

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACQUETTA HAWKINS, et al.,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

SUMMIT COUNTY, OHIO, et al.,

Defendants.

CASE NO. 5:11CV2753

JUDGE SARA LIOI

MAGISTRATE JUDGE
KATHLEEN B. BURKE

Jury Trial Demanded

PLAINTIFF-INTERVENOR'S COMPLAINT

Plaintiff-Intervenor United States of America ("United States") alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII").
2. This Court has jurisdiction over this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.
3. Defendant Summit County, Ohio, ("Summit County") is a local government agency, which maintains places of business in this judicial district, and a substantial part of the events giving rise to this action took place in this judicial district.
4. Defendant Drew Alexander ("Alexander") is Sheriff of Summit County, Ohio. Defendant Alexander is sued in his official capacity. Pursuant to Ohio Revised Code § 341.05,

Defendant Alexander, in his official capacity as Sheriff, is charged with the operation and staffing of the Summit County Jail.

5. Defendant Summit County and Defendant Alexander, in his official capacity, are persons within the meaning of 42 U.S.C. § 2000e(a), and employers or agents of an employer within the meaning of 42 U.S.C. § 2000e(b).

6. Summit County Jail (“SCJ”) is located in the city of Akron, Ohio and houses approximately 600 male and female inmates at any given time. The primary nonsupervisory job title at SCJ is Deputy Sheriff. Deputy Sheriffs (“deputies”) are responsible for inmate supervision. Most deputies hold positions serving either Intake or Security functions, the latter of which involves staffing the living areas of the jail.

7. Plaintiffs Jacquetta Hawkins, Bethanne Scruggs, Cathy Phillips, Angela Berg, Tracy Braziel, Elaine George-Pickett, Deidre Heatwall, Melissa House, Heather Stewart, Cynthia Young, Meredith Wade, Peggy Starr, Lyn Watters, Shawntell Kennedy, Heather McPherson-Danner, Angela Molea, Patricia Bennett, Cynthia Wood, Angela Dent, Debra McMasters, and Stacy Clark (the “Hawkins plaintiffs”) are female deputies employed by Summit County and assigned to the Summit County Jail.

8. Prior to January 2, 2012, most deputies at SCJ worked in one of four positions: (1) Intake, (2) Female Intake, (3) General Security, and (4) Female Security. Female deputies were allowed to work in all four positions.

9. On August 31, 2010, SCJ applied to the Ohio Civil Rights Commission (“OCRC”) for certification of a bona fide occupation qualification (“BFOQ”) for certain positions on the basis of sex. In particular, the SCJ sought to establish a fixed number of positions for male and female deputies in Intake on each shift such that males would constitute

approximately 80 percent of all Intake deputies. SCJ did not request BFOQ certification for positions in the male living areas of the jail, known as General Security. SCJ did, however, request a BFOQ to place female deputies in a position known as "Float." The OCRC granted the application for the Intake and Float positions in January 2011, and the certification will remain valid until January 26, 2013.

10. In November 2011, SCJ issued a blank staffing chart for use in the 2012 bidding process for deputies. The chart listed five positions: Intake Male, Intake Female, Security Male, Security Female and Security/Intake Float Female. Whereas previously women could bid on all Intake positions based on seniority, under the new staffing system, only 6 Intake positions were available to female deputies; the remaining 23 Intake positions were available only to male deputies. Also, under the new staffing system, female deputies were no longer able to bid on Security positions based on seniority in both the male and female living areas. Only 18 "Security Female" positions, supervising the female living areas, were available to female deputies; the remaining 87 "Security Male" positions, supervising male living areas, were available only to male deputies.

11. On November 14, 2011, Jail Administrator Gary James ("James") issued a memorandum regarding the 2012 bidding process and explicitly stated that female deputies were allowed only to bid for jobs within Female Intake, Female Security, and Female Float.

12. On December 5, 2011, James issued another memorandum to clarify confusion relating to the bidding process. He wrote that "female deputies have three (3) positions and three (3) shifts to bid on . . . Female deputies ARE NOT to bid on ANY of the male positions. Meaning a female deputy SHOULD NOT place a bid for a 'General Security' position. There no longer is a position for female deputies in 'General Security.'"

13. SCJ's new, sex-segregated job assignment system is much broader than the staffing plan it originally submitted to OCRC in August 2010 when it applied for a BFOQ certification. The staffing plan submitted to the OCRC did not request BFOQ certification with respect to positions in Male Security (formerly General Security). In addition, the staffing plan submitted to the OCRC listed 38 available jobs for female deputies, while the new system provides only 32 jobs for female deputies.

14. On January 2, 2012, SCJ implemented the new, sex-segregated assignment system. As a result of this system, many female deputies (including the Hawkins plaintiffs) were unable to pick their preferred job assignments, were unable to pick their preferred shifts, lost their previous shifts, and/or lost their previous job assignment despite their seniority within the SCJ.

15. As a result of the implementation of the new, sex-segregated assignment system at SCJ, female deputies can now only work in Female Intake, Female Security, and Female Float positions, but they are no longer permitted to work in Male Intake (formerly "Intake") or Male Security (formerly "General Security"), which are the two largest job classifications at the jail and now reserved for male deputies only.

16. Prior to January 2, 2012, the Hawkins plaintiffs and other similarly-situated female deputies at SCJ who held positions in Intake (now "Male Intake") were fully capable of performing, and have performed, all essential functions of this job assignment, with the limited exception of opposite-sex strip searches.

17. Prior to January 2, 2012, the Hawkins plaintiffs and other similarly-situated female deputies at SCJ who held positions in General Security (now "Male Security") were fully capable of performing, and have performed, all essential functions of this job assignment.

18. After January 2, 2012, female deputies assigned to the Female Float position have been assigned to “float” in the General Security (now “Male Security”) job assignment and have continued to perform all essential functions of this job assignment.

STATEMENT OF CLAIMS

19. Summit County has pursued, and continues to pursue, policies and practices that discriminate against women and that deprive or tend to deprive women of employment opportunities because of their sex. The acts and practices of defendant Summit County described in paragraphs 3-18 above, constitute a pattern or practice of discrimination on the basis of sex in violation of § 707 of Title VII, 42 U.S.C. § 2000e-6.

20. Summit County has discriminated against the Hawkins plaintiffs and other similarly-situated female deputies at the SCJ in violation of § 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), among other ways, by:

- (a) implementing a sex-segregated job assignment system which is broader than required to safely and efficiently operate SCJ; and
- (b) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

21. The Equal Employment Opportunity Commission (“EEOC”) received timely charges of discrimination from Jacquetta Hawkins, Bethanne Scruggs, Angela Berg, Tracy Braziel, Elaine George-Pickett, Deidre Heatwall, Melissa House, Heather Stewart, Cynthia Young, Meredith Wade, Peggy Starr, Lyn Watters, Heather McPherson-Danner, Patricia Bennett, Angela Dent, Debra McMasters, Stacy Clark, Catherine Muncy, Stefanie Hoover, and Carole Mariner. Pursuant to Section 706 of Title VII, the EEOC investigated the charges and found reasonable cause to believe the plaintiffs and other similarly-situated female deputies were

subject to an unlawful sex-segregated job assignment system, in violation of Title VII. The EEOC referred the matter to the United States Department of Justice after an unsuccessful attempt to conciliate the charges.

22. All conditions precedent to the filing of this Title VII sex discrimination in job assignment suit have been performed or have occurred.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court grant the following relief:

- (a) Enjoin defendant Summit County from further discrimination in job assignments against the plaintiffs and similarly-situated female deputies;
- (b) Require defendant Summit County to adopt a job assignment system that complies with Title VII;
- (d) Award backpay and all other appropriate monetary relief, to the plaintiffs and other similarly-situated female deputies at SCJ in an amount to be determined at trial to make them whole for the loss they suffered as a result of the discriminatory conduct alleged in this Complaint;
- (d) Award the plaintiffs and other similarly-situated females any prejudgment interest on the amount of lost wages and benefits determined to be due;
- (e) Award compensatory damages to the plaintiffs and to other similarly situated female-deputies to fully compensate them for the pain, suffering, and medical expenses caused by the discriminatory conduct alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a;
- (f) Order defendant Summit County to institute policies, practices, and programs to ensure a non-discriminatory workplace, including but not limited to implementing

appropriate policies to ensure equal employment opportunity for their employees, and providing adequate training to all employees and officials regarding discrimination and retaliation;

(g) Award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

BY: Delora L. Kennebrew
DELORA L. KENNEBREW (GA Bar No. 414320)
Chief
Employment Litigation Section

Esther G. Lander
ESTHER G. LANDER (Bar No. DC 461316)
Deputy Chief
Esther.Lander@usdoj.gov

Barbara A. Schwabauer
BARBARA A. SCHWBAUER (OH Bar No. 0086999)
VARDA HUSSAIN (VA Bar No. 70132)
Trial Attorneys
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW
Patrick Henry Building, Room 4017
Washington, DC 20530
Telephone: (202) 305-5034
Facsimile: (202) 514-1005
Barbara.Schwabauer@usdoj.gov

STEVEN M. DETTELBACH
United States Attorney
Northern District of Ohio

s/ Michelle L. Heyer

By: MICHELLE L. HEYER (0065723)
Assistant United States Attorney
HEATHER TONSING VOLOSIN (0069606)
Assistant United States Attorney
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3686 (phone)
(216) 522-2404 (fax)
Michelle.heyer@usdoj.gov

Attorneys for Plaintiff United States of America

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