

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

FRANKLIN SAVAGE, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 1:16-cv-00201-JFM
	)	
and	)	JURY TRIAL DEMANDED
	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
POCOMOKE CITY, WORCESTER	)	
COUNTY SHERIFF, REGGIE T.	)	
MASON (in his official capacity), and	)	
STATE OF MARYLAND	)	
	)	
Defendants.	)	

UNITED STATES’ MOTION TO INTERVENE

Pursuant to Federal Rule of Civil Procedure 24(b) and Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) (“Title VII”), the United States Department of Justice (“United States”) moves to intervene as Plaintiff-Intervenor in the above-titled action.

In support of its Motion to Intervene, the United States states as follows:

1. Plaintiffs filed their second amended complaint in this action on September 29, 2016, asserting claims under Title VII (as well as other claims) against Defendants Pocomoke City, Worcester County Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland, among others.

2. The Title VII claims are based on several charges of discrimination timely filed with the Equal Employment Opportunity Commission (“EEOC”). The EEOC investigated these charges and found reasonable cause to believe that violations of Title VII occurred. The EEOC formally referred this matter to the United States Department of Justice after an unsuccessful attempt to conciliate the charges.

3. Section 706(f)(1) of Title VII permits the United States to seek intervention into a private lawsuit involving a government, government agency, or political subdivision, such as in this lawsuit, upon certification that the case is of general public importance. 42 U.S.C. § 2000e-5(f)(1).

4. The Attorney General’s designee has certified that this is a case of public importance. A Certificate of Public Importance is attached as Exhibit 1 to this Motion to Intervene.

5. Federal Rule of Civil Procedure 24(b) allows for permissive intervention in an action when a federal statute confers a conditional right to intervene. Fed. R. Civ. P. 24(b)(1)(A). Title VII confers upon the United States a conditional right to intervene in an action alleging a violation of Title VII by a governmental actor. 42 U.S.C. § 2000e-5(f)(1).

6. With respect to governmental parties, Rule 24(b) also provides that “a court may permit a federal...agency to intervene if a party’s claim or defense is based on...a statute or executive order administered by the...agency.” Fed. R. Civ. P. 24(b)(2)(A). The United States Department of Justice has primary responsibility for enforcing Title VII in actions against state and local government employers.

7. Rule 24(b) also provides for permissive intervention when a potential party “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R.

Civ. P. 24(b)(1)(B). Both Plaintiffs and the United States claim violations of Title VII, and these claims are based on substantially the same facts.

8. The United States' proposed intervention is timely. Discovery has not yet begun in this case, and thus, intervention by the United States will not unduly delay or prejudice the adjudication of the rights of the original parties.

Wherefore, the United States requests that this Court allow it to intervene in this lawsuit and file the complaint, attached as Exhibit 2. A proposed Order is attached.

Respectfully submitted,

VANITA GUPTA

Principal Deputy Assistant Attorney General
Civil Rights Division

DELORA L. KENNEBREW (GA Bar No. 414320)
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CERTIFICATE OF SERVICE

I certify that, on October 19, 2016, I electronically filed the foregoing document – including any attachment(s) to it, exhibit(s) to it, and/or accompanying proposed order(s) – with the Clerk of the Court using the CM/ECF system, which will then send a notification of electronic filing to counsel for Defendants Pocomoke City, Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland.

/s/ Barbara Schwabauer
BARBARA SCHWABAUER
Senior Trial Attorney
United States Department of Justice
Civil Rights Division
Employment Litigation Section

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

FRANKLIN SAVAGE, et al.

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

POCOMOKE CITY, WORCESTER
COUNTY, SHERIFF REGGIE T.
MASON (in his official capacity), AND
STATE OF MARYLAND

Defendants.

Civil Action No. 1:16-cv-00201-JFM

JURY TRIAL DEMANDED

CERTIFICATION OF PUBLIC IMPORTANCE

Pursuant to delegation of authority from the United States Attorney General, *see* 28 C.F.R. § 0.50(a) and 28 U.S.C. § 510, I, Vanita Gupta, Principal Deputy Assistant Attorney General, Civil Rights Division, United States Department of Justice, hereby certify, in accordance with Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1), that the above-captioned matter is of general public importance and that, accordingly, intervention by the United States as a plaintiff is warranted.

Executed this 11th day of October, 2016, in Washington, D.C.


VANITA GUPTA
Principal Deputy
Assistant Attorney General
Civil Rights Division

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

FRANKLIN SAVAGE, et al.	)	
	)	
Plaintiffs,	)	Civil Action No. 1:16-cv-00201-JFM
	)	
and	)	JURY TRIAL DEMANDED
	)	
UNITED STATES OF AMERICA,	)	
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Plaintiff-Intervenor,	)	
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v.	)	
	)	
	)	
POCOMOKE CITY, WORCESTER	)	
COUNTY SHERIFF, REGGIE T.	)	
MASON (in his official capacity), and	)	
STATE OF MARYLAND	)	
	)	
Defendants.	)	
	)	

PLAINTIFF-INTERVENOR’S COMPLAINT

Plaintiff-Intervenor, the United States of America (“United States”), alleges:

1. This complaint in intervention 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”).

JURISDICTION AND VENUE

2. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331, and 28 U.S.C. § 1345.

3. Venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. § 1391(b) because it is where a substantial part of the events or omissions giving rise to the cause of action herein occurred.

PARTIES

4. Plaintiff Franklin Savage (“Officer Savage” or “Savage”) is a former employee of the State of Maryland, Worcester County Sheriff’s Office (“WCSO”), and Pocomoke City.

5. Plaintiff Kelvin Sewell (“Chief Sewell” or “Sewell”) is a former employee of Pocomoke City, where he served as Chief of the Pocomoke City Police Department (“PCPD”).

6. Plaintiff Lynell Green (“Lt. Green” or “Green”) is a former employee of Pocomoke City, where he served as a Lieutenant in the PCPD.

7. Plaintiff-Intervenor is the United States intervening in a suit filed by Officer Savage, Chief Sewell, and Lt. Green against a government, governmental agency, or political subdivision. The lawful designee of the Attorney General of the United States has certified that the underlying lawsuit presents a case of general public importance to the United States.

8. Defendant Pocomoke City is a government body created pursuant to the laws of the State of Maryland and is located within this judicial district. The PCPD is an instrumentality of Pocomoke City, as established by Maryland law and the Pocomoke City Charter.

9. Defendant Sheriff Reggie T. Mason (“Sheriff Mason” or “Mason”) is the Sheriff of Worcester County, in charge of overseeing the WCSO, and is being sued in his official capacity. In this capacity, and pursuant to applicable federal and state law, Sheriff Mason, an elected officer, is subject to Title VII.

10. Defendant State of Maryland is an employer of Sheriff Reggie T. Mason, an elected state officer, pursuant to Article 44 of the Maryland Constitution. Defendant State of Maryland was also an employer of Officer Savage when he was detailed to the Worcester County Criminal Enforcement Team (“CET”).

11. Defendants Pocomoke City, Sheriff Mason, and the State of Maryland are all “persons” within the meaning of 42 U.S.C. § 2000e(a).

12. Defendants Pocomoke City, Sheriff Mason, and the State of Maryland are all “employers” within the meaning of 42 U.S.C. § 2000e(b).

13. The Equal Employment Opportunity Commission (“EEOC”) received timely charges filed by Officer Savage. In his charge of July 21, 2014 against WCSO (EEOC Charge No. 531-2014-01983), Officer Savage alleged a hostile work environment based on race and retaliation for engaging in protected activity. In an October 15, 2014 charge against PCPD (EEOC Charge No. 531-2015-00092), Officer Savage alleged retaliation for engaging in protected activity. Officer Savage also filed a charge against the Worcester County State’s Attorney’s Office in June 22, 2015, alleging retaliation for engaging in protected activity. The EEOC investigated the charges and found reasonable cause to believe that Title VII violations occurred. The EEOC attempted unsuccessfully to conciliate the charges, and subsequently referred the matter to the Department of Justice.

14. The EEOC received timely charges filed by Chief Sewell. Chief Sewell filed an EEOC charge against PCPD on March 9, 2015, alleging retaliation for engaging in protected activity (EEOC Charge No. 531-2015-01013). Sewell amended this charge on June 15, 2015 to add Pocomoke City, and filed two additional charges alleging retaliation against Pocomoke City

and PCPD on August 14, 2015 (EEOC Charges No. 531-2015-02189, 531-2016-02134). The EEOC investigated the charges and found reasonable cause to believe that Title VII violations occurred. The EEOC attempted unsuccessfully to conciliate the charges, and subsequently referred the matter to the Department of Justice.

15. The EEOC received a timely charge filed by Lt. Green. In his charge of March 30, 2015, Lt. Green alleged retaliation for engaging in protected activity (EEOC Charge No. 531-2015-01162). He amended this charge to include Pocomoke City on June 10, 2015. The EEOC investigated the charge, and found reasonable cause to believe that Title VII violations occurred. The EEOC attempted unsuccessfully to conciliate the charges, and subsequently referred the matter to the Department of Justice.

16. All conditions precedent to the filing of suit have been performed or have occurred.

FACTUAL ALLEGATIONS

A. Hostile Work Environment of Officer Savage While Serving on the Worcester County Criminal Enforcement Team

17. Officer Savage joined the PCPD in or around April 2011.

18. In or around May 2012, Officer Savage was detailed to the Worcester County Criminal Enforcement Team (“CET”), a multijurisdictional drug enforcement unit operating in Worcester County.

19. Officer Savage joined the CET as its first African-American member working with six other members who were all white.

20. Sgt. Nathaniel Passwaters of the WCSO and Sgt. Patricia Donaldson of the Maryland State Police (“MSP”) were assigned as supervisors to the CET, and served as Officer Savage’s immediate supervisors.

21. While Officer Savage served on the CET the other members were Corporal Brooks Phillips (MSP), Corporal Rodney Wells (WCSO), Jeff Johns (Ocean City Police Department), and Brian Trader (WCSO).

22. The CET worked closely with the Worcester County State’s Attorney’s Office (“WCSAO”), including Worcester County State’s Attorney Beau Oglesby (“Oglesby”). The WCSAO was charged with prosecuting the cases arising out of the CET’s investigations as well as criminal cases from PCPD.

23. When Officer Savage was first detailed to the CET, it was housed in the same building as the WCSO. For the entire duration of Officer Savage’s time working on the CET, WCSO provided Officer Savage with office space, a vehicle, and equipment (including computer, email address, and log-in) for his use for his work on the CET.

24. Officer Savage was required to follow the policies and procedures of the WCSO with respect to submitting evidence and received training from WCSO.

25. The WCSO directed Officer Savage’s duties and responsibilities on the CET. Sgt. Passwaters set Officer Savage’s daily schedule, directed his day to day activities, approved his overtime requests, and filled out his performance evaluations. Sgt. Passwaters also had the authority to remove Officer Savage from the CET.

26. During the more than two years that Officer Savage worked on the CET, Officer Savage had no other assignments and rarely had contact with individuals at the PCPD beyond submitting his timecard.

27. Many of the members of the CET, including Cpl. Wells, were WCSO deputy sheriffs, and they performed the same duties that Officer Savage performed—at the direction of Sgt. Passwaters.

28. Throughout Officer Savage's employment on the CET he was subjected to a racially hostile work environment by members of the CET, including by his supervisors on the CET.

29. During this time, Officer Savage's supervisor, Sgt. Passwaters, used the word "nigger" and its variants repeatedly both orally and in writing, either aimed at Officer Savage or in his presence. In September 2012, Sgt. Passwaters played and replayed footage of an African-American suspect using the word "nigger" for members of the CET indicating that he thought the footage was funny. During this incident, Sgt. Passwaters said he was about to "drop the n-bomb," and then proceeded to say the word "nigger." On occasion, Sgt. Passwaters also referred to African-Americans as "ninjas," which was known to members of the CET as a code word for "nigger" based on an incident from a previous investigation.

30. Officer Savage's co-workers, too, regularly used racial epithets in the workplace either directed to, or in the presence of, Officer Savage. Officer Savage received a text message from Cpl. Phillips on May 31, 2014 that said "what's your body count, nigga. I'm in double digits."

31. Cpl. Wells regularly screened racially-charged YouTube videos using the word “nigger” on his work computer, while other members of the CET gathered around his desk and laughed. This was done in Officer Savage’s presence.

32. On one occasion in or around September 2012, Cpl. Wells asked Officer Savage why African-Americans are offended when a white person uses the word “nigger” and how Officer Savage would personally feel if Officer Wells called him a “nigger.” Officer Savage indicated that he would be offended.

33. Officer Savage tried to ignore the repeated use of the term in the office by excusing himself from the room, putting on his headphones, shaking his head, or trying to focus on his work.

34. Officer Johns once asked Officer Savage why African-Americans like watermelon and fried chicken so much. After that conversation, copies of a photo of Officer Savage eating watermelon appeared in his case files, on his desk, in his calendar, and in other parts of his workspace.

35. Cpl. Phillips, Officer Trader, and Cpl. Wells repeatedly spoke to Officer Savage about lynchings and the Ku Klux Klan. In December 2012, along with Sgt. Donaldson, Phillips, Trader, and Wells drove Officer Savage to a location they referred to as “KKK Lane” in Stockton, Maryland in Officer Savage’s official covert vehicle provided by the WCSO. They had no official purpose to drive to that location. Cpl. Wells and Officer Trader told Officer Savage that he might see some Klan members or a noose on the trip. Around the same time, Cpl. Wells told Officer Savage about a chest in his attic that contained “white sheets and nooses.” After the trip to Stockton, Cpl. Phillips informed Sgt. Passwaters that they had taken Officer Savage to “KKK

Lane.” Neither Sgt. Donaldson nor Sgt. Passwaters took corrective action against any of the CET members involved.

36. In December 2013, Officer Savage found a bloody deer’s tail on his windshield while it was parked next to CET’s office space. After Savage reported the incident to his supervisors, he believed this incident was racially motivated. Although CET supervisors determined that a CET member, Cpl. Phillips, had left the bloody deer tail on Officer Savage’s windshield, CET supervisors took no corrective action.

37. Members of the CET also referred to African-Americans, including suspects and President Obama, as Officer Savage’s “boys” in Officer Savage’s presence.

38. In April 2014, Officer Savage found a fake food stamp in his desk drawer with an image of President Obama.

39. Also in April 2014, Officer Savage was present at a case meeting where Worcester County State’s Attorney Oglesby read aloud a document that repeatedly used the word “nigger.” Oglesby was aware of Officer’s Savage’s presence.

40. Officer Savage was offended by these racially charged comments and actions. Officer Savage complained about some of these incidents, but corrective action was never taken in response to his complaints or when his supervisors otherwise had knowledge of, or participated in, the racially offensive actions.

41. Once the hostile work environment became too unbearable, Officer Savage made complaints outside his chain of command on the CET to PCPD’s Chief Sewell. Chief Sewell reported Savage’s complaints of race discrimination to the MSP for investigation; MSP substantiated at least one of the allegations made by Officer Savage. But, upon information and

belief, sufficient corrective action was not taken, even against the MSP employee whose conduct was substantiated. WCSO was made aware of Savage's complaint and refused to cooperate in MSP's investigation.

42. Officer Savage also filed a complaint with the Maryland Attorney Grievance Commission regarding Worcester County State's Attorney Oglesby's use of the word "nigger."

B. Retaliation Against Officer Savage

43. Shortly after Officer Savage complained to Chief Sewell about the racial harassment, Sgt. Passwaters and others from the CET and the WCSO began retaliating against Officer Savage by making false accusations against him.

44. On or around June 3, 2014, Sgt. Passwaters knowingly made false allegations in the workplace that debt collectors and Officer Savage's wife were repeatedly calling the WCSO in an attempt to disparage Officer's Savage reputation. Officer Savage has never been married and there is no evidence to substantiate that these calls ever occurred.

45. Also on or around June 3, 2014, Sgt. Passwaters asked Officer Savage if he was on drugs, and, during a drug purchase later in the day, Cpl. Phillips accused Officer Savage of smoking marijuana. Officer Savage reported these incidents to Chief Sewell on June 4, 2014, and Chief Sewell advised Officer Savage to take a drug test; Officer Savage took a drug test on June 6, 2014, the results of which were negative.

46. On June 11, 2014, Officer Savage met with Chief Deputy Dale Smack ("Smack") of the WCSO along with PCPD Lt. Green. Officer Savage indicated his intention to resign from the CET and described the racially hostile work environment and retaliation that he had encountered on the CET that was forcing him to resign.

47. Upon information and belief, Chief Deputy Smack neither conducted an investigation into Officer Savage's allegations nor took corrective action in response.

48. The next day Officer Savage resigned from the CET due to the racially hostile work environment and subsequent retaliation for his complaints about the harassment.

49. Retaliation by WCSO of Officer Savage continued after his resignation from the CET.

50. On or around July 15, 2014, WCSO officials falsely accused Officer Savage of misusing his undercover identification to secure fraudulent loans. Sgt. Passwaters also falsely accused Savage of selling his off-duty weapon. To disprove this claim, Savage brought the weapon to Chief Sewell.

51. On or around July 29, 2014, Chief Deputy Smack sent a memorandum to Chief Sewell accusing Officer Savage of falsely representing himself as a member of the CET. In this memorandum, Smack informed the PCPD that it would no longer assist or participate in any investigative efforts by Officer Savage as they had done in the past.

52. On or around August 14, 2014, Chief Deputy Smack informed Chief Sewell that WCSO would not respond to emergency calls or requests for back up assistance made by Officer Savage. On at least two occasions, Savage was not able to secure assistance of a K-9 unit from WCSO, a regular procedure for PCPD.

53. Also in August 2014, WCSO issued a press release stating that Officer Savage's complaints of discrimination were "Not Sustained." Upon information and belief, WCSO conducted no investigation to make this determination.

54. On September 4, 2014, Worcester County State's Attorney Oglesby indicated to Lt. Green in Officer Savage's presence that he no longer required Officer Savage's testimony in a pending case. Oglesby refused to speak to Officer Savage directly. Later that same week, Oglesby sent a letter to Pocomoke Mayor Bruce Morrison ("Mayor Morrison") and the Pocomoke City Council ("Council" or "City Council") indicating that he would not allow Officer Savage to provide testimony in court because of questions about his "veracity."

55. Over the next several months Worcester County State's Attorney Oglesby continued to confirm that his office would not prosecute cases generated as a result of search warrants where Officer Savage was the affiant. Oglesby specified that his office would not prosecute even minor traffic violations if Officer Savage was involved.

56. Worcester County State's Attorney Oglesby also threatened to interfere with Officer Savage's attempts to find a new job.

57. After Officer Savage made complaints of race discrimination against both WCSO and Worcester County State's Attorney Oglesby, Pocomoke City also began to retaliate against Officer Savage.

58. City Manager Russell Blake ("Blake") repeatedly pressured Chief Sewell to remove Officer Savage from narcotics work, to move him to the undesirable midnight shift, and to demote him to patrol duty without the authority to make arrests. Blake also directed Chief Sewell to require Officer Savage to undergo psychological evaluation to assess his fitness for duty and a polygraph examination. On almost a daily basis from September through October 2014, Blake put pressure on Sewell to discipline Officer Savage.

59. Officer Savage experienced retaliation outside the workplace as well. Since the time of making his complaints of harassment (and subsequent retaliation), he has regularly observed and photographed unmarked police vehicles sitting outside of his house. In December 2014, he also experienced a mysterious break-in at his home where he lives with his son. His house was torn up, his dogs were locked in a bedroom, and the only item stolen was his gun.

60. In January 2015, Pocomoke City Councilman Dale Trotter (“Trotter”), who is also a WCSO deputy, directed Pocomoke City officials to cut Officer Savage’s overtime hours. Officer Savage’s overtime hours were cut around this time.

61. In February 2015, Mayor Morrison directed Chief Sewell to demote Officer Savage. Because he had received a direct order, Chief Sewell demoted Officer Savage from his detective position on February 9, 2015. Officer Savage’s removal from the detective position was accompanied by a loss in status as well as changed responsibilities. Using the reason supplied to him by the mayor, Chief Sewell indicated that the demotion was being taken due to a shortage of patrol officers; yet a more junior patrol officer was immediately promoted to detective.

62. Officer Savage’s duties were later further reduced when he was assigned to the evidence room.

63. Worcester County State’s Attorney Oglesby sought a meeting with Chief Sewell in May 2015 to discuss the issues between the WCSO, the WCSAO, and Officer Savage. On June 1, 2015, Chief Sewell met with Oglesby, Sgt. Donaldson, Sgt. Passwaters, and two other individuals from the WCSAO. At the meeting, Sgt. Donaldson raised issues about Officer Savage’s attendance on the CET and asked Chief Sewell to reprimand Officer Savage. Sgt.

Passwaters and Sgt. Donaldson also falsely accused Officer Savage of using his undercover ID to take out fraudulent loans, selling his weapon, and using illegal drugs.

64. On June 26, 2015, Mayor Morrison, City Attorney William Hudson, and members of the City Council visited Chief Sewell's office and repeatedly pressured him to fire Officer Savage, citing that he was "a problem."

C. Retaliation Against Chief Sewell

65. Each time Chief Sewell was pressured by WCSO, Pocomoke City officials and Worcester County State's Attorney Oglesby to take retaliatory actions against Officer Savage, including demoting and terminating Savage, Sewell resisted.

66. On October 14, 2014, at a special City Council meeting, Chief Sewell reported to the City Council that he was concerned that City Manager Blake was retaliating against Officer Savage for his complaints of discrimination.

67. On December 27, 2014, Mayor Morrison indicated that the "problems with Savage" were souring the relationship between Pocomoke City and WCSO.

68. When Chief Sewell indicated to Mayor Morrison in March 2015 that he was concerned that the WCSO was upset because he would not fire Officer Savage, Mayor Morrison told him the sooner he got rid of Savage, the better the relationship between WCSO and PCPD would be again. Chief Sewell reminded the Mayor of Officer Savage's allegations in his EEOC complaint of discrimination.

69. City Manager Blake also continued to put pressure on Chief Sewell by attempting to direct his duties in areas in which the city manager had no control or authority. For example, Blake ordered Chief Sewell to hand over personnel records which the Chief was prohibited by

law from providing to a civilian; Chief Sewell refused. Angry over Chief Sewell's refusal to follow his directive and violate the law, Blake yelled at Chief Sewell and called him an "ungrateful ass nigger." When Sewell told Blake he was going to report him, Blake responded that he did not care and suggested no one would believe Sewell if Sewell reported him.

70. In March 2015, Chief Sewell found an anonymous note on his windshield which said that Councilman Trotter was actively trying to build support against Chief Sewell and that City Manager Blake referred to Chief Sewell as a "smart nigger chief." The note also said that Blake didn't like Officer Savage and Lt. Green and before he is done "all nigger police in Pocomoke will be gone."

71. In April 2015, City Councilman George Tasker ("Tasker") called Chief Sewell and told him that once Officer Savage is gone, the problems will go away. Sewell reminded Tasker that Officer Savage was a victim of discrimination.

72. In the June 26, 2015 meeting with Mayor Morrison, City Attorney William Hudson, and members of the City Council, Chief Sewell was accused of stealing a computer from his office and of making a false anonymous report—though neither allegation was true.

73. Around this same time, at the behest of members of the City Council, several PCPD officers were pressured into signing a document declaring "no confidence" in Chief Sewell.

74. On June 29, 2015, Mayor Morrison requested that Chief Sewell appear at a City Council meeting where he was asked to resign. When he refused, Chief Sewell was terminated.

75. The day after Chief Sewell's termination, City Manager Blake resigned his position with Pocomoke City, and was succeeded by Ernie Crofoot.

76. Chief Sewell subsequently moved to Baltimore, Maryland, but the retaliation has nonetheless continued.

D. The Termination of Officer Savage

77. After Chief Sewell's removal, on July 7, 2015, MSP Lt. Earl Starner was appointed interim chief of PCPD.

78. Lt. Starner initiated an investigation of Officer Savage with the Harford County Sheriff's Department. Specifically, the Harford County Sheriff's Department was tasked with investigating whether Savage violated the PCPD's code of ethics for a representation he made in connection with his July 22, 2014 complaint of discrimination to the Attorney Grievance Commission regarding Worcester County State's Attorney Oglesby.

79. Before that Harford County investigation issued a determination, on October 26, 2015, Officer Savage was terminated by City Manager Crofoot. Crofoot informed Savage that he was terminated because he could not provide testimony, in accordance with the limitation set forth by Worcester County State's Attorney Oglesby.

E. Retaliation Against Lt. Green

80. Pocomoke City also retaliated against Lt. Green who supported Officer Savage with respect to his complaints to WCSO and the EEOC.

81. In or around June 2014, Lt. Green, at the request of Officer Savage, accompanied him to a meeting with Chief Deputy Smack where Officer Savage reported his complaints of racial discrimination and harassment by members of the CET.

82. On or around August 14, 2014, Chief Deputy Smack informed Chief Sewell that WCSO would not respond to emergency calls or requests for back up by Lt. Green as they had done in the past.

83. On or around October 1, 2014, while off duty, Lt. Green joined Officer Savage for mediation at the EEOC regarding Officer Savage's complaints of race discrimination.

84. On or around October 2, 2014, City Manager Blake ordered Chief Sewell to forbid Lt. Green from attending any such further EEOC meetings with Officer Savage.

85. On or around October 13, 2014, Mayor Morrison and City Council members cut Lt. Green's overtime by more than half.

86. In or around January 2015, Councilman Trotter and City Manager Blake continued to question Lt. Green's use of overtime and cut his overtime hours in half again until he was then told that he could not incur any more overtime. During this time other officers at the PCPD continued to accrue large amounts of overtime without limit.

87. In or around April 2015, Councilman Tasker informed Chief Sewell that Lt. Green was "a problem" for PCPD and that once Officer Savage and Green were gone, PCPD's problems would go away.

88. When Mayor Morrison, City Attorney William Hudson, and members of the City Council visited Chief Sewell's office on June 26, 2015, they told Sewell that Lt. Green, like Officer Savage, was "a problem."

89. In or around June 2015, Lt. Green received an anonymous note at his home indicating that the individuals from the WCSO had planted drugs in his car, home, and at the PCPD station, in order to incriminate Lt. Green and Chief Sewell. Lt. Green immediately

brought the note to the attention of Chief Sewell, who in turn sought to have a K-9 unit come investigate the allegations. When Chief Sewell initially called the MSP for a K-9 unit to assist, they refused because of Officer Savage's allegations against their employee, Cpl. Phillips. Chief Sewell then called the Maryland State Prosecutor's office who directed him to contact a local police department to complete the search. Chief Sewell was eventually able to get the Fruitland Police Department's K-9 unit to investigate the allegations, and no drugs were found.

90. After Chief Sewell was terminated at the end of June 2015, Lt. Green asked Mayor Morrison why, as a lieutenant, he hadn't been made acting chief when Chief Sewell was terminated. The Mayor told him it was because he had filed an EEOC complaint against Pocomoke.

91. In or around December 2015, Mayor Morrison also worked to discredit Lt. Green, referring to him in a public meeting as a thug and questioning his work ethic.

92. Lt. Green was also ostracized by his department and forced to work alone. Like Officer Savage, at times he called for back-up and no one came.

93. Due to the stress of the events that have occurred, in March 2016, Lt. Green ultimately resigned from his job at the PCPD and moved away from Worcester County.

94. Even after Lt. Green left PCPD and the region, he has continued to be a target for retaliation.

COUNT I

Title VII, 42 U.S.C. § 2000e-2(a)

Hostile Work Environment

(Against Worcester County Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland)

95. The United States re-alleges and incorporates herein by reference all of the foregoing allegations.

96. At all relevant times, WCSO was charged with running and operating CET. While Officer Savage was on CET, WCSO controlled aspects of Officer Savage's terms, conditions, and privileges of employment, and as such, was, along with PCPD, Savage's employer under Title VII.

97. As described in paragraphs 28 through 42, Officer Savage was subjected to repeated racial epithets and other racially-charged acts of harassment, humiliation, and intimidation in the workplace from members of the CET during his time on the CET.

98. Officer Savage made it known that the racial harassment was unwelcome. The harassment described in paragraphs 17 through 42 was both severe and/or pervasive and altered the conditions of Savage's employment. Savage did find, and a reasonable person would have found, the conduct offensive.

99. Officer Savage suffered racial harassment at the hands of his supervisor, Sgt. Passwaters, as well as his co-workers on the CET.

100. Officer Savage's supervisors, Sgt. Passwaters and Sgt. Donaldson, both witnessed and were otherwise aware of the racial harassment and did nothing to prevent or correct the behavior.

101. WCSO otherwise failed to exercise reasonable care to prevent or correct harassing behavior on the CET. WCSO did not provide Officer Savage with an anti-discrimination policy. In spite of this, Savage complained of the harassment to WCSO Chief Deputy Smack and his PCPD supervisor, Chief Sewell. WCSO failed to conduct an investigation into Savage's complaints of harassment to Chief Deputy Smack, and failed to participate in the investigation initiated by the MSP into Savage's complaint (as relayed by Chief Sewell.)

102. For the foregoing reasons, WCSO discriminated against Officer Savage because of his race in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), among other ways, by:

- a. Subjecting Savage to harassment based on race while he was working on the CET, which created an intimidating, hostile, and/or offensive work environment that adversely affected the terms, conditions, and privileges of Savage's employment; and
- b. Failing or refusing to take reasonable or appropriate steps to prevent or correct promptly the harassment; and
- c. Negligently failing after actual or constructive knowledge of the harassment to take prompt and adequate action to stop it.

COUNT II

Title VII, 42 U.S.C. § 2000e-3(a)

Retaliation

(Against Worcester County Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland)

103. The United States re-alleges and incorporates herein by reference all of the foregoing allegations.

104. Officer Savage engaged in protected activity, among other ways, when he complained about the hostile work environment he experienced on the CET to WCSO Chief Deputy Dale Smack and in his EEOC charge against the WCSO filed on July 21, 2014.

105. WCSO and Sheriff Mason knew of Officer Savage's complaints of discrimination and harassment and, as further detailed in paragraphs 43 through 64, acted adversely against Officer Savage, including, among other ways, by smearing his reputation and pressuring Pocomoke City officials and Chief Sewell to discipline and/or terminate him. WCSO and Sheriff Mason's actions might well have dissuaded a reasonable worker from making or supporting a discrimination claim.

106. Defendants took the actions described in paragraphs 43 through 64 because of Officer Savage's protected activity.

107. For the foregoing reasons, Defendants have discriminated against Officer Savage in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a) by retaliating against Savage for engaging in protected activity.

COUNT III
Title VII, 42 U.S.C. § 2000e-3(a)
Retaliation
(Against Pocomoke City)

108. The United States re-alleges and incorporates herein by reference all of the foregoing allegations.

Pocomoke City's Retaliation Against Officer Savage

109. Officer Savage engaged in protected activity, among other ways, when he complained about the hostile work environment on the CET and Worcester County State's

Attorney Oglesby's discriminatory behavior to numerous individuals and entities, including, but not limited to the oral and written complaints Savage made to Chief Sewell and in his EEOC charge of discrimination against PCPD.

110. Pocomoke City, including City Manager Blake, Mayor Morrison, and members of the Pocomoke City Council, was aware of Officer Savage's complaints.

111. Shortly after Officer Savage's complaints were made, Pocomoke City began engaging in a series of materially adverse actions against Officer Savage that would have dissuaded a reasonable person from complaining of discrimination. Among other ways, as outlined in paragraphs 57 through 64 and 77 through 79, Pocomoke City required Savage to undergo psychological evaluations, threatened to move him to the midnight shift, cut his hours, demoted him, subjected him to a disciplinary investigation, and, ultimately, terminated him.

112. Pocomoke City took the aforementioned adverse actions against Officer Savage, including terminating him, because of his protected activity.

113. Pocomoke City's purported reasons for its retaliatory activity are pretext for discrimination.

114. For the foregoing reasons, Defendants have discriminated against Officer Savage in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

Pocomoke City's Retaliation Against Chief Sewell

115. Chief Sewell engaged in numerous protected activities while employed by Pocomoke City, including by initiating an investigation of the CET in the summer of 2014, verbally opposing retaliation against Officer Savage, and filing a charge of discrimination against Pocomoke City.

116. Because of his protected activity, Pocomoke City smeared Chief Sewell's reputation, falsely accused him of stealing and filing a false report, and harassed, threatened, and terminated him, as described in Paragraphs 65 through 76. Pocomoke City's actions might well have dissuaded a reasonable worker from making or supporting a discrimination claim.

117. Pocomoke City's purported reasons for retaliating against Chief Sewell are pretext for unlawful discrimination.

118. For the foregoing reasons, Defendants have discriminated against Chief Sewell in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

Pocomoke City's Retaliation Against Lieutenant Green

119. Lt. Green engaged in protected activity when he accompanied Officer Savage to a meeting with WCSO Chief Deputy Smack regarding Officer Savage's complaints of race discrimination by the CET, went with Officer Savage to an EEOC mediation, and filed his own EEOC charge against PCPD on March 30, 2015.

120. Pocomoke City knew about each of Lt. Green's protected activities, as evidenced by, among other things, City Manager Blake's directive that Lt. Green cease from such support of Officer Savage.

121. As a result of Lt. Green's protected activity, Pocomoke City targeted Lt. Green by taking materially adverse actions against him that would have dissuaded a reasonable person from complaining of discrimination. Pocomoke City cut his overtime hours, resulting in a loss of pay, ostracized him from others in the PCPD, and failed to select him as Acting Chief when Chief Sewell was terminated.

122. Pocomoke City's actions might well have dissuaded a reasonable worker from making or supporting a discrimination claim.

123. Pocomoke City's purported reasons for its retaliatory actions are pretext for unlawful discrimination.

124. For the foregoing reasons, Defendants have discriminated against Lt. Green in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

PRAYER FOR RELIEF

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

(a) award all appropriate monetary relief, including back pay where applicable, to Officer Savage, Chief Sewell, and Lt. Green in an amount to be determined at trial to make each whole for any loss suffered as a result of the discrimination and retaliation as alleged in this complaint;

(b) award Officer Savage, Chief Sewell, and Lt. Green any prejudgment interest on the amount of lost wages and benefits determined to be due;

(c) award compensatory damages to Officer Savage, Chief Sewell, and Lt. Green to fully compensate them for the pain and suffering caused by Defendants' discrimination and retaliation 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;

(d) enjoin Defendants from further discrimination and retaliation against Officer Savage, Chief Sewell, and Lt. Green;

(e) order Defendants to develop and implement appropriate and effective measures to prevent discrimination and retaliation, including but not limited to implementing appropriate

policies and procedures applicable to employees working on CET, and implementing adequate training to all employees and officials;

(f) order any further relief necessary to make Officer Savage, Chief Sewell, and Lt. Green whole; and

(g) award such additional relief as justice may require, together with the United States' cost 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.

Respectfully submitted,

VANITA GUPTA
Principal Deputy Assistant Attorney General
Civil Rights Division

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Chief
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KAREN WOODARD (MD Bar)
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/s/ Barbara Schwabauer

/s/ Kathleen Lawrence

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

FRANKLIN SAVAGE, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 1:16-cv-00201-JFM
	)	
and	)	JURY TRIAL DEMANDED
	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
POCOMOKE CITY, WORCESTER	)	
COUNTY SHERIFF, REGGIE T.	)	
MASON (in his official capacity), and	)	
STATE OF MARYLAND	)	
	)	
Defendants.	)	

**MEMORANDUM IN SUPPORT OF
UNITED STATES' MOTION TO INTERVENE**

I. Introduction

Pursuant to Rule 24(b) of the Federal Rules of Civil Procedure and Local Rule 105, the United States of America (“United States”) respectfully submits this memorandum in support of its motion to intervene as a plaintiff in *Savage, et al. v. Pocomoke City, et al.* On September 29, 2016, Plaintiffs Franklin Savage, Kelvin Sewell, and Lynell Green filed their second amended complaint against, among other Defendants, Pocomoke City, Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland, raising violations of Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e *et seq.* (“Title VII”). The United States should be permitted to intervene in this litigation pursuant to Rule 24(b) of the Federal Rules of Civil Procedure. First, the United States satisfies the requirements of Rule 24(b) because it possesses a conditional right to intervene in this case under Section 706(f)(1) of Title VII. Second, the United States’ motion to intervene is timely filed, and its joining the litigation at this time will not prejudice the existing parties or cause any undue delay. Finally, the United States’ complaint in intervention shares common questions of law and fact with Plaintiffs’ second amended complaint and provides an independent basis for subject matter jurisdiction. For these reasons, the Court, in its discretion, should grant the United States’ motion to intervene.

II. Background

In July 2014, former Pocomoke City Police Officer Franklin Savage filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) against the Worcester County Sheriff’s Office (“WCSO”). In his charge, Officer Savage alleged that he was subjected to a racially hostile work environment during his tenure on the Worcester County Criminal Enforcement Team (“CET”), a regional drug enforcement taskforce. He also alleged that he was subject to retaliation for complaining of racial harassment. Officer Savage filed a

charge of discrimination against the Pocomoke City Police Department in October 2014, which he later amended, making allegations of retaliation for engaging in protected activity. This retaliation included Officer Savage's termination in October 2015. Former Pocomoke City Chief of Police Kelvin Sewell filed charges of discrimination against the Pocomoke City Police Department and Pocomoke City in March and August of 2015, respectively. Chief Sewell's charges, which he later amended, allege that he was subject to retaliation for opposing the retaliatory treatment of Officer Savage by Pocomoke City and that Pocomoke City terminated his employment in July 2015 for engaging in protected activity. Former Pocomoke City Police Lt. Lynell Green also filed a charge of discrimination against the Pocomoke City Police Department in March 2015. In his charge, Lt. Green alleges that he was subject to retaliation, including a loss of overtime and the smearing of his reputation, because of his support of Officer Savage in his complaints of discrimination. The EEOC conducted an investigation of these charges and on April 29, 2016, issued findings of reasonable cause that violations of Title VII had occurred. Ex. A, EEOC Letters of Determination. The EEOC attempted conciliation, which failed, and these charges were referred to the Department of Justice.

During the course of the EEOC's investigation, Plaintiffs filed the instant litigation in the United States District Court for the District of Maryland on January 20, 2016, raising claims based on the events in Plaintiffs' charges of discrimination. Their original and first amended complaints in this action alleged violations of 42 U.S.C. §§ 1981, 1983, and 1985 and the Fair Labor Standards Act against multiple entities and individual defendants. ECF Nos. 1, 23. On September 29, 2016, Plaintiffs filed their second amended complaint, which added their claims under Title VII against Pocomoke City, Worcester County Sheriff Reggie T. Mason, in his official capacity, and the State of Maryland. ECF No. 80. Defendants' motions to dismiss the

second amended complaint are due November 4, with full briefing to be completed by December 14, 2016. ECF No. 85.

The United States' complaint in intervention alleges that Sheriff Mason, in his official capacity, and the State of Maryland ("CET Defendants") subjected Officer Savage to a racially hostile work environment on the CET and failed to take action to prevent or correct the harassment. U.S. Mot. to Intervene, Ex. 2. The complaint in intervention further alleges that the CET Defendants retaliated against Officer Savage for his complaints of discrimination by smearing his reputation and pressuring Pocomoke City officials to discipline and/or terminate him. *Id.* With respect to Defendant Pocomoke City, the United States' complaint in intervention alleges several retaliatory actions taken by Pocomoke City against Officer Savage, Chief Sewell, and Lt. Green for engaging in protected activity under Title VII. *Id.* In particular, the United States alleges that Pocomoke City retaliated against Officer Savage by requiring him to undergo psychological evaluations and other tests, threatening to change his shift, cutting his overtime hours, demoting him, subjecting him to a disciplinary investigation, and ultimately terminating his employment as a Pocomoke City Police Officer. *Id.* The complaint in intervention alleges that Pocomoke City retaliated against Chief Sewell by, among other ways, terminating his employment as Chief of Police. *Id.* Finally, the complaint in intervention alleges that Pocomoke City retaliated against Lt. Green by, among other ways, smearing his reputation and cutting his overtime hours. *Id.* Based on these violations alleged in the complaint in intervention, the United States seeks make-whole and compensatory relief for the Plaintiffs as well as injunctive relief to ensure that Defendants comply with the requirements of Title VII through effective policies and procedures and other relief designed to ensure a nondiscriminatory workplace. *Id.*

III. Argument

A. The United States' Motion to Intervene Should be Granted Pursuant to Federal Rule of Civil Procedure 24(b)

1. The United States Satisfies the Requirements for Permissive Intervention

Under Rule 24(b) of the Federal Rules of Civil Procedure, a court may permit a party to intervene in a case when a federal statute provides a conditional right to intervene. Fed. R. Civ. P. 24(b)(1)(A). Title VII explicitly confers such a “conditional right to intervene” on the Attorney General in Title VII cases. 42 U.S.C. § 2000e-5(f)(1). A district court “may, in its discretion, permit . . . the Attorney General in a case involving a government, governmental agency, or political subdivision, to intervene in a civil action upon certification that the case is of general public importance.” *Id.* As required by Title VII, the Attorney General’s designee has certified that this lawsuit is a matter of general public importance. U.S. Mot. to Intervene, Ex. 1.

Rule 24(b) also provides another basis for permissive intervention by the United States. A court may permit a governmental officer or agency to intervene “if a party’s claim or defense is based on . . . a statute or executive order administered by the . . . agency.” Fed. R. Civ. P. 24(b)(2)(A). In their amended complaint (ECF No. 80), Plaintiffs allege violations of Title VII by multiple state and local government actors, against whom the Department of Justice has responsibility for enforcing Title VII. 42 U.S.C. § 2000e-5(f)(1) (“in the case of a government, governmental agency or political subdivision . . . , the Attorney General . . . may bring a civil action . . .”); *see also Gen’l Telephone Co. v. EEOC*, 446 U.S. 318, 325 & n.6 (1980) (general discussion of the Attorney General’s right to enforce Title VII against public employers). As the federal agency with the primary enforcement authority for Title VII against public actors, the

Department of Justice has a substantial interest in the full and effective enforcement of Title VII against the state and local government actors in this litigation.

2. The United States' Motion to Intervene is Timely

In accordance with Rule 24(b), the United States has filed a timely motion to intervene in this litigation. The Fourth Circuit has identified three relevant factors a court should consider in determining whether a motion to intervene is timely: (1) “how far the underlying suit has progressed;” (2) “the prejudice any resulting delay might cause the other parties;” and (3) “why the movant was tardy in filing its motion.” *Alt v. United States Environmental Protection Agency*, 758 F.3d 588, 591 (4th Cir. 2014). All of these factors counsel in favor of finding that the United States’ motion to intervene is timely. The underlying suit has not progressed significantly—no discovery has been taken with respect to the Title VII (or any related) claims and no scheduling order has been entered for discovery. Nor should the United States be considered tardy in filing its motion to intervene. The United States moved for its intervention less than one month after Plaintiffs filed their second amended complaint to include their Title VII claims (ECF No. 80). Defendants have not yet filed answers to Plaintiffs’ second amended complaint, and motions to dismiss the second amended complaint are currently scheduled to be fully briefed by December 14, 2016. ECF No. 85. For these reasons, permitting the United States to join the litigation at this early stage of the proceedings will not result in any significant delay or prejudice to the other parties.

3. Additional Factors Militate in Favor of Granting the Motion to Intervene

Intervention is further favored here where the United States’ complaint in intervention also shares “questions of law or fact in common” with Plaintiffs’ second amended complaint and there is “an independent ground of subject matter jurisdiction.” *See e.g., Shanghai Meihao Elec.,*

Inc. v. Leviton Mfg. Co., Inc., 223 F.R.D. 386, 387 (D. Md. 2004) (citations omitted). Both Plaintiffs and the United States allege violations of Title VII based on the racially hostile work environment on the CET and based on retaliation against the Plaintiffs for engaging in protected activity under Title VII. In general, the Title VII claims of both the Plaintiffs and the United States will be resolved based on the same factual and legal determinations. These common questions include: (1) whether the CET Defendants discriminated against Officer Savage by subjecting him to a racially hostile work environment on the CET and failing to take necessary actions to correct this harassment; (2) whether the CET Defendants retaliated against Officer Savage for his complaints of discrimination through acts directed at terminating his employment as a Pocomoke City Police Officer; (3) whether Pocomoke City retaliated against Officer Savage by subjecting him to numerous adverse actions, including ultimately termination, for engaging in protected activity; (4) whether Pocomoke City retaliated against Chief Sewell by, among other ways, terminating his employment for engaging in protected activity; and (5) whether Pocomoke City retaliated against Lt. Green for engaging in protected activity. Factual and legal determinations regarding damages and remedies are also common to both cases. Finally, as set forth in the complaint in intervention, this Court has independent subject matter jurisdiction over the United States' complaint in intervention under 42 U.S.C. § 2000e-5(f) (Title VII permits the United States to file suit or to seek intervention into a private lawsuit involving a charge against a government, government agency, or political subdivision), 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1345 (United States as plaintiff in a lawsuit).

IV. Conclusion

For the foregoing reasons, the Court should grant the United States' motion to intervene and order its intervention in this action pursuant to Rule 24(b).

Respectfully submitted,

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Principal Deputy Assistant Attorney General
Civil Rights Division

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EXHIBIT A



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EEOC Charge No. 531-2014-01983

Franklin Savage
3211 Sheephouse Rd.
Pocomoke City, MD 21851

Charging Party

Worcester County Sheriff's Office
1 West Market Street
Room 1001
Snow Hill, MD 21863

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that, while a member of the Worcester County Criminal Enforcement Team (aka "Joint Task Force"), he was subjected to harassment and unequal terms and conditions of employment, constituting a hostile work environment, due to his race (Black), color, and in retaliation for engaging in protected activity.

Respondent denies Charging Party's allegations and maintains that: 1) Charging Party was never employed by Respondent; 2) Respondent had no control over Charging Party's hiring, firing, or conditions of employment; 3) Charging Party was not subjected to harassment or a hostile work environment by Respondent due to any protected basis; and 4) Charging Party joked with other Joint Task Force members about race.

Evidence obtained during the Commission's investigation revealed that Respondent exercised significant control over Charging Party's day-to-day conditions of employment such that it was a joint-employer. The documentary and testimonial evidence further revealed that Charging Party was subjected to an environment, and repeatedly the target, of widespread racial jokes and use of racial slurs that was known to his supervisors within the Joint Task Force. On June 12, 2014 Charging Party resigned from the Joint Task Force and made allegations of discrimination. On July 29, 2014 Charging Party's allegations of discrimination were cited in a letter from Respondent questioning Charging Party's credibility and refusing to assist and/or participate in any investigative efforts by Charging Party in his capacity with his permanent employer.

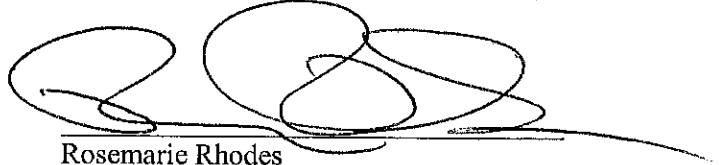
Determination (cont'd)
EEOC Charge No. 531-2014-01983
Page 2

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was harassed and subjected to a hostile work environment on the basis of his race and in retaliation for engaging in protected activity.

Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office. Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.**

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

A handwritten signature in black ink, appearing to read "Rosemarie Rhodes", is written over a horizontal line.

Rosemarie Rhodes
Director

APR 29 2016

Date

Enclosure

cc: Dennis Corkery, Esq.
Senior Staff Attorney
Washington Lawyers' Committee
Equal Employment Opportunity Project
11 Dupont Circle, NW, Suite 400
Washington, DC 20036

Jason Levine, Esq.
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EEOC Charge No. 531-2015-00092

Franklin Savage
3211 Sheephouse Rd.
Pocomoke City, MD 21851

Charging Party

Pocomoke City Police Department
1500 Market Street
Pocomoke City, MD 21851

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that he was subjected to harassment, unequal terms and conditions of employment, demotion, and discharge due to his race (Black) and in retaliation for protected activity.

Respondent denies Charging Party's allegations and maintains that: 1) Charging Party was not subjected to harassment; 2) there were widespread concerns about departmental overtime; 3) detective was a title, not a position, and that Charging Party's reassignment from detective was not a demotion; and 4) Charging Party was discharged because he could no longer perform the duties of a police officer.

Evidence obtained during the Commission's investigation revealed that, after Charging Party had made allegations of discrimination, Russell Blake, City Manager, attempted to subject Charging Party to psychological and polygraph examinations and repeatedly attempted to influence Charging Party's supervisor, Chief of Police Kelvin Sewell, to take adverse actions against him. The evidence revealed that Charging Party was removed from his assignment as a detective on February 9, 2015 and his overtime hours were cut. On September 24, 2015 Charging Party received a Notice of Interrogation for violation of Respondent's Code of Ethics directly related to Charging Party's prior allegations of discrimination. Finally, Charging Party was discharged by Respondent on October 26, 2015. The record revealed that Charging Party was discharged based on the Worcester County State's Attorney's refusal to use Charging Party's testimony in court, which Respondent had reason to believe was in retaliation for Charging Party's prior protected activity.

Determination (cont'd)
EEOC Charge No. 531-2015-00092
Page 2

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was subjected to harassment and unequal terms and conditions of employment and discharged in retaliation to protected activity.

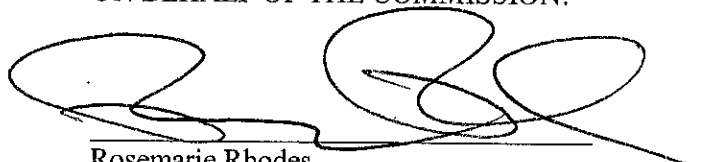
Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office. Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.**

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

APR 29 2016

Date



Rosemarie Rhodes
Director

Enclosure

cc: Dennis Corkery, Esq.
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EEOC Charge No. 531-2015-01013

Kelvin Sewell
2020 Groton Rd.
Pocomoke City, MD 21851

Charging Party

Pocomoke City Police Department
1500 Market Street
Pocomoke City, MD 21851

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that he was denied equal benefits, subjected to unequal terms and conditions of employment, and harassed in retaliation for protected activity and due to his race (Black) and color.

Respondent denies Charging Party's allegations and maintains that: 1) Charging Party's similarly situated comparators do not receive the same compensation or have the benefits Charging Party alleges that he was denied; 2) Charging Party was not subjected to any unequal terms and conditions of employment in comparison to similarly situated employees; and 3) Charging Party was not subjected to harassment based upon any of his alleged bases.

Evidence obtained during the Commission's investigation revealed that Charging Party was subjected to repeated requests and orders from Respondent officials to take actions against subordinates who had previously taken part in protected activity; Charging Party continually opposed requested actions he believed to be discriminatory and took action only under protest. The evidence obtained demonstrated that Charging Party was subjected to such requests on a pervasive basis.

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was subjected to harassment in retaliation for protected activity.

Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation**

Determination (cont'd)
EEOC Charge No. 531-2015-01013
Page 2

conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office. Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

APR 29 2016

Date



Rosemarie Rhodes
Director

Enclosure

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EEOC Charge No. 531-2015-02134

Kelvin Sewell
2020 Groton Rd.
Pocomoke City, MD 21851

Charging Party

Pocomoke City Police Department
1500 Market Street
Pocomoke City, MD 21851

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that he was discharged in retaliation for protected activity and due to his race (Black).

Respondent denies Charging Party's allegations and maintains that: 1) the majority of the Mayor and City Council had lost confidence in his ability to manage the department, work with other jurisdictions, and maintain the loyalty and confidence of his officers; and 2) Charging Party believed that he, and those that he supervised, were insulated from proper supervision and appropriate discipline.

Evidence obtained during the Commission's investigation revealed that Charging Party had been repeatedly asked to fire a subordinate that had taken part in protected activity; Charging Party refused to take such action because he believed it to be discriminatory. On June 26, 2015 Charging Party refused to discharge the subordinate in question. On June 29, 2015 Charging Party was discharged.

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was discharged in retaliation for protected activity.

Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office.**

Determination (cont'd)
EEOC Charge No. 531-2015-02134
Page 2

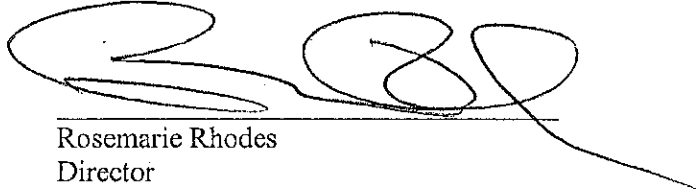
Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

APR 29 2016

Date



Rosemarie Rhodes
Director

Enclosure

cc: Dennis Corkery, Esq.
Senior Staff Attorney
~~Washington Lawyers' Committee~~
Equal Employment Opportunity Project
11 Dupont Circle, NW, Suite 400
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EEOC Charge No. 531-2015-02189

Kelvin Sewell
2020 Groton Rd.
Pocomoke City, MD 21851

Charging Party

Pocomoke City
101 Clarke Avenue
P.O. Box 29
Pocomoke City, MD 21851

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that he was discharged in retaliation for protected activity and due to his race (Black).

Respondent denies Charging Party's allegations and maintains that: 1) the majority of the Mayor and City Council had lost confidence in his ability to manage the department, work with other jurisdictions, and maintain the loyalty and confidence of his officers; and 2) Charging Party believed that he, and those that he supervised, were insulated from proper supervision and appropriate discipline.

Evidence obtained during the Commission's investigation revealed that Charging Party had been repeatedly asked to fire a subordinate that had taken part in protected activity; Charging Party refused to take such action because he believed it to be discriminatory. On June 26, 2015 Charging Party refused to discharge the subordinate in question. On June 29, 2015 Charging Party was discharged.

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was discharged in retaliation for protected activity.

Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office.**

Determination (cont'd)
EEOC Charge No. 531-2015-02189
Page 2

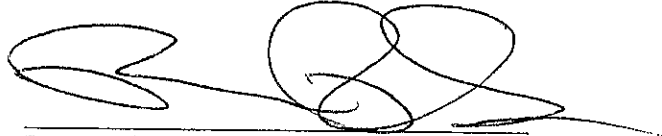
Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

APR 29 2016

Date



Rosemarie Rhodes
Director

Enclosure

cc: Dennis Corkery, Esq.
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EEOC Charge No. 531-2015-01162

Lynell Green
30011 Greensprings Dr.
Princess Anne, MD 21853

Charging Party

Pocomoke City Police Department
1500 Market Street
Pocomoke City, MD 21851

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue on behalf of the Commission the following determination as to the investigation of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (hereinafter referred to as "Title VII").

Respondent is an employer within the meaning of the Title VII, as amended and all requirements for coverage have been met.

Charging Party alleges that he was subjected to unequal wages due to his race (Black); and harassment and unequal terms and conditions of employment due to his race and in retaliation for protected activity.

Respondent denies Charging Party's allegations and maintains that: 1) Charging Party was paid comparatively with respect to similarly situated comparators and in accordance with Respondent's wider practices; 2) Charging Party was not harassed on the basis of his race or in retaliation for any protected activity; and 3) Charging Party was not subjected to any unequal terms and conditions of employment in comparison to similarly situated employees.

Evidence obtained during the Commission's investigation revealed that Charging Party was subjected to increased scrutiny by Respondent officials, including Russell Blake and Bruce Morrison, and harassed and ostracized, after taking part in protected activity in support of a subordinate.

Based on this analysis, I have determined that there is reasonable cause to believe that Charging Party was subjected to harassment in retaliation for protected activity.

Upon finding reasonable cause that unlawful employment practices have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation. Conciliation is Respondent's opportunity to voluntarily remedy the unlawful employment practices found to have occurred. Ultimately, any conciliation agreement must be acceptable to the Commission. **A conciliation conference has been scheduled for Thursday, May 19, 2016 at 9:00am in the Baltimore Field Office.**

Determination (cont'd)
EEOC Charge No. 531-2015-01162
Page 2

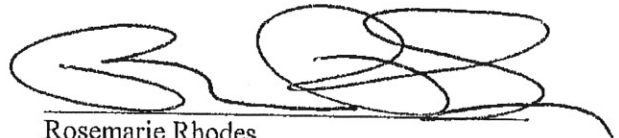
Please notify us within fourteen (14) days to confirm your participation in the conciliation conference.

If Respondent fails to engage in conciliation, or if the Commission determines, in its sole discretion, that conciliation has failed, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission.

ON BEHALF OF THE COMMISSION:

APR 29 2016

Date



Rosemarie Rhodes
Director

Enclosure

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Baltimore, MD 21202

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION

FRANKLIN SAVAGE, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case No. 1:16-cv-00201-JFM
	)	
and	)	JURY TRIAL DEMANDED
	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
POCOMOKE CITY, WORCESTER	)	
COUNTY SHERIFF, REGGIE T.	)	
MASON (in his official capacity), and	)	
STATE OF MARYLAND	)	
	)	
Defendants.	)	

ORDER

The United States' Motion to Intervene is GRANTED. The Clerk is directed to file the United States' Complaint in Intervention.

J. Frederick Motz
United States District Judge