

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CITY OF HAYTI HEIGHTS, MISSOURI,

Defendant.

Case No. 1:07CV00026RWS

CONSENT DECREE

This action was brought by the United States against the City of Hayti Heights, Missouri ("City"), to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended ("Title VII"), following receipt by the United States from the Equal Employment Opportunity Commission ("EEOC") of a charge of discrimination filed by Johnnie Small (Charge Number 280-2004-06869) against the City's Police Department. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. § 1345.

In its Complaint, the United States alleges that the City discriminated against Johnnie Small on the basis of her sex, female, in violation of Section 703(a) of Title VII, among other ways, by:

- (a) Terminating Ms. Small's employment with the City on the basis of her sex; and
- (b) Failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment of Ms. Small.

The City denies that it has discriminated against Ms. Small in violation of Title VII. Nevertheless, the United States and the City, desiring that this action be settled by an appropriate

Consent Decree ("Decree"), and without the burden and risks of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. The United States and the City also hereby waive, for purposes of this Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding between them with regard to the issues raised in the Complaint filed by the United States in this case.

This Decree, being entered into with the consent of the United States and the City, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by the City or a finding of wrongdoing or violation of any applicable federal law or regulation.

In resolution of this action, the parties hereby AGREE to, and the Court expressly APPROVES, ENTERS, and ORDERS, the following:

PARTIES AND DEFINITIONS

1. The parties to this Decree are the United States and the City.
2. As used herein, "City" shall include not only the City of Hayti Heights, Missouri, but also its current, former, and future agents, employees, officials, designees, and successors in interest.
3. Johnnie Small is referred to hereinafter as "Ms. Small."

GENERAL RELIEF

4. The City, by and through its officials, agents, employees, and all persons in active concert or participation with the City in the performance of employment or personnel functions, shall not engage in any act or practice that discriminates against any employee or applicant on the

basis of sex in violation of Title VII.

5. The City shall not retaliate against or in any way adversely affect the terms and conditions of employment of any person because that person has opposed any practice made unlawful by Title VII, filed a charge with the EEOC, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII, including this case or this Decree.

6. Within forty-five (45) days after the date of entry of this Decree, the City shall modify its anti-discrimination policies and procedures to prohibit sex discrimination under Title VII. These modifications shall include:

- (a) Prohibition of discrimination against employees or applicants for employment in the City's Police Department in any terms or conditions of employment, including hiring and termination, based on sex;
- (b) A provision providing that discrimination based on sex against an employee or applicant for employment in the City's Police Department constitutes an offense subject to discipline and/or termination;
- (c) A complaint process by which an employee or applicant may report an alleged violation of the policy or other allegation of discrimination based on sex or retaliation for making such allegation;
- (d) A procedure by which an employee in the City's Police Department alleging discrimination on the basis of sex or retaliation may bypass his or her supervisor to make a complaint; and
- (e) Policies and procedures detailing the City's required response to a complaint or

other notice of allegation of discrimination in employment in the City's Police Department, including commitment to conducting an internal investigation and to taking adequate steps to remedy any discrimination found to have occurred.

7. Within fifty (50) days after the date of entry of this Decree, the City shall submit the modified policies and procedures, described in Paragraph 6, above, to the United States for review, comment, and approval.

8. Within ten (10) days after the date on which the City implements the modified policies and procedures set forth in Paragraph 6, above, after receiving approval from the United States pursuant to Paragraph 7, above, the City shall distribute copies of such modified policies and procedures to all employees in the City's Police Department and to all officials and employees who participate in granting and/or approving the employment status of prospective and current employees in the City's Police Department. Within this time period, the City also shall post such modified policies and procedures in all places used for posting general information to employees in the City's Police Department, including any internet or intranet sites used for that purpose.

9. The City shall ensure that each applicant and new employee in the City's Police Department receives a copy of the modified policies and procedures set forth in Paragraph 6, above, at the time of the new employee's application and/or hire.

10. No later than ninety (90) days after the date of entry of this Decree, the City shall provide, at its own cost, mandatory training on the law of equal employment opportunity and prohibited discrimination based on sex to: (a) all employees in the City's Police Department, including the Chief and all officers; and (b) all officials and employees who participate in

granting and/or approving the employment status of prospective and current employees in the City's Police Department, including the Mayor. The training shall, at a minimum, include an explanation of the City's policies and procedures, modified as set forth in Paragraph 6, above. The City will select, with the concurrence of the United States, a qualified individual or group of individuals, which may include employees of the EEOC, to conduct the training outlined in this paragraph. The United States will review and approve any proposed training program prior to its administration.

11. All persons who undergo the training described in Paragraph 10, above, shall sign an acknowledgment of attendance at the training. Within thirty (30) days of such training, the City shall provide the United States with copies of all training materials used and written confirmation that all persons covered by Paragraph 10, above, attended the training. The City will keep on file all signed acknowledgments for the duration of the Decree, but in no event shall such acknowledgments be retained for a period of less than two (2) years.

12. Within forty-five (45) days after the date of entry of this Decree, the City shall designate a person who shall have responsibility for ensuring that the policies and procedures provided for in Paragraph 6, above, are fully implemented and that the City is fully in compliance with their terms.

13. The City shall retain during the term of this Decree all documents, in paper or electronic form (including electronic mail), that come into its possession that are: (a) related to complaints of sex discrimination (formal or informal, verbal or written) made by applicants or employees in the City's Police Department; and (b) related to the training provided for under this Decree, but in no event shall such documents be retained for a period of less than two (2) years.

14. The United States may review compliance with this Decree at any time. As part of that review, the City shall provide copies of any documents relating to the City's compliance with this Decree upon the request of the United States, including but not limited to the documents described in Paragraphs 11 and 13, above.

SPECIFIC RELIEF

15. Without admitting the allegations of the United States as set forth in its Complaint, and in settlement of the claims of the United States for relief on behalf of Ms. Small, as well as the claims of Ms. Small if she accepts the relief to be offered her pursuant to this Decree, the City shall offer Ms. Small the following:

- (a) The City shall offer Ms. Small reinstatement in the position of full-time police officer in the City's Police Department, with minimum working hours of forty (40) hours per week, at a pay rate of \$9 per hour, and with a remedial seniority date of July 9, 2004 (the date she was first hired by the City) for all purposes. Should Ms. Small accept the City's offer of re-employment, the City may subsequently assign Ms. Small to work fewer than forty (40) hours per week if required by the City's financial circumstances; provided, however, that Ms. Small may not be assigned fewer than thirty-two (32) hours per week for the duration of this Decree and, further provided, that any such reduction (1) shall be permitted only to the extent that it complies with applicable, lawful policies and procedures and (2) shall be subject to Ms. Small's seniority, referenced above.

Notwithstanding the foregoing, the City may reduce Ms. Small's hours at her request or in accordance with the City's lawful disciplinary policies and

procedures. Ms. Small is not currently releasing any rights to institute any legal or administrative claims on such discipline or discharge, should she believe the same was unlawful. Nothing herein shall be construed as a guarantee of permanent employment for Ms. Small. If Ms. Small elects to accept the City's offer of employment, she shall be allowed to begin work for the City as a full-time police officer in the City's Police Department no later than sixty (60) days after the City's receipt of the fully executed Individual Relief and Release of Claims form, as set forth in Appendix B. The City's Mayor, Lawrence Newman, shall have no input or decision-making authority over personnel decisions involving Ms. Small. The City shall also waive any probationary period that would otherwise be applicable to Ms. Small.

- (b) The City shall offer to pay Ms. Small a total monetary award of \$1,000 in backpay, payable in one lump-sum payment within fifteen (15) days from the City's receipt of an executed Individual Relief and Release of Claims from Ms. Small.

16. Within fifteen (15) days after the date of entry of this Decree, the City shall notify Ms. Small of its terms by mailing to her, via certified mail, return receipt requested, copies of the letter as set forth in the attached Appendix A ("Appendix A letter"). The Appendix A letter shall inform Ms. Small that in order to accept the relief offered to her, she must return the executed Individual Relief and Release of Claims ("Individual Relief and Release") form, a copy of which is set forth in Appendix B, to the City within thirty (30) days of her receipt of the Appendix A letter, unless good cause, as determined exclusively by the United States, exists for her failure to

do so. A copy of the Individual Relief and Release form and of this Decree shall be enclosed with the Appendix A letter. The City shall provide Ms. Small with all tax forms required by law. The City shall not deduct its share of Social Security taxes, if any, from the monetary award.

17. Ms. Small need not accept the job opportunity relief in Paragraph 15(a), above, in order to obtain the monetary award defined in Paragraph 15(b), above.

18. The City shall provide the United States with a copy of Ms. Small's executed Individual Relief and Release within ten (10) days after its receipt thereof. Within fifteen (15) days from the date of its receipt of Ms. Small's Individual Relief and Release, the City shall mail her a certified or bank check made payable to Johnnie Small in the amount of \$1,000.

DISPUTE RESOLUTION

19. The parties to this Decree shall attempt to resolve informally any disputes that may occur under this Decree. If the United States and the City are unable to reach agreement after informally seeking to resolve a dispute, the issue may be submitted by either party to the Court for resolution upon at least thirty (30) days written notice to the other party.

20. All documents required to be delivered under this Decree to the United States shall be sent to the following address if sent by U.S. mail:

Chief, Employment Litigation Section
Civil Rights Division
U.S. Department of Justice
PHB, Fourth Floor
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Documents sent by overnight delivery service shall be sent to the following address:

Chief, Employment Litigation Section
Civil Rights Division

U.S. Department of Justice
601 D Street, N.W., Room 4912
Washington, D.C. 20004

21. All documents required to be delivered under this Decree to the City shall be sent to the following address:

City of Hayti Heights, Missouri
Attention: Mayor and Chief of Police
P.O. Box 426
Hayti, MO 63851

JURISDICTION OF THE COURT

22. The Court shall retain jurisdiction over this Decree and this cause of action for the purposes of implementing the relief provided herein, and resolving any disputes or entering any orders that may be necessary to implement the relief provided herein.

23. This Decree shall dissolve and this cause of action shall be dismissed, without any further order of this Court, at the end of two (2) years from the date of its approval and entry by this Court.

24. The United States and the City shall bear their own costs in this action, including attorney's fees, except that the parties shall retain the right to seek costs for any matter which, in the future, may arise from this Decree and require resolution by the Court.

It is so ORDERED, this 30th day of October, 2007.


UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

For plaintiff United States of America:

RENA J. COMISAC
Acting Assistant Attorney General
Civil Rights Division

By:

Sarah Canzoniero Blutter
DAVID J. PALMER

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