

Information for Appeals Hearing (Docket # B 10 2533)

Background

I left my employment with the USDA Agricultural Research Service (ARS) on August 19th 2010, as part of an EEOC-mediated settlement agreement. When I entered into settlement negotiations that morning I had absolutely no intention of losing my job that evening. My goal was simply to protect myself from the discrimination, retaliation, and ongoing harassment being perpetrated against me by my direct supervisor (Alberto Pantoja) and a number of other ARS administrative personnel (Andrew Hammond, Robert Matteri, Maureen Whalen, James Bradley, Don McLellan, Edward Knipling, Peter Bechtel, Janis Contento, etc...). However, that day quickly became the worst of my life. I am now unemployed, with no health insurance, no retirement benefits, and I am located on a remote island in Alaska with no current job prospects to allow me to support myself. I filed for unemployment benefits on September 6th.

On September 7th, I received a call from "Paul" at the Anchorage UI Claim Center. He requested additional information regarding the reason for terminating my employment with the ARS. I notified him that I had quit working for the ARS because my employer unlawfully harassed, discriminated, and retaliated against me (and every women research scientist in his unit). I faxed four pieces of evidence to Paul to substantiate my claim:

- 1) A summary describing "why" I believed that a reasonable person would quit
- 2) The discrimination claims that I submitted to EEOC in January 2009
- 3) A request for Injunctive Relief (submitted to EEOC in December 2009)
- 4) Evidence of continuing discrimination, retaliation and harassment.

I believed that these documents would be sufficient to confirm that unlawful harassment, discrimination, and retaliation had occurred. Instead, I received a letter (September 23rd, 2010) from the Claim Center notifying me that my unemployment benefits were being denied until October 2nd, the overall benefits were being reduced, and I would become ineligible for extended benefits. I immediately filed an appeal, requesting that a hearing date be set to review my eligibility for Unemployment Compensation for Federal Employees (UCFE).

Alaska Employment Laws

I am challenging the USDA's allegation that I voluntarily quit suitable work without good cause, since I had a preponderance of legitimate reasons to quit. My employer violated U.S. laws and Alaska statutes by: 1) discriminating against me because of

my gender; 2) retaliating against me when I filed a complaint; 3) and imposing a discriminatory system for payment of wages between the sexes (through use of a promotion system based entirely on subjective, non-measurable criteria). These actions were in violation of Title VII of the Civil Rights Act of 1964 (as amended in 42 U.S.C. sec. 2000e), as well as the following Alaska statutes and administrative code:

- AS 23.20.379 provides in part:
 - (a) An insured worker is disqualified for waiting-week credit or benefits for the first week in which the insured worker is unemployed and for the next five weeks of unemployment following that week if the insured worker
 - (1) left the insured worker's last suitable work voluntarily without good cause...

I maintain that I left my employment with good cause.

- 8 AAC 85.095 provides, in part:
 - (c) Good cause for voluntarily leaving work under AS 23.20.379(a)(1) includes
 - (1) leaving work for reasons that would compel a reasonable and prudent person of normal sensitivity, exercising ordinary common sense, to leave work; the reasons must be of such gravity that the individual has no reasonable alternative but to leave work...

I maintain that my employer unlawfully harassed, discriminated, and retaliated against me to the extent that a reasonable person would quit. (Exhibit 1)

- AS 18.80.220 provides in part:
 - (a) Except as provided in (c) of this section, it is unlawful for
 - (1) an employer to refuse employment to a person, or to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person's race, religion, color, or national origin, or because of the person's age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical or mental disability, sex, marital status, changes in marital status, pregnancy, or parenthood...
 - (4) an employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate

against a person because the person has opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person has filed a complaint, testified, or assisted in a proceeding under this chapter...

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business, or type of work in the same locality...

I maintain that my employer discriminated, retaliated, and imposed a subjective (discriminatory) system that influenced the payment of wages between the sexes (Exhibit 2.)

The USDA Agricultural Research Service unlawfully harassed, discriminated and retaliated against me during my employment in Alaska. They are now challenging my right to receive unemployment benefits, even though a case could be made that my employer was the moving party in my "voluntary resignation", since my immediate resignation on August 19th was a condition of settlement that was inserted into the agreement by them, not me.

Throughout my six years of employment with the USDA, I consistently attempted to correct the situation and preserve my job. I requested a transfer, I asked to telecommute from home, and on numerous occasions I requested to be assigned a different supervisor. My requests were always denied. Occasionally, I resorted to using sick leave and annual leave to work at home, especially after being diagnosed with Post-Traumatic Stress Disorder, caused by the workplace stress associated with my EEO complaints. A reasonable person, as described by 8 AAC 85.095(c)(1), would have terminated employment long before I did, and in fact, one reasonable woman did quit (Witness #1).

My Career During ARS's Harassment, Discrimination, and Retaliation

In order to be successful in the USDA Agricultural Research Service, every research scientist needs laboratory space, qualified technical help, and sufficient funding to pursue scientific studies. I started out with each of these resources in 2004. But, by August (2010), all of these essential resources (my laboratory, my technical help, and my research funding), had been decreased, delayed, or denied (Exhibit 3). Even my location was changed from the city of Fairbanks, to the isolated island of Kodiak. My employer methodically created working conditions that were so difficult, unpleasant, and intolerable (from discrimination, retaliation, and harassment) that I was forced to expend increasing amounts of time challenging their unlawful behaviors (2007-2010). When it became clear during the EEOC-mediated settlement

that only money was involved in the negotiation, (and I would be expected to continue working for my abusive supervisor), I felt compelled to resign. Upon hearing my desire to leave the agency, the ARS representative proceeded to make my resignation part of the settlement agreement and to insist that it take effect immediately.

My "voluntary resignation" was at no time related to the quality or quantity of my work. I was highly successful as a research scientist in the ARS (Exhibit 4). My annual performance appraisals were superior, (and likely would have received the highest rating of "outstanding" if someone other than my supervisor had been allowed to perform the appraisal, since it was a clear conflict of interest for him and he could not be expected to produce an unbiased result). I also provided leadership for a number of valuable scientific collaborations, and my list of first-authored, peer-reviewed publications was comparable to (or exceeded) those of higher-ranked scientists in my unit. As an author, I wrote my scientific manuscripts so well that they were never rejected by the journals (and few scientists can claim that distinction). My h-index (a measure of scientific impact) was consistently twice that of my Research Leader, despite his assigned GS-15 ranking, which would ordinarily be accompanied by a high h-index signifying a strong research background. Remarkably, I was able to perform at an advanced level despite the discriminatory impediments imposed by my supervisor and other administrators within the ARS. But despite my skill and creativity as a research scientist, my career has now been damaged beyond repair.

Summary

I sincerely believe that I was denied fair treatment under U.S. laws when I filed my discrimination complaints against the ARS, (a male-dominated government agency). Unfortunately, I signed a settlement agreement to resign, and there is nothing I can do about that now. I have included a list of witnesses (Exhibit 5) to aid the tribunal in arriving at their decision. My current hope is only that the enclosed documents will support my eligibility claim to receive unemployment benefits here in Alaska, the State where the USDA Agricultural Research Service, through willful acts of harassment, discrimination, and retaliation, ensured that I would become unemployed.