

## SERGEANT FIRED FOR SENDING OFFENSIVE "BARBIE DOLL" EMAIL



Be careful what you read while checking your email at work. But be even more cautious about which emails you decide to forward to others. A man was working as a Master Sergeant in the Medicaid Fraud Control Bureau of the Illinois State Police. In February 2008, he sent an email listing a series of fictitious limited-edition Barbie Dolls. Each doll was named after familiar areas in or near Springfield, IL, and provided a description that perpetuated stereotypes of the women in the specified regions – Lake Area Barbie was “collagen injected, bo-toxed [sic],” and “rhinoplastied,” and North End Barbie was a 16-year-old who came with an infant and stroller, with the inclusion of the infant being the reason that Gangsta Ken was harder to find. The email made its way to a supervising Sergeant, who notified her own supervisor, believing that it had been forwarded to her inadvertently. A complaint was subsequently filed against one of the original recipients of the email, and the case was directed to the state police’s Equal Employment Opportunity (EEO) office. The source was tracked to the plaintiff, and the Division of Internal Investigations (DII) was contacted, who instructed the bureau to continue with its investigation. The Sergeant who initially reported the email, the aforementioned recipient and the plaintiff were each interviewed, and the plaintiff admitted to sending the email. The EEO took the reins and contacted all the employees who’d received the email, but no one was willing to file a complaint. The EEO concluded that there was nothing to support a hostile work environment charge, but a superior noted the email’s sexual and racial offensiveness, and the



plaintiff was internally charged with violating the state police’s Rules of Conduct.

The man received a 30-day suspension and, after taking the email incident into account, his promotional rating dropped, despite a lieutenant – his “rater” – citing a high level of performance for the year. He filed a lawsuit against five individuals, including the state police Director and four other officers in his direct chain of command. The suit alleged discrimination based on his race (Caucasian) and political views in relation to his suspension and drop in ratings, violating the U.S. Code, Sections 1981 (equal rights) and 1983 (deprivation of rights). To support his case, the plaintiff was required to prove discrimination, but the district court believed that the man’s evidence was circumstantial. He noted 18 other individuals who were also disciplined, but only three of those were for misuse of equipment, and none were related to the Barbie Doll email. Furthermore, he failed to specify if the individuals were non-Caucasians. The court also referred to his argument that the email would not have been a problem if he were an African American as “speculation.” Likewise, the court rejected the notion of a deviation in the standard investigatory process (no one complained or completed an EEO form) – since the DII had been involved – and the argument that the email was a pretext for a poor rating, as the plaintiff had not alleged discrimination against his rater or the captain who ultimately upheld the change in rating. The district court granted summary judgment in favor of the defendants. The decision was later affirmed by an appeals court.