

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

UNITED STATES OF AMERICA,  
Plaintiff,  
CELECIA E. DIBBLE,  
Plaintiff-Intervenor

vs.

WILLIAM R. JOHNSON, Ashtabula  
County Sheriff (in his official capacity); and the BOARD of COUNTY COMMISSIONERS OF  
ASHTABULA COUNTY,  
Defendants.

Civil Action No. 1:99CV2807

JUDGE GAUGHAN  
MAGISTRATE JUDGE STREEPY

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**CONSENT DECREE**

**BETWEEN PLAINTIFF THE UNITED STATES AND DEFENDANTS WILLIAM R.  
JOHNSON and the BOARD of COUNTY COMMISSIONERS OF ASHTABULA COUNTY**

This action was brought by the United States on November 17, 1999, alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, etseq. ("Title VII"). On April 4, 2000, the Court granted Celecia E. Dibble's Motion to Intervene as Plaintiff in this action. On July 24, 2000, the United States and Celecia Dibble moved for leave to file amended complaints. In its Amended Complaint, the United States alleges that William R. Johnson, the Ashtabula County Sheriff, named in his official capacity, has discriminated against Ms. Celecia E. Dibble, a charging party before the Equal Employment Opportunity Commission ("EEOC") (charge no. 220961117), and similarly situated females in violation of Section 703(a) of Title VII, among other ways, by failing or refusing to hire or to consider them for hire in Corrections Officer ("CO") and Corrections Officer/Medical Officer ("C/MO") positions because of their sex. The Amended Complaint also alleges that Ms. Dibble was retaliated against because she filed a charge with the EEOC alleging that the Ashtabula County Sheriff's Department had discriminated against her on the basis of her sex. The Amended Complaint names the Board of County Commissioners of Ashtabula County as a Fed. R. Civ. P. 19(a) defendant. The Defendants deny all allegations of unlawful discrimination.

Desiring that the United States' action be settled by an appropriate Consent Decree and without the burden of protracted litigation, the United States and the Defendants agree to this Court's jurisdiction over the United States and the Defendants and the subject matter of this action. Furthermore, the United States and the Defendants hereby waive, for the purposes of this Consent Decree, hearings and findings of fact and conclusions of law. This Consent Decree resolves all issues raised in the Amended Complaint of the United States only, and the United States and the Defendants accept this Consent Decree as final and binding among themselves. This Consent Decree, being entered with the consent of the United States and the Defendants, shall not constitute an admission, adjudication or finding on the

merits of this action.

In resolution of this action, the United States and the Defendants hereby AGREE and the Court expressly APPROVES, ENTERS and ORDERS the following:

### **I. DEFINITIONS**

1. "Date of entry of this decree" shall mean the date that the Court gives final approval to this Consent Decree by signing and entering the Decree as an Order of the Court.
2. "Decree" shall mean this Consent Decree and all appendices and attachments thereto.
3. "Defendants" shall mean William R. Johnson, the Ashtabula County Sheriff ("Sheriff"), named in his official capacity, and the Board of County Commissioners of Ashtabula County ("Board of Commissioners"), and all officers, agents, employees, predecessors, successors and all persons in active concert or participation with the Sheriff or the Board of Commissioners.

### **II. INJUNCTIVE RELIEF**

#### **A. General Prohibitions**

1. The Sheriff 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, applicant or potential applicant for employment with the Ashtabula County Sheriff's Department.
2. The Sheriff shall not retaliate against or in any respect adversely affect any person because that person has opposed allegedly discriminatory policies or practices by the Sheriff or the Ashtabula County Sheriff's Department or because of that person's participation in or cooperation with the initiation, investigation, litigation or administration of this action or this Consent Decree.

#### **B. Selection and Assignment Procedures**

1. The Sheriff shall use a selection procedure for Corrections Officer ("CO") and Corrections Officer/Medical Officer ("C/MO") positions that is open, fair, and competitive. Each CO or C/MO vacancy in the Ashtabula County Sheriff's Department shall be advertised in a local general circulation newspaper at least three (3) times during the two (2) week period before any applicable closing date for acceptance of applications. Each vacancy shall also be posted in a prominent place at the Ashtabula County Courthouse for a period of at least two (2) weeks. The advertisements and posting shall:
  - a. emphasize that the Sheriff is an equal opportunity employer (*not* to be abbreviated as "EOE");
  - b. summarize the minimum qualifications required for the position;
  - c. specify the application procedures;
  - d. specify the starting salary (or salary range);
  - e. specify the closing date for applications; and

- f. state the name, address and telephone number of the office to which inquiries and requests for application may be made.
2. The Sheriff shall use a standard application form for all applicants for the positions of CO or C/MO, and shall not consider any individual who has not completed an application for that position.
3. In selecting a CO or C/MO, the Sheriff shall review, at a minimum, all applications received in the previous six months and any additional applications received in response to a CO or C/MO vacancy announcement.
4. Whenever an applicant for a vacant CO or C/MO position is interviewed as part of the selection procedure for filling such a position, a written list of job-related questions shall be prepared by the Sheriff or the Sheriff's designee and all applicants shall be asked the same questions in addition to whatever other related follow-up questions the interviewer(s) deem appropriate. Any questions asked in addition to the standard written questions and each applicant's answers to all questions shall be summarized in writing by the interviewer(s).
5. The Sheriff or the Sheriff's designated selecting official(s) shall state in writing the basis for the final selection or rejection of each applicant.
6. In filling any CO or C/MO position, the Sheriff shall utilize non-discriminatory selection procedures that do not rely on the use of sex and that are consistent with the requirements of any collective bargaining agreements ("CBA") affecting the positions involved, provided that the CBA requirements are in accordance with federal law.
7. Nothing contained herein, or in any section of this Consent Decree, shall obligate the Sheriff to hire unnecessary personnel or persons who are not qualified by valid qualification standards for the position of CO or C/MO.
8. All CO or C/MO positions, posts, shifts and assignments shall be open to women on an equal basis with men, except that the Sheriff is not required to assign a CO or C/MO to conduct a strip search of an inmate of the opposite sex.

### **III. RECORDKEEPING**

1. The Sheriff shall retain for the duration of this Consent Decree all records, in whatever form, (including any computer disks and computer, video or audio tapes) necessary to monitor the implementation of this Decree.
2. The Sheriff shall retain, for the duration of this decree, all vacancy announcements, advertisements, employment applications, personnel files, interview questions, interview notes, eligibility lists, correspondence, memoranda, and any other records pertaining to hiring for the position of CO or C/MO.
3. The Sheriff shall retain, for the duration of this decree, all shift schedules, logs, incident reports and any other records that show daily shift activity, inmate processing, inmate conduct and any unusual occurrences in the correctional facility.
4. The Sheriff shall retain all records that come into the Sheriff's possession relating to complaints involving the Sheriff, regardless of whether made to a local, state or federal agency or through any internal grievance process, and that allege (a) gender based discriminatory hiring for the position of CO

or C/MO, or (b) retaliation.

5. The United States Department of Justice shall have the right to inspect and copy any and all of the documents and records referenced in this Section IV upon reasonable notice to the Sheriff, without further order of this Court.

6. The Defendants shall promptly make available to the United States such additional information or records relating to the subject matter of this Consent Decree as the United States requests in writing, provided such requests are not unduly burdensome.

#### **IV. REPORTING**

1. The Sheriff shall provide the United States with annual reports that contain the following:

a. a description of all CO or C/MO vacancies that occurred within the reporting period, including (a) the name, gender and length of service of the individual who occupied the position before it became vacant; and (b) the reason for the vacancy.

b. a description of all steps taken to announce a CO or C/MO vacancy, including copies of newspaper advertisements and public postings;

c. a description of all CO or C/MO positions filled during the reporting period, including (a) the selection procedure utilized to fill each vacancy; (b) the name, gender and qualifications of all applicants and copies of all applications; (c) the name, gender and qualifications of the individual selected to fill each vacancy; (d) the questions asked of each applicant; (e) a summary of the applicant's answers; (f) the basis for the selection of the successful candidate(s); and (g) the names, gender and title(s) of the interviewer(s) and selecting official(s).

d. copies of schedules showing the shifts to which CO or C/MOs have been assigned during the reporting period.

e. a description of any complaints alleging (1) gender based discriminatory hiring for the position of CO or C/MO; or (2) retaliation made against the Sheriff or the Sheriff's Department, regardless of whether made to a local, state or federal agency or through any internal grievance process, along with (1) the Sheriff's response to any allegations of discriminatory conduct; (2) the status of the complaints; and (3) any developments regarding any such complaints received during prior reporting periods.

2. Reporting periods shall run from January 1 through December 31 for each year. The Sheriff shall submit his/her reports within thirty days of the close of the reporting period.

#### **V. COMPLIANCE**

1. If a dispute arises concerning compliance by the Defendants or either of them with any provision of this Consent Decree 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. With respect to the obligations of the United States to monitor and to enforce compliance with this Consent Decree, the United States may, without further order of the Court, conduct all necessary investigations, including interviews of the Sheriff and the Sheriff's employees. The Defendants agree to cooperate in any investigation by the United States, and the United States agrees to inform the Defendants of the results of that investigation on an ongoing basis. In the event that the United States determines that formal discovery is required to monitor or enforce compliance with this Consent Decree, then all such discovery permitted under the Federal Rules of Civil Procedure shall be allowed without further order of the Court.

3. Failure by the Department of Justice to enforce this entire Consent Decree or any provision thereof shall not be construed as a waiver of its right to do so.

#### **VI. POSTING OF CONSENT DECREE**

1. Within ten days after the date of entry of this Consent Decree, the Sheriff shall post a copy of the notice attached hereto as Appendix A in prominent, conspicuous and public locations used for posting notices at the Ashtabula County Sheriff's Department. Such copies shall remain posted throughout the life of this Decree. In addition, the Sheriff shall provide a copy of this Decree, at no cost, to any employee who so requests.

#### **VII. PARTIES OBLIGATION TO DEFEND CONSENT DECREE**

1. In the event this Consent Decree is challenged, the Defendants and the United States shall fully defend its lawfulness. If any such collateral challenge arises in State court, the Defendants shall promptly seek to remove such action to this Court.

#### **IX. NOTIFICATION OF THE PARTIES**

1. The following shall serve as the correct addresses for purposes of all correspondence directed to the parties.

##### **For the United States: U.S. Mail:**

Jenny R. Yang  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
P.O. Box 65968  
Washington, D.C. 20035-5968

Overnight or express delivery:

Jenny R. Yang  
U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
Room 4029  
601 D St., NW  
Washington, DC 20004

**For the Defendants:**

William R. Johnson  
Ashtabula County Sheriff

Thomas L. Sartini  
Ashtabula County Prosecuting Attorney  
25 West Jefferson Street  
Jefferson, Ohio 44047

Timothy T. Reid  
Reid, Berry, Marshall & Wargo  
Attorneys at Law  
1300 Illuminating Bldg.  
55 Public Square  
Cleveland, OH 44113-1901

**X. ATTORNEY'S FEES AND RELATED COSTS**

1. The United States and Defendants shall bear their own costs and expenses, including attorneys' fees, in this action.

**XI. JURISDICTION OF THE COURT**

1. This Court shall retain jurisdiction of the matters covered by this Consent Decree for a period of four (4) years from the date of entry of this Consent Decree for such action as may be necessary or appropriate to effectuate the purposes of the Decree. This period may be extended by order of this Court for good cause shown.

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
PATRICIA A. GAUGHAN  
UNITED STATES DISTRICT JUDGE

Agreed and Consented to:

On behalf of Plaintiff

United States of America

BILL LANN LEE  
Assistant Attorney General  
for Civil Rights

\_\_\_\_\_  
WILLIAM B. FENTON  
JENNY R. YANG  
STEPHEN J. CURRAN

Attorneys

U.S. Department of Justice  
Civil Rights Division  
Employment Litigation Section  
P.O. Box 65968  
Washington, DC 20035-5968

Dated: \_\_\_\_\_

On behalf of Defendants

the Ashtabula County Sheriff's  
Department and the Board of  
County Commissioners of  
Ashtabula County

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Timothy T. Reid  
Reid, Berry, Marshall & Wargo  
Attorneys at Law  
1300 Illuminating Building  
55 Public Square  
Cleveland, OH 44113-1901

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Thomas L. Sartini  
Ashtabula County Prosecuting  
Attorney

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William R. Johnson  
Ashtabula County Sheriff  
25 West Jefferson Street  
Jefferson, Ohio 44047

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The Board of County  
Commissioners of Ashtabula  
County

Dated: \_\_\_\_\_

**APPENDIX A**

**NOTICE**

**SETTLEMENT OF EMPLOYMENT DISCRIMINATION LAWSUIT**

On November 17, 1999 , the United States filed a lawsuit in the United States District Court for the

Northern District of Ohio against the Ashtabula County Sheriff and the Board of County Commissioners of Ashtabula County ("Defendants") under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, etseq. ("Title VII"). The lawsuit alleges that the Sheriff discriminated against a female applicant for employment and similarly situated women, by failing or refusing to hire them for Corrections Officer ("CO") and Corrections Officer/Medical Officer ("C/MO") positions on the basis of their sex. The lawsuit also alleges that the Sheriff retaliated against the female applicant because she filed a charge with the EEOC alleging that the Ashtabula County Sheriff's Department had discriminated against her on the basis of her sex. The Defendants deny all the allegations of discrimination and the posting of this notice shall not constitute an admission of any kind to the allegations made in this lawsuit.

This notice is being posted to announce that the United States and the Defendants have resolved this lawsuit by entering into a settlement agreement, called a "consent decree," which was approved by the Court on [date], 2000.

Under the terms of the consent decree, the Sheriff has agreed to:

1. Not engage in any act or practice that has the purpose or effect of unlawfully discriminating on the basis of sex against any employee, applicant or potential applicant for employment with the Ashtabula County Sheriff ;
2. Not retaliate against or in any respect adversely affect any person because that person has opposed allegedly discriminatory policies or practices by the Sheriff or the Ashtabula County Sheriff's Department or because of that person's participation in or cooperation with the initiation, investigation, litigation or administration of the civil action or the consent decree;
3. Advertise and publicly post notices of CO and C/MO vacancies for a period of at least two weeks;
4. Fill all CO and C/MO vacancies by utilizing selection procedures that are open, fair, and competitive;
5. Ensure that all CO and C/MO positions, posts, shifts and assignments are open to women on an equal basis with men, except that the Sheriff is not required to assign a CO or C/MO to conduct a strip search of an inmate of the opposite sex;
6. Retain for the duration of this consent decree all records necessary to monitor the implementation of this consent decree;
7. Provide annual reports to the United States regarding matters related to compliance with the consent decree.

Copies of the consent decree are available for taking, at no charge, at the office of the Sheriff. Should you have any questions concerning this lawsuit, the terms of the consent decree, or the Defendants' compliance with the consent decree, you may contact the following Department of Justice attorney:

Jenny R. Yang  
Trial Attorney  
United States Department of Justice  
Civil Rights Division  
Employment Litigation Section  
P.O. Box 65968



Washington, DC 20035-5968

**THIS NOTICE SHALL REMAIN POSTED IN A PROMINENT LOCATION UNTIL EXPIRATION OF THE CONSENT DECREE ON \_\_\_\_\_, 2004.**