# STATE OF MICHIGAN

# COURT OF CLAIMS

KRISTY KLENKE,

Plaintiff,

v

Case No. 23-000179-MZ

MICHIGAN DEPARTMENT OF CORRECTIONS,

Hon. Sima G. Patel

Defendant.
_____ /

JUDGMENT FOLLOWING TRIAL

Plaintiff, Kristy Klenke, filed suit alleging employment discrimination under the Elliot Larsen Civil Rights Act (ELCRA), MCL 37.2101 *et seq*. This Court previously denied a motion for summary disposition filed by defendant, Michigan Department of Corrections (MDOC), concluding that plaintiff created genuine issues of material fact that she suffered disparate treatment, retaliation, and a hostile work environment based on her sex. The Court has now concluded a trial on the merits. After considering all the testimony and evidence presented at trial, in conjunction with the parties' arguments, the Court finds that plaintiff has not suffered disparate treatment, retaliation, or a hostile work environment on the basis of her sex for purposes of establishing a violation of ELCRA. The Court therefore enters judgment in favor of defendant.

## I. BACKGROUND FINDINGS OF FACT[1]

Plaintiff began working as a corrections officer for defendant in 2018 at the Ionia Complex, a large MDOC campus. At that time, the Complex housed four prisons, including Michigan Reformatory (MR), Ionia Correctional Facility (ICF), and Bellamy Creek (BC). Plaintiff was originally assigned to MR. During her time there, plaintiff developed a personal relationship with a supervisor, Mario Cunningham. Plaintiff ended that relationship when she learned that Cunningham was married. Cunningham continued to contact her and make unwanted advances.[2] The MDOC conducted an internal investigation and substantiated plaintiff's claims of harassment against Cunningham. As a result, defendant moved Cunningham to BC, away from plaintiff. Some of plaintiff's coworkers treated her negatively as a result of her complaints, including unfriending her on social media and giving her the cold shoulder at work. Defendant concedes that plaintiff engaged in protected activity by filing internal complaints and a federal lawsuit.

MR closed its doors in November 2022, and its employees were transferred to other facilities at the complex. Many employees were transferred to BC, but plaintiff could not be sent there because of Cunningham's presence.[3] Instead, defendant transferred plaintiff to ICF along with approximately 20 other officers. Plaintiff's ELCRA claims in this litigation stem from her time at ICF from November 2022 until August 2023, when she resigned her employment.

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[1] All background facts are gleaned from the testimony and evidence presented at trial.

[2] Plaintiff made internal complaints and ultimately filed suit based on Cunningham's actions and her employer's responses in the Western District of Michigan. That suit will be tried in May 2026.

[3] When plaintiff learned MR would be closing, she approached Jonathan Patterson, Deputy Director of the Michigan Department of Civil Service, to ensure she would not be transferred to the same location as Cunningham.

Plaintiff's time at ICF was not easy. From the outset, she felt the impact of being the subject of gossip and excluded by her peers. Plaintiff asserted that she immediately experienced unwelcoming treatment from her coworkers. The ICF employees shunned plaintiff and treated the other transferees better. Plaintiff claimed that Lieutenant John Jaramillo, a second shift command officer, was dismissive of her from the outset, while he checked in other employees.[4]

Beth DeBoer testified that she worked as a corrections officer at ICF from 2006 through 2024.[5] She testified that when the list of transferees from MR was shared with the staff at ICF, people immediately began gossiping about plaintiff's lawsuit against Cunningham. DeBoer testified that she observed Jaramillo read an article about plaintiff's lawsuit. She then heard Jaramillo refer to plaintiff as a "fucking slut" and comment that plaintiff would not have experienced difficulties if she did not sleep around with people at work. DeBoer also witnessed Jaramillo play an interview plaintiff gave about her lawsuit. Jaramillo then referred to plaintiff as a "convict-loving bitch."

Jaramillo admitted that he was aware of gossip involving plaintiff but denied having any knowledge of plaintiff's lawsuit before she transferred to ICF. Jaramillo testified that he knew

[4] Plaintiff presented Jaramillo's testimony at trial. At all relevant times, Jaramillo was a lieutenant on the second shift at ICF.

[5] DeBoer worked as a corrections officer at ICF from 2006 through 2024. Defendant terminated DeBoer's employment in Fall 2024 because of an over-familiar relationship with a prisoner. During the investigation, defendant found DeBoer had lied about having telephone contact with a prisoner and providing the prisoner's mother her personal address to send mail for the prisoner. DeBoer has filed her own lawsuit regarding her termination and this Court makes no finding regarding the merits of that action. The Court notes, however, that in January 2023, plaintiff told her therapist that DeBoer was "crooked," and plaintiff was concerned about working with her.

Cunningham was transferred to BC after being disciplined, but asserted he did not know plaintiff was involved in that situation.

Corrections Officer Keyaira McGowan testified that she attended the academy with plaintiff.[6] McGowan was assigned to ICF when plaintiff was assigned to MR. When the list of transferees was shared with employees, McGowan heard some male officers talking about plaintiff and the situation with Cunningham. They made comments such as "be careful around her." McGowan also heard male officers claim that plaintiff was difficult to work with. This was not McGowan's experience with plaintiff, however.

Plaintiff and her fellow transferred officers initially were assigned to the second shift at ICF. Captain Rawle Henry was also assigned as command on the shift.[7] Jaramillo worked the second shift as well and made the daily staffing schedules. In that role, Jaramillo had to take into account employees who were given "bid assignments," meaning that their employment contract promised placement in a specific position. He also had to consider whether any employees were on light duty limiting the positions to which they could be assigned, and whether any employees volunteered to work overtime in a particular position. It was Jaramillo's job to schedule regular assignments for employees as well. A "regular assignment" means a post where officers would be scheduled on a daily basis unless they had to be bumped, for example, to make room for an officer on light-duty or an overtime volunteer. Most employees preferred a regular assignment because they could become comfortable with their duties, their coworkers, and the prisoners under

[6] Plaintiff presented McGowan, who had been a corrections officer at ICF since 2018, as a witness in her case in chief.

[7] Defendant called Captain Henry to the stand as a defense witness. Henry worked at MR with plaintiff and transferred to ICF with her. He served as the captain on the second shift over plaintiff.

their charge, and thereby feel safer at work. Before giving an employee a regular assignment, Jaramillo had to ensure the person was a "good fit" with the team in that area. Jaramillo maintained that staff cohesion is important because the officers need to be able to trust each other with their lives.

On November 8, 2022, plaintiff and the other transferred employees attended a "meet and greet" with several shift commanders at ICF. Jaramillo explained that shift command would start by rotating the transferred employees through various positions to acquaint them with the facility. After a few weeks, the transferees could ask for a "regular assignment."

Jaramillo also advised that the prison was short staffed in the control center and asked for a show of hands of who had experience in that position. There are two main rooms/duties in the control center. The officer assigned to the monitor room watches the video surveillance screens from all around the prison. In the other position, the officer is tasked with fast-paced computer work surrounding the movement of prisoners. Plaintiff had experience and training in the monitor room and notified Jaramillo of that fact. However, plaintiff testified that she did not want to be placed in the control center. All witnesses agreed that gossip and rumors swirled around ICF like a high school. Plaintiff believed the control center was a hub for that activity. DeBoer testified that the male command officers in the control center liked female officers to fill those positions as "eye candy," and acted like they were showing off for the women. Because of her history, plaintiff preferred not to work in the control center.

This view of the control center, however, was not shared by all corrections officers. Officer Karisma Phillips (née Chevette)[8] testified that she, like plaintiff, was transferred to ICF in November 2022 and had experience with the control center. She advised Jaramillo of that fact and was promptly given a regular assignment in the control center. Officer Phillips did not mind working in the control center and did not perceive that she was placed there as "eye candy." Officer McGowan, who agreed that plaintiff faced considerable gossip at ICF, nonetheless testified that she would have *preferred* a posting in the control center (although she was not assigned there) and was open to an opportunity to be trained for that position.

On November 28, 2022, plaintiff submitted a request to be transferred out of ICF to the St. Louis Correctional Facility in Lansing. Tina Conran, the MDOC Human Resources Manager at the Ionia Complex, reviewed the request and plaintiff's personnel file. Because plaintiff had been subject to a disciplinary action in March 2021, she was not eligible to be placed on the seniority-based facility transfer list until March 31, 2023, and her transfer request was not processed. Although plaintiff claims that she renewed her transfer request after March 2023, there was no record of this request being made before she resigned in August 2023. Ultimately, plaintiff resigned after her renewed harassment complaints were unsubstantiated and she was not given a transfer out of the facility as a solution.

In December 2022 and January 2023, plaintiff noticed that other transferred officers had been given regular assignments. The staffing sheets demonstrate that Phillips was almost immediately placed in the control center with very few exceptions. Another female officer,

[8] Phillips, who transferred to ICF from MR in November 2022, was called as a defense witness.

Stewart, was given a regular assignment in Unit 3 by the end of November 2022. By January 10, 2023, another female officer, Willman, was assigned almost exclusively to the control center. Officer Kendrick Warren was given a regular assignment in Unit 4 by December 2, 2022, and so was Officer Gaudio, another male, by December 26. On the other hand, Acosta, another male officer who transferred from MR, continued to rotate positions for the remainder of his time at ICF.

Although Jaramillo denies that plaintiff ever approached him for a regular assignment, the Court finds credible plaintiff's testimony that she approached Jaramillo twice in January 2023 to ask for a regular assignment. On the second occasion, plaintiff asked Jaramillo if she had not been given a regular assignment because of her gender. Plaintiff testified that Jaramillo responded, "I'm not going to compare dicks with you," and that Captain Henry laughed. For the purposes of this lawsuit, the Court accepts plaintiff's testimony as true.

Plaintiff then approached Assistant Deputy Warden Dale Bonn and reported this incident.[9] She expressed that she felt it unfair that she had not been given a regular assignment. Bonn described Jaramillo as "old school" or an "older generational type of guy." Bonn testified that he did not mean that Jaramillo was more tolerant of discrimination, only that he had been around a while and was gruffer. Bonn agreed it was unfair plaintiff had not been given a regular assignment. Bonn described plaintiff as a hard worker who treated people with decency. Unit 4, where plaintiff

[9] Bonn was the second witness plaintiff called to the stand at trial. Bonn worked with plaintiff at MR and then became assistant deputy warden at ICF in November 2021.

sought to be placed, held maximum security prisoners. It was not an easy position, and plaintiff was not looking for an easy ride.

Before she was given a regular assignment, plaintiff also discovered that Sergeant Benjamin Moore had changed the schedule made by Jaramillo to move her out of units because the male officers in those units indicated they did not want to work with her. DeBoer testified that she witnessed this occur in the day room. Warren and Gaudio asked for plaintiff to be moved out of Unit 4 so they could work together. Plaintiff testified that she asked Moore if he moved her on the schedule and he admitted that he had, claiming it was because some people work better together. Moore also told plaintiff that he used to work with Cunningham. Plaintiff described that Moore imparted this information in an intimidating way.

Plaintiff wanted to be placed in Unit 4, and Bonn directed Jaramillo to place her there. Jaramillo claimed that Bonn told him that plaintiff was "bored" working in the control center, but Bonn could not recall telling Jaramillo that. There are four positions in Unit 4: Wing A, Wing B, Yard, and the Panel. On plaintiff's first day in Unit 4, Warren was not on the schedule. The daily staffing sheet prepared by Jaramillo placed plaintiff as Unit 4-42, and Officer McElfresh in the Yard. Once in the unit, however, plaintiff worked the Yard post. On her second day, February 9, 2023, plaintiff was scheduled to work with Officer Warren. The daily staffing sheet again showed plaintiff as Unit 4-42. Officer Warren was friends with Cunningham and was not on good terms with plaintiff. Although not assigned to the Panel on the staffing sheet, plaintiff testified that Warren forced her to work the Panel that day. Plaintiff got into a verbal altercation with Warren, and he told her, "Cry me a river." Plaintiff called the control center and asked to go home for the day. Instead, she was moved to a different unit for the rest of the shift.

Prior to her regular assignment in Unit 4, plaintiff had worked with Warren in housing units on two occasions at ICF. On November 8, 2022, both were assigned to Unit 1. The scheduling commander assigned plaintiff to the Yard post and she worked that position. On January 17, 2023, both plaintiff and Warren were assigned to work in Unit 4. Plaintiff was scheduled to work as Unit 4-41, and that is the position she occupied that day. Accordingly, the only day that Officer Warren potentially forced plaintiff to work a position within the unit, other than the one assigned by the scheduling commander, was February 9, 2023. This contradicts plaintiff's testimony that Warren repeatedly changed assignments within Unit 4 to make plaintiff work less desirable positions. At most, Warren tried to force plaintiff to work the Panel once, on February 9, 2023, but plaintiff left the unit without performing in that role. Further, other witnesses testified that the Panel is not seen as a less desirable position by all employees. The position is actually the safest in a unit. Witnesses also testified that the staff in the housing units often select their own posts based on seniority.

For a period of time after plaintiff's complaint, Jaramillo scheduled plaintiff to work in Unit 4 only when Officer Warren was not on the schedule. Plaintiff concedes defendant offered to move Officer Warren to another unit, but that she preferred to be moved instead. Shortly thereafter, Jaramillo gave plaintiff a regular assignment in Unit 3.

Unit 3 is a "transition unit," where inmates are moved in restraints whenever out of their cells. Plaintiff testified that she kept to herself in the unit because she felt like she could not trust her coworkers. Officer Nicholas Hoff[10] also had a regular assignment in Unit 3. Plaintiff testified

[10] Jaramillo testified that he received complaints from other corrections officers regarding plaintiff. The complaints came from only male officers. One of those officers was Hoff.

that Hoff was hostile toward her and twice placed her in danger by trashing the cells of inmates in her custody. Specifically, plaintiff was instructed to delay returning inmates to their cells while Hoff conducted a "shake down," i.e. a search of the cell for contraband. Plaintiff testified that Hoff went beyond what was necessary or permitted, which could have resulted in the inmates turning on her.

Plaintiff made a verbal complaint to Captain Henry about Hoff's improper performance of shake-downs in Unit 3. Henry had no recollection of this report. Plaintiff testified that Henry sent Sergeant Morgan to speak to Hoff about the situation. The sergeant approached Hoff in front of plaintiff. Plaintiff was uncertain but believed Hoff received no discipline for these incidents.

Plaintiff filed an internal discriminatory harassment complaint in late February or early March 2023, naming Jaramillo, Warren, and Moore. Sergeant Jill Kerr served as a discriminatory harassment counselor at ICF and assisted plaintiff with her complaint.[11] Plaintiff told Kerr about the events with Cunningham at MR. The forms that Kerr shares with the warden include a "discriminatory harassment reporting and prevention contact form," which includes a section entitled "administrator's/supervisor's preliminary findings." Previously, Kerr had always filled out that section. On plaintiff's form, Kerr wrote something along the lines of "maybe not discrimination, maybe hostile work environment" claim. Then-Warden John Davids instructed Kerr to redo the form and not enter anything in that section, explaining that Kerr was neither an administrator nor supervisor and it was the warden's duty to fill out that section of the form.

[11] Kerr, also known as Jill Salik, began working for the MDOC in March 2008 as a corrections officer. At some point, she transferred to ICF and was promoted to sergeant. At all relevant times, Kerr also served as a discrimination harassment counselor at ICF.

Warden Davids wrote something substantially similar to Kerr's initial statement: "If proven to be true through investigation actions in the complaint may rise to the level of discriminatory harassment."

Inspector Kristina Salinas investigated plaintiff's report after Kerr processed the initial claim.[12] She provided questionnaires and interviewed the witnesses. Salinas testified that the investigation took longer than normal because internal affairs provided supplemental questions to ask the individuals involved. Salinas noted that plaintiff never identified Henry as a witness to Jaramillo's comment, "I'm not going to compare dicks with you." Had Henry been named, Salinas would have questioned him. Salinas determined that even if Warren forced plaintiff to take less desirable positions in Unit 4, there was no evidence this was done because of her sex or out of retaliation. Rather, Warren was motivated by seniority. Ultimately, internal affairs in Lansing found insufficient evidence to support plaintiff's complaints. Defendant closed the investigation on July 12, 2023.

While the discriminatory harassment complaint was pending, on June 22, 2023, Jaramillo sent an e-mail to all staff members on the second shift about the MDOC fingernail policy. He reminded the officers about a policy set out in a training module that required officers who manage prisoners to keep their fingernails short. This policy applied equally to male and female officers. The reason for the policy was for the safety of the prisoners and to avoid liability for violating a prisoner's constitutional rights. In the event an officer is required to use pressure points on a prisoner, a long nail could puncture the nerve. DeBoer warned plaintiff that she believed Jaramillo

[12] Salinas testified on behalf of the defense at trial.

was enforcing the fingernail policy to target plaintiff. Plaintiff did not immediately shorten her nails, however. A day or two after the e-mail, an unidentified gate officer flagged plaintiff for the length of her fingernails. Plaintiff objected and was allowed to begin her shift with a promise to remedy the violation.

At some unknown date, it was alleged that Jaramillo began moving his car on his break so he could spy on plaintiff. DeBoer testified that it became a running joke at the gate. Jaramillo, on the other hand, testified that his breaktime had been the same for an extended period and he did not change his break to coincide with plaintiff. He admitted to moving his car on his break, but testified it was merely because he could secure a better parking spot. He liked to sit in his car and talk to his wife on the phone while on his lunch break.

On June 21, 2023, plaintiff filed an Article 24 grievance with her union representative. As a remedy for the harassment she faced, plaintiff sought to be moved to a facility outside the Ionia Complex. Defendant's Labor Department requested two extensions for the deadline to file its answer. The grievance was dismissed without resolution when plaintiff ended her employment on August 18, 2023.

Eventually, plaintiff took leave under the Family Medical Leave Act (FMLA) in July 2023 and never returned to work at ICF. In late July 2023, while plaintiff was on leave, Officer McGowan found a paper staffing sheet on the desk in the Unit 3 Panel. Next to plaintiff's name, someone wrote "bitch." Next to the names of two male officers, the person wrote "pussy" and "shit bag." McGowan sent a picture of the sheet to plaintiff through Facebook Messenger. McGowan also took the sheet to DeBoer, who reported the incident up the chain of command.

Defendant investigated, determined Hoff had written the slurs on the schedule, and imposed a penalty against him.

It must be noted that multiple witnesses testified that profanity and other rough language that would be inappropriate or unprofessional in other contexts was common and not "unprofessional" in the prison setting. Kerr, for example, testified that many corrections officers used profanity. She described that the nature of the work environment led to many employees having "sick humor" and that it was "hard to be professional all the time." Henry testified that it was not uncommon to hear officers using profanity. "[I]n that environment, it's a form of effective communication." Henry further explained that profanity is "appropriate for that environment," and it "allows us to stay safe in . . . that environment." Essentially, prison staff use rough language because the prison population does.

Ultimately, plaintiff resigned on August 18, 2023. She testified that after filing so many complaints and transfer requests with no real resolution of these issues, she felt she had no choice but to leave.

## II. BURDEN OF PROOF

To secure judgment in her favor, plaintiff must establish the elements of her claims by a preponderance of the evidence. *Mayor of Cadillac v Blackburn*, 306 Mich App 512, 522; 857 NW2d 529 (2014). This standard requires plaintiff to prove the elements were "more likely than not" met. *Skinner v Square D Co*, 445 Mich 153, 165; 516 NW2d 475 (1994).

## III. CLAIMS

Plaintiff filed suit under the ELCRA. MCL 37.2202(1)(a) provides, in relevant part:

An employer shall not do any of the following:

> (a) Fail or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of . . . sex . . . .

The Court previously denied summary disposition on plaintiff's disparate treatment, retaliation, and hostile work environment claims. Each claim will be addressed below.

## A. DISPARATE TREATMENT AND RETALIATION

To establish a case of discrimination, a plaintiff must show she "was (1) a member of a protected class, (2) subject to an adverse employment action, (3) qualified for the position, and that (4) others, similarly situated and outside the protected class, were unaffected by the employer's adverse conduct." *Town v Mich Bell Tel Co*, 455 Mich 688, 695; 568 NW2d 64 (1997). Likewise,

> To establish a prima facie case of unlawful retaliation under the Civil Rights Act, a plaintiff must show (1) that [s]he engaged in a protected activity; (2) that this was known by the defendant; (3) that the defendant took an employment action adverse to the plaintiff; and (4) that there was a causal connection between the protected activity and the adverse employment action. [*El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 161; 934 NW2d 665 (2019) (cleaned up).]

### 1. PROTECTED CLASS AND QUALIFICATIONS

The parties do not dispute that plaintiff is a member of a protected class or that she was qualified for her position. The Court finds that plaintiff is a member of a protected class or group: she was a female employee. The Court also finds that plaintiff was a qualified corrections officer. Bonn testified that plaintiff was a good worker and dependable.

## 2. PROTECTED ACTIVITY

The parties agree that plaintiff engaged in protected activity when she filed internal complaints and a federal lawsuit against Cunningham. The Court finds that defendant's agents in ICF were aware of the protected activity. The witnesses testified that gossip and rumors swirled around ICF like a high school. Local media had reported on plaintiff's lawsuit. The Court finds incredible testimony that members of shift command at ICF were unaware that plaintiff had filed internal complaints and a federal lawsuit against her former supervisor.

## 3. ADVERSE EMPLOYMENT ACTION

Plaintiff's discrimination and retaliation claims require her to establish an adverse employment action. A constructive discharge occurs when an employer and/or its agents make the plaintiff's working conditions so intolerable that the plaintiff is forced to involuntarily resign. Stated differently, a constructive discharge occurs "when working conditions become so difficult or unpleasant that a reasonable person in the employee's shoes would feel compelled to resign." *Vagts v Perry Drug Stores*, 204 Mich App 481, 487; 516 NW2d 102 (1994) (cleaned up).

"There is no exhaustive list of what constitutes adverse employment actions. And what might constitute an adverse employment action in one employment context might not be actionable in another employment context." *Chen v Wayne State Univ*, 284 Mich App 172, 201; 771 NW2d 820 (2009). Regardless of context, the "action must be materially adverse to the employee—that is, it must be more than a mere inconvenience or minor alteration of job responsibilities." *Id.* "In addition, there must be an objective basis for demonstrating that the employment action is adverse because a plaintiff's subjective impressions are not controlling." *Id*. at 201-202. Examples include: "termination of employment, a demotion evidenced by a decrease in wage or salary, a less

distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices that might be unique to a particular situation." *Id*. at 202 (cleaned up).

In relation to a retaliation claim, a materially adverse employment action is one "that well might have dissuaded a reasonable worker from making or supporting a charge of discrimination." *White v Dep't of Transp*, 334 Mich App 98, 118; 964 NW2d 88 (2020). Unlike in a straight discrimination case, an adverse employment action supporting a retaliation claim "is not limited to discriminatory actions that affect the terms and conditions of employment." *Id*. (cleaned up).

> At the same time, the Court said that Title VII does not set forth a general civility code for the American workplace; that petty slights, minor annoyances, and simple lack of good manners are not actionable even if retaliatory; and that the actions must deter reasonable employees, noting that the test is objective. [*Id*. (cleaned up).]

Plaintiff has not met her burden of establishing an adverse employment action to support her disparate treatment and retaliation claims. This Court previously denied defendant summary disposition holding that not being placed on a regular assignment is an adverse employment action and that there was a genuine issue of material fact regarding whether others similarly situated to plaintiff and outside the protected class were similarly impacted, and whether plaintiff was denied a regular assignment as retaliation for engaging in protected activity, i.e. filing a discrimination complaint against Cunningham.

After careful review of the trial record, the Court finds that plaintiff was not disparately treated from similarly situated individuals based on her sex, nor was she subject to adverse employment action based on when she was given a regular assignment. As recounted above, one of plaintiff's male colleagues who transferred to ICF never received a regular assignment. Several transferred female officers were given regular assignments. Furthermore, there is evidence that

plaintiff could have received a regular assignment in the control center, like Officer Chevette, but plaintiff was disinclined to work that position for her own reasons. The Court does not find that the control center was an objectively less desirable position. In fact, the testimony at trial indicates that it was a safer assignment and sought after by others. Last, it is undisputed that once plaintiff took her complaint to Bonn, mere months after she started at ICF and just weeks after others allegedly received their regular assignments, she was immediately given a regular assignment in the preferred unit she requested.

Although language grounded in gender was used—bitch and "I'm not going to compare dicks"—the use of these words was not direct evidence of any discriminatory act based on gender. No one expressed that plaintiff would be mistreated or passed over for regular assignments because of her gender.

Moreover, the Court finds that there were legitimate non-discriminatory reasons for why plaintiff was not immediately given her requested assignment in January 2023. Jaramillo testified that making schedules was a time-intensive process that required juggling many variables, including ensuring that the staff within a unit are a good fit. Taken as a whole, the Court concludes that plaintiff was not treated differently from her colleagues based on her sex as related to the regular assignment issue. The Court also finds that plaintiff did not suffer an adverse employment action by not receiving a regular assignment until February 2023, after she transferred to ICF in November 2022.

The Court further finds that the fingernail policy was not inherently discriminatory and was not applied as retaliation against plaintiff. The Court finds credible the testimony establishing that a short fingernail policy for corrections officers is needed to secure the safety and constitutional

guarantees of the prisoners. The e-mail reminding all officers of the policy, and the application of that policy to plaintiff, was not discrimination based on sex or retaliation. Moreover, when plaintiff was flagged for violating the policy, command permitted her to report to work with the promise she would remedy the violation.

## B. HOSTILE WORK ENVIRONMENT

To establish her hostile work environment claim, plaintiff must establish:

> (1) plaintiff belonged to a protected group; (2) plaintiff was subjected to communication or conduct on the basis of sex; (3) plaintiff was subjected to unwelcome sexual conduct or communication; (4) the unwelcome sexual conduct or communication was intended to or in fact did substantially interfere with plaintiff's employment or created an intimidating, hostile, or offensive work environment; and (5) respondeat superior. [*Hamood v Trinity Health Corp*, ___ Mich App ___; ___ NW3d ___ (2024) (Docket No. 364627), slip op at 8, citing *Radtke v Everett*, 442 Mich 368, 382-383; 501 NW2d 155 (1993).]

In *Radtke*, our Supreme Court held:

> a hostile work environment claim is actionable when the work environment is so tainted that, in the totality of the circumstances, a reasonable person in the plaintiff's position would have perceived the conduct at issue as substantially interfering with employment or having the purpose or effect of creating an intimidating, hostile, or offensive employment environment. [*Radtke*, 442 Mich at 372.]

As discussed above, there is no dispute that plaintiff was a member of a protected group.

Plaintiff has claimed a hostile work environment based on: overall treatment from her coworkers; Jaramillo's comment to her about not "comparing dicks" and allegedly referring to her as a "bitch and a "slut"; her interactions with Officer Warren and his changes to her schedule; and her interaction with Officer Hoff. Although it is undeniable that plaintiff was subjected to gossip and an uncomfortable work environment, the Court finds that the individual offenses, taken as a

whole, were not severe or pervasive enough to substantially interfere with plaintiff's employment to create a hostile work environment based on plaintiff's sex.

As to Jaramillo, the Court does not find that his actions or comments, taken cumulatively, created a hostile work environment. The Court finds Jaramillo credible when he testified that he did not directly call plaintiff a "bitch," "slut," or other derogatory term. Testimony from Bonn and Henry corroborates Jaramillo's testimony. On the other hand, only DeBoer testified that Jaramillo used those slurs against plaintiff. The Court finds DeBoer's testimony incredible. Furthermore, Henry testified that using curse words in general at the ICF was commonplace and not considered demeaning, given that prisoners would routinely use this type of language and officers, in the scope of their work and to keep a rapport with the prisoners, would likewise use profanities in the workplace. The Court finds that while it is likely Jaramillo used profane language in the workplace and around plaintiff, the profanities were not directed at plaintiff personally and were not based on sex. The Court thus finds that Jaramillo's conduct did not contribute to a hostile work environment based on sex.[13]

Plaintiff also contends that her overall treatment by coworkers created a hostile work environment. Specifically, she points to Moore changing her assignment roster, Warren placing her in undesirable stations in Unit 4 and telling her to "cry me a river" when confronted, and overall being shunned and ignored by coworkers. Again, while this treatment undoubtedly created an uncomfortable work environment, the Court finds that it did not rise to the level of creating a

[13] Plaintiff also cited Jaramillo's spying on her during their break as part of the hostile work environment. However, plaintiff did not personally mention this issue at trial and it is unclear if she was aware of Jaramillo's presence.

hostile work environment to the point where it substantially interfered with plaintiff's employment. After Moore's behavior was pointed out to shift command, he was admonished and told to stop altering the schedule. He did so. Likewise, the testimony and shift schedules admitted at trial established that plaintiff did not work with Warren for an extended period of time and, when she did, it was at her own behest because she requested to be placed in Unit 4, where Warren too had a regular assignment. The Court finds that the isolated incidents and interactions with these coworkers, which were ameliorated once brought to the attention of command, are insufficient to support a pervasive hostile work environment.

Finally, the Court finds that Hoff's isolated incident of writing "bitch" next to plaintiff's name on the shift schedule did not rise to the level of creating a hostile work environment. Notably, plaintiff was on FMLA leave when the incident occurred and was only notified about it by McGowan. Nonetheless, there is nothing in the record to support that this was anything more than a one-off. The incident was investigated after it was reported, and Hoff was sanctioned as a result.

Hoff's other conduct likewise did not rise to the level of creating a hostile work environment. To the extent that Hoff treated plaintiff with coldness or indifference, the Court finds that this was a personality dispute and, even if motivated by plaintiff's sex, did not amount to anything more than a petty grievance and inconvenience. Hoff's other conduct of allegedly endangering plaintiff by tossing prisoners' cells in a manner that could enrage a prisoner that plaintiff was escorting, is more troubling. However, even then, there is no evidence that Hoff's conduct was motivated against plaintiff. Plaintiff acknowledged at trial that Hoff's conduct was in keeping with his duties as a corrections officer and, while thorough, there was no evidence to suggest that Hoff's conduct was unduly inappropriate. Plaintiff never filed a formal grievance against Hoff for these actions and command officials did not recall being asked to admonish Hoff.

While plaintiff testified that she did tell command about the behavior, her testimony was not corroborated by anyone in command. Taken as a whole, the court finds that Hoff's conduct was not motivated by plaintiff's sex and did not create a hostile work environment.

## IV. CONCLUSION

The Court acknowledges that working in a prison environment is difficult and dangerous. The atmosphere at ICF was certainly charged and tense. The Court does not doubt that plaintiff felt uncomfortable and unsafe. Ultimately, however, although plaintiff created a genuine issue of material fact for trial, the evidence does not support her claims of disparate treatment, retaliation, and hostile work environment by a preponderance of the evidence. Accordingly,

1. The Court ENTERS JUDGMENT in favor of defendant.
2. The Court DISMISSES plaintiff's action in full and with prejudice.
3. Plaintiff's March 30, 2026 motion to strike defendant's March 23, 2026 supplemental trial brief is DISMISSED as MOOT because the Court did not reach the mitigation of damages issue.
4. Costs and fees will not be awarded.
5. This is a final order resolving all issues in this case.

Date: April 24, 2026

Sima G. Patel
Judge, Court of Claims