

RECEIVED

2008 DEC 17 PM 1:43

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

UNITED STATES OF AMERICA,
Plaintiff,

v.

RONNIE E. LEE, SHERIFF, HENDRY
COUNTY, FLORIDA (in his official
capacity); and HENDRY COUNTY
BOARD OF COUNTY
COMMISSIONERS, FLORIDA,

Defendants.

Civil Action No.: _____
JURY TRIAL DEMANDED

2: 08-cv-946-FtM-29-SPC

COMPLAINT

Plaintiff 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), § 2000e-6(b) and 28 U.S.C. § 1345.
3. Defendant Ronnie E. Lee, Sheriff of Hendry County, Florida, is an elected official in the State of Florida. Defendant Sheriff is sued in his official capacity.
4. Defendant Sheriff has responsibility, among other things, for the selection, hiring and employment of personnel at the Hendry County Sheriff's Office ("HCSO"). Defendant Sheriff is a person within the meaning of 42 U.S.C. § 2000e(a), and an employer or an agent of an employer within the meaning of 42 U.S.C. § 2000e(b).

5. Defendant Board of County Commissioners of Hendry County (“Board of County Commissioners”) is Hendry County’s governing body created pursuant to the laws of the State of Florida and is vested with powers to carry out the governmental functions necessary for the operation of the County. Defendant Board of County Commissioners appropriates funds for the operation of the HCSO, including funds for the salaries and wages of employees of HCSO.
6. The Board of County Commissioners is named as a party pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.
7. On or about October 2005, Tonya Shaw verbally notified Captain Joe Johnson, an agent and employee of defendant Sheriff, that she was pregnant.
8. On or about November 8, 2005, defendant Sheriff demoted Tonya Shaw from investigator to bailiff deputy and decreased her pay from \$35,000 to \$32,000 per year. At all times prior to her demotion, Shaw was adequately performing her duties as investigator.
9. On or about December 22, 2005, after receiving formal written notice from Shaw regarding her pregnancy, defendant Sheriff placed Shaw on mandatory light duty. Defendant Sheriff made no inquiry regarding Shaw’s ability to perform her essential job duties before placing her on light duty. In a written directive to Shaw, defendant Sheriff’s agent, Chief Devon Land, instructed Shaw as follows: “During your pregnancy you are not to get involved in any situation that could cause injury to your baby or yourself. Therefore, you are assigned to light duty and cannot wear a uniform or drive a marked Sheriff’s Office vehicle during this time period.”
10. It is the practice of defendant Sheriff to assign to mandatory light duty all pregnant employees at the Hendry County Sheriff’s Office.

11. Defendant Sheriff has discriminated against Tonya Shaw in violation of § 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), among other ways, by:

- a. demoting Shaw from inspector to bailiff deputy; and
- b. failing or refusing to take appropriate action to remedy the effects of its discriminatory treatment of Shaw.

12. Defendant Sheriff has discriminated against Tonya Shaw and similarly situated pregnant females in violation of Title VII, § 703(a), 42 U.S.C. § 2000e-2(a), among other ways, by:

- a. adopting and implementing an unlawful fetal protection policy that requires pregnant employees to take mandatory light duty regardless of their ability to work; and
- b. failing or refusing to take appropriate action to remedy the effects of its discriminatory treatment of Shaw and similarly situated pregnant employees.

13. The Equal Employment Opportunity Commission (“EEOC”) received a timely charge of discrimination filed by Shaw (Charge No. 510200601861), in which Shaw alleged that after informing defendant Sheriff of her pregnancy, she was required to take a light duty assignment that she did not request. The EEOC investigated Charge No. 510200601861, found reasonable cause to believe the allegations of discrimination on the basis of sex and pregnancy were true, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charges, and subsequently referred the matter to the United States Department of Justice.

14. The acts and practices of defendant Sheriff described in paragraphs 8 - 12, above, also constitute a pattern or practice of intentional resistance to the full enjoyment of the rights of pregnant females employed by defendant Sheriff to equal employment opportunities without

discrimination based on sex and pregnancy, in violation of § 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-6.

15. All conditions precedent to the filing of this Complaint have been performed or have occurred.

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

- a. Enjoin defendant Sheriff and all officers, agents, employees, successors and all persons in active concert or participation with him, from subjecting any individual who is pregnant or may become pregnant to a policy or practice that discriminates on the basis of sex and pregnancy by requiring mandatory light duty without inquiring into the individual's ability to perform the essential duties of her job;
- b. Require defendant Sheriff to:
 - ii. adopt a policy regarding light duty for pregnant employees that complies with Title VII;
 - iii. adopt a policy that establishes an effective mechanism for receiving and responding to complaints of sex and pregnancy discrimination;
 - iii. provide adequate training to all of defendant Sheriff's employees and officials who are responsible for making determinations regarding complaints of sex and pregnancy discrimination; and
 - iv. take other appropriate nondiscriminatory measures to overcome the effects of sex and pregnancy discrimination.
- c. Require defendant Sheriff and defendant Board of County Commissioners to provide sufficient remedial relief, including back pay with interest, to make Tonya

Shaw and any similarly situated females whole for the loss they have suffered as a result of discrimination against them as alleged in this Complaint;

- d. Require defendant Sheriff and defendant Board of County Commissioners to pay compensatory damages to Tonya Shaw and any similarly situated females for mental anguish and/or physical injuries incurred as a result of the discrimination against them as 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.

The Plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

JURY DEMAND

The plaintiff 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.

///

///

///

///

///


///

///

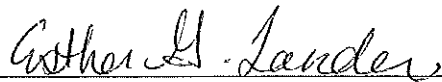
///

///

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

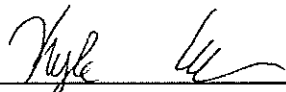
By: 

JOHN M. GADZICHOWSKI, WI Bar 1014294
Chief
Employment Litigation Section
Civil Rights Division



ESTHER G. LANDER, DC Bar 461316
Deputy Chief
MEREDITH BURRELL, MD Bar (no number)
Senior Trial Attorney
CAROL WONG
Trial Attorney
U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
Room 4924, PHB
950 Pennsylvania Ave., NW
Washington, DC 20530
Telephone: (202) 616-9504
Facsimile: (202) 514-1105

A. BRIAN ALBRITTON
United States Attorney

By: 

KYLE S. COHEN, FL Bar 0829951
Assistant United States Attorney
Middle District of Florida
2110 First Street, Suite 3-137
Ft. Myers, FL 33901
Telephone: 239-461-2245
Facsimile : 239-461-2219

Attorneys for the United States of America