aggressive physical resistance by taking him to the floor with force. The Petitioner gained control of Inmate Sandoval's upper torso, and Officer Sanders gained control of Inmate Sandoval's legs. Then Petitioner then handed Officer Sanders the handcuffs and Officer Sanders placed handcuffs on Inmate Sandoval. Inmate Sandoval was given several verbal orders to stop resisting; to which he reluctantly complied. All Used of Force ceased. When Officer Mitchell Harbach arrived to assist the Petitioner and Officer Sanders, the Petitioner then slid the O-Pod Officer's Keys under the cell door to Officer Harbach. Officer Harbach unlocked the cell door and Lieutenant Mobley entered the cell O-115 at 10:46:38. Lieutenant Mobley gave the Petitioner and Officer Sanders the order to get Inmate Sandoval up on his feet for escort out of the housing unit. At that time, the Petitioner begin to searching the cell for contraband. Other officers arrived to assist with the incident and escorted Inmate Sandoval and Inmate Meceado out of the housing unit. As recorded on the facility's Fix Wing video footage, the Petitioner did not participate in any other Use of Force on Inmate Sandoval or Inmate Meceado. After searching the cell, the Petitioner and Officer Sanders exited O-pod with several contraband items collected. The Petitioner submitted a true full Use of Force Report and did not commit physical abuse on Inmate Sandoval. Officer Sanders submitted a true full Incident Report on the Use of Force involving Inmate Sandoval. Because the Petitioner and Officer Sanders did not have any conflicting information in the reports they submitted, Captain Ruby approved and signed off on the Petitioner's Use of Force involving Inmate Sandoval. The Petitioner and Officer Sanders were both interviewed by the in-house Inspector Lister

Feb. 20. 2009 5:13AM

No. 1352 P. 5

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on April 2, 2008, concerning the use of force involving the Petitioner, Officer Sanders, and Inmate Sandoval. Because there was no conflicting information, Inspector Lister did not complete an Inspector General Form 12. On April 3, 2008, in the 4:00pm hour, the Petitioner called into the facility and was advised by Warden Medlin, via telephone that she was on administrative leave due to the incident which accrued on March 30, 2008. Warden Medlin directed the Petitioner to call into the facility on administrative leave Monday through Friday at 8:00am and 5:00pm; to which the Petitioner complied. The Petitioner presented evidence that she did call into the facility as directed by Warden Jason Medlin. Chief Devers is not being true full about being present when the Petitioner was placed on administrative leave. Officer Sanders was not placed on administrative leave. On April 11, 2008, the Respondent wrongfully terminated the Petitioner. The Respondent is not being true full about receiving a completed DOC Inspector General's investigation report prior to April 11, 2008. Inspector Raleigh Sistrunk, from the IG Officer, did not complete conducting his interrogation of Officer Sanders until April 14, 2008. Officer Sanders was not being true full when she changed her account of the Use of Force on April 14, 2008, involving herself, the Petitioner and Inmate Sandoval. Inspector Sistrunk did not interrogate the Petitioner until May 8, 2008. The Petitioner's Termination letter dated April 11, 2008, states, "This Physical Abuse was reported to the Inspector General's office Case #08-2 2995 for further disposition." Therefore, the Respondent wrongfully terminated the Petitioner.

As a Final Order, the Petitioner request that the Respondent pay back wages and benefits to the Petitioner, that the Petitioner be issued the right to sue the Respondent, and that the Petitioner not have to pay the Respondent's legal fees.

Sincerely

  
Darrel L. Cook