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United States of America v. The Sheriff of McLennan County and McLennan County

Keywords

United States of America, The Sheriff of McLennan County, McLennan County, 6:98-cv-00316-WSSM, Consent Decree, Assignment, Sex, Female, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE SHERIFF OF McLENNAN COUNTY,
in his official capacity; and
McLENNAN COUNTY,
Defendants.

CONSENT DECREE

This action was brought by the United States against the Sheriff of McLennan County, in his official capacity (hereinafter "Sheriff"), and McLennan County, named as a party pursuant to Rule 19(a) of the Federal Rules of Civil procedure (hereinafter "County"), under the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, _et_ _seq._ (hereinafter "Title VII").

The United States and the Defendants, desiring that this action be settled by appropriate Consent Decree, and without the burdens of protracted litigation, agree to the jurisdiction of the Court over the parties and the subject matter of this action, and hereby waive, for the purposes of this Consent Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Consent Decree as final and binding among themselves as to the issues raised in the Complaint filed in this case.

This Consent Decree, being entered with the consent of the parties, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission of liability by the Sheriff or the County or a finding of wrongdoing or violation of any applicable federal or state law by the Sheriff or the County.

I. _GENERAL INJUNCTIVE PROVISIONS_

1. The basic objectives of this Consent Decree are to ensure that women are considered for the position of Field Deputy on a non-discriminatory basis, and that the present effects of any past discrimination be remedied.
2. The Sheriff and his officers, agents, employees, successors and all persons in active concert or participation with him hereinafter shall not engage in any act or practice that has the purpose or effect of unlawfully discriminating on the basis of sex against any employee or applicant for employment with the Sheriff with respect to the position of Field Deputy.
3. The Sheriff shall not retaliate by taking adverse employment action against any person because that person has opposed the alleged discriminatory practices, or because of that person's participation in

or cooperation with the initiation, investigation, litigation or administration of this action or this Consent Decree.

4. The Sheriff shall take the following remedial measures designed to overcome the present effects of the discrimination alleged in the Complaint:

A. The Sheriff shall permit any qualified female employee in the Sheriff's Department to obtain Field Deputy training by riding with an incumbent Field Deputy as a substitute or back-up Field Deputy, either on the day or night shift, for a period not to exceed 160 hours of training.

B. Within 30 days of the entry of this Consent Decree, the Sheriff shall notify all eligible female employees in the Sheriff's Department, in writing, of the opportunity to obtain Field Deputy experience by riding in a patrol car as a substitute or back-up Field Deputy during either the day or night shift. Eligible female employees will be paid their normal rate of pay while receiving this training. Training shifts may be scheduled for an employee's normal day(s) off provided that the employee agrees to work on her day(s) off, and/ or may be scheduled to replace a work shift of the employee in her regular position during the applicable pay period depending on the schedule established by the Sheriff's Office. An eligible employee is any woman who has been employed in the Sheriff's Department for at least one year, has a current and valid Texas Law Enforcement Officer's Certificate, and who had a valid Texas Law Enforcement Certificate before the time the Sheriff's Department ended the practice of permitting employees to ride in the patrol cars as substitute Field Deputies in 1996. The notice letter to be sent by the Sheriff shall be by certified mail, return receipt requested, in the form set forth in Appendix A to this Decree. Nothing in this Consent Decree shall obligate the Sheriff to provide training to a person who is not qualified by valid qualification standards to be eligible for the position of Field Deputy.

C. Eligible female employees in the Sheriff's Department may indicate an interest in receiving the training by

responding in writing to the notice letter no later than fifteen (15) days after receipt of the letter, in the form set forth in Appendix B to this Decree.

D. The Sheriff will commence the training described in this Section within fifteen (15) days after the response period has ended.

E. The Sheriff or his designee will assign each eligible participant to ride in a patrol car during either the day or night shift with an incumbent Field Deputy, determine the days, shift and hours of the training, and provide each eligible participant so assigned with at least seven (7) days written notice of the date(s) and time that she will receive the training.

F. The incumbent Field Deputies who provide this training shall be

instructed to conduct themselves in a non-discriminatory manner, and they shall provide adequate and objective training to the participating female employees of the type at least equivalent to that provided in the past to male substitute Field Deputies.

G. All training shall be completed within one year of the entry of this Consent Decree, unless circumstances beyond the Sheriff's control cause a delay in the completion of the training.

H. Female employees who complete the training will be given objective and non-discriminatory consideration for employment as Field Deputies consistent with the Sheriff's current method of filling vacancies.

I. An eligible female employee who fails to timely report for scheduled training without a verified excuse such as sickness, a death in the family, or other such circumstances beyond her reasonable control, may be subject to forfeiture of that block of scheduled training hours, and any participant who fails to timely report for training on three (3) occasions without a valid excuse will be ineligible for further participation in the training.

II. RECORDKEEPING

1. The Sheriff shall maintain for the duration of this Consent Decree all records necessary to monitor the implementation of this Consent Decree. Such records shall include all documents and records including but not limited to vacancy announcements, employment applications, interview sign-up sheets, interview notes, and correspondence and memoranda pertaining to the Field Deputy position.

2. The United States Department of Justice shall have the right to inspect and copy any and all of the above documents and records upon reasonable notice to the Sheriff without further order of this Court. In addition, the Sheriff shall make available such additional information or records relating to the hiring of women as Field Deputies and the training of women employees of the Sheriff's Department provided for in this Consent Decree as the United States Department of Justice requests in writing during the life of this Decree.

III. REPORTING

1. Within thirteen (13) months after the entry by the Court of this Consent Decree, the Sheriff shall provide to the United States a report indicating the name of each female employee who expressed an interest in receiving Field Deputy training to be provided pursuant to Paragraph 4 of this Consent Decree, the name of the incumbent Field Deputy who provided the training, the dates and shift(s) on which the training was provided, and the name of each female employee who completed the training.

2. For the purposes of this Consent Decree, a reporting period shall run from January 1 through December 31.

3. Within thirty (30) days after the close of each reporting period

during the duration of this Consent Decree, the Sheriff shall provide to the United States a report for that reporting period showing the following:

(A) A list of all persons employed by the Sheriff as a Field Deputy as of the last day of the reporting period, showing each individual's name, home address, sex and date of hire;

(B) The name of each person who applied for a Field Deputy position during the reporting period;

(C) A list of all formal and informal written complaints alleging discrimination based on sex relating to employment as a Field Deputy by female Field Deputies or applicants for Field Deputy together with a copy of each such complaint.

V. COMPLIANCE

1. If a dispute concerning compliance by the Defendants with any provision of this Consent Decree arises or if the parties deem it advisable for any other reason, the parties shall engage in good faith efforts to resolve the issue before seeking action by the Court. If the parties are unable expeditiously to resolve the issue, any party may move the Court for resolution, provided that written notice is first provided to the other parties.

2. The Defendants agree to cooperate in any reasonable investigation by the United States relating to alleged violations of this Consent Decree, and the United States agrees to inform the Defendants of the results of that investigation on an ongoing basis.

VI. Additional Provisions

1. Within seven (7) days after the date of entry of this Consent Decree, the Sheriff shall post copies of the Consent Decree in a prominent and conspicuous location(s) used for posting notices in the Sheriff's Office and jail facilities. Such copies shall remain posted throughout the life of this Decree. In addition, the Sheriff shall provide a copy of this Consent Decree, at no cost, to any employee who so requests.

2. Any female employee in the Sheriff's Department who believes she has been discriminated against in violation of Title VII with respect to the position of Field Deputy or has information concerning any such alleged discrimination against any other employee, and any employee who believes that she has been retaliated against for complaining about discrimination with respect to the position of Field Deputy, or for that person's participation in or cooperation with the initiation, investigation, litigation or administration of this action or this Consent Decree, may contact the United States Department of Justice by writing to the following attorney:

Charles E. Leggott
U.S. Department of Justice
Civil Rights Division

Employment Litigation Section
P.O. Box 65968
Washington D.C. 20035-5968

3. This Court shall retain jurisdiction of this action for the purpose of entering any orders or judgments which may be necessary to implement the relief provided herein.

4. All provisions of this Consent Decree shall be dismissed after three (3) years from its entry and approval by the Court unless the United States moves for its continuation prior to expiration of the Consent Decree. If such a motion is made, the Consent Decree shall continue until the Court rules on the United States' Motion for Continuation.

5. By entering this Consent Decree, the Sheriff and County make no admission as to any of the allegations set forth in the United States' Complaint or any EEOC Charge or Determination.

6. The parties shall bear their own costs, expenses and attorneys' fees in this action.

ENTERED THIS ___ DAY OF ___, 199__.

___ UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

On Behalf of the Plaintiff
United States:

BILL LANN LEE
Acting Asst. Attorney General
Civil Rights Division

—

WILLIAM B. FENTON
CHARLES E. LEGGOTT
Attorneys
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
P.O. Box 65968
Washington, D.C. 20035-5968
(202) 514-0548

On Behalf of the Defendants ___

Herbert S. Bristow
Haley & Davis, P.C.
Triangle Tower, Suite 600
510 N. Valley Mills Drive
Waco, Texas 76710

254) 776-3336

Appendix A

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Name

Address

City, State, Zip Code

Dear :

A Consent Decree has been entered settling a complaint of employment discrimination filed by the United States against the Sheriff of McLennan County and McLennan County ("Defendants"). This Decree was approved and entered by the Court on _____, 1998 in the case of _United States v. Sheriff of McLennan County, et al._, Civil Action No. _____ (W.D. Texas). A copy of the Consent Decree is enclosed.

Pursuant to the Consent Decree, any qualified female employee in the Sheriff's Department may obtain up to 160 hours of Field Deputy training by riding in a patrol car with an incumbent Field Deputy as a substitute or back-up Field Deputy. An eligible employee is any woman who has been employed in the Sheriff's Department for at least one year, has a current and valid Texas Law Enforcement Officer's Certificate, and who had a valid Texas Law Enforcement Certificate before the time the Sheriff's Department ended the practice of permitting employees to ride in the patrol cars as substitute Field Deputies in 1996. The female employees who elect to obtain the training being offered by the Sheriff's Department will be assigned to ride in a patrol car as a back-up officer, during either the day or night shift, with an incumbent Field Deputy.

Incumbent Field Deputies who provide this training will be instructed to conduct themselves in a non-discriminatory manner, and they shall provide adequate and objective training to the participating female employees who participate in the training of the type at least equivalent to that provided in the past to male substitute Field Deputies. Participants will be paid their normal rate of pay while receiving this training. All training is to be completed within one year of the entry of the Consent Decree, and anyone who completes the training will be given objective and non-discriminatory consideration for employment as a Field Deputy consistent with the Sheriff's current method of filling Field Deputy vacancies.

You must indicate whether you are interested in receiving the training being offered by the Sheriff by responding to this letter in writing within, on the form enclosed with this letter, within fifteen (15) days of your receipt of the letter. If you have any questions concerning the training program, or any other provisions of the Consent Decree, you may contact the following attorney at the U.S. Department of Justice:

Charles E. Leggott
Employment Litigation Section
U.S. Department of Justice
P.O. Box 65968
Washington, D.C. 20035
(202) 514-0548 Sincerely,

Appendix B

*I. * I, _____ (name),

Please check one:

____ Wish to participate in the compensatory training for Field Deputy being offered by the Sheriff pursuant to the Consent Decree in _United States v. The Sheriff of McLennan County et al._

____ Do not wish to participate in compensatory training for Field Deputy being offered by the Sheriff pursuant to the Consent Decree in _United States v. The Sheriff of McLennan County et al._

*II: *For those who wish to receive the training please complete the following section:

A. I prefer to receive the training on the:

Day shift _____ Night shift _____

B. I prefer to receive the training on these days of

the week _____

Signed: _____

Date: _____