

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

C.D. LEWIS, SHERIFF OF
TIPTON COUNTY (in his
official capacity);
AND TIPTON COUNTY
LEGISLATIVE COMMISSION,

Defendants.

CIVIL ACTION NO.

93-3077 GBRO

CONSENT DECREE

This action was brought by the United States pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 2000e et seq., ("Title VII") following receipt by the Department of Justice from the Equal Employment Opportunity Commission (EEOC) of a charge filed by John K. Whitley, charge number 250-91-1229.

In its complaint the United States alleges, inter alia, that the Defendant Sheriff has violated Title VII by reassigning Mr. Whitley to a nighttime shift as a jailer because Mr. Whitley filed a Title VII charge with the EEOC against the Tipton County Sheriff's Department, and later suspending Mr. Whitley without pay, and then discharging Mr. Whitley from his employment as a jailer because he filed a Title VII charge or charges against the Tipton County Sheriff's Department. The defendant Tipton County

APPENDIX B

RELEASE

I, John K. Whitley, in consideration for accepting all or any portion of the relief to which I am being offered by the Defendants under the Consent Decree entered in United States v. C.D. Lewis, Sheriff of Tipton County (in his official capacity) and Tipton County Legislative Commission, Civil Action No.

_____ (W.D. Tenn.) do hereby release the Defendants C.D. Lewis, Sheriff of Tipton County (in his official capacity); and Tipton County Legislative Commission, and any officer, agent or employee thereof, from any and all claims based upon any alleged discrimination with respect to employment with the Tipton County Sheriff's Department in violation of any Federal, state or local equal employment opportunity laws, statutes, regulations or ordinances occurring prior to the date of this Release and arising out of the above case and EEOC Charge Number 230-91-122

I understand that the monetary award and offer of expungement regarding files granted to me in consideration for this Release do not constitute an admission, by any of the parties released, of the validity of any claim raised by me or my behalf.

I acknowledge that a copy of the Consent Decree in this action has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

JOHN K. WHITLEY

Social Security Number _____

Sworn to before me this _____ day of _____, 1999.

NOTARY PUBLIC

My Commission Expires: _____

Legislative Commission is named as a party pursuant to Rule 19 of the Federal Rules of Civil Procedure. This Decree resolves all issues raised by the Complaint.

The defendant Sheriff denies that he has discriminated in a manner against John K. Whitley in violation of Title VII. Nevertheless, the parties, desiring that this action be settled without the burden of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. The parties waive, for the purposes of this Decree only, a hearing and findings of fact and conclusion of law on all issues, and further agree to the entry of this Decree as final and binding among themselves as to the issues raised in the Complaint filed in this case and the matters resolved in this Decree.

This Decree, being entered with the consent of all parties shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by the defendants or a finding of any wrongdoing or violation of any applicable federal or state law or regulation. It is therefore ORDERED, ADJUDGED AND DECREED as follows:

A. GENERAL RELIEF

(1) The defendant Sheriff, by and through his officials, agents, employees and all persons in active concert or participation with the Sheriff in the performance of employment or personnel functions, shall not engage in any act or practice that has the purpose or effect of unlawfully discriminating

...not any employee or potential employee with the Tipton County Sheriff's Department because of that individual's participation in any EEOC activity.

(2) The defendant Sheriff agrees not to retaliate against or in any respect adversely affect any person because that person has opposed allegedly discriminatory policies or practices, has filed a charge with the EEOC, or because of that person's participation in or cooperation with the initiation, investigation, litigation, resolution and/or administration of this case or this Decree.

B. SPECIFIC RELIEF

The United States alleges that the defendant Sheriff discriminated against John K. Whitley in violation of Section 704(a) of Title VII by reassigning him to the nighttime shift as a jailer because he filed a Title VII charge with the EEOC against the Tipton County Sheriff's Department, and later suspending Mr. Whitley without pay, and then discharging Mr. Whitley from his employment as a jailer, because he filed a Title VII charge or charges against the Tipton County Sheriff's Department. Without admitting to the contentions of the United States, and in settlement of the claim of the United States for relief on behalf of Mr. Whitley, as well as in settlement of Mr. Whitley's individual claim if he accepts the relief provided him by this Decree, the defendants agree to the following:

(1) The defendants shall offer to pay Mr. Whitley a monetary award in the amount of \$1,304.81. Of the monetary award

amount of \$1,304.94, plus 10% of that amount shall be considered interest; the remaining \$1,135.94 shall be subject to income and social security (FICA) taxes, as applicable. The defendants shall separately pay the appropriate employer's contribution to the Social Security fund due on the monetary award, if applicable: i.e., the employer's contribution shall not be deducted from the monetary award to Mr. Whitley.

(2) Mr. Whitley has informed the undersigned counsel for the United States that he is not interested in reinstatement in the position of jailer at the Wippon County Sheriff's Department. Therefore, defendant Sheriff is not required to offer Mr. Whitley job opportunity as part of the relief in this case.

(3) The defendants shall offer to expunge from their files with respect to Mr. Whitley any entry regarding his suspension without pay on September 30, 1991, and his subsequent discharge on October 9, 1991.

(4) The defendants agree to notify Mr. Whitley of the terms of this Consent Decree within fourteen (14) days of its entry by mailing to him, by certified mail, return receipt requested, a copy of the letter set forth in Appendix A and enclosing a copy of this Decree and the Release attached as Appendix B.

(5) In order to accept any of the relief to be offered by defendants under the Decree, Mr. Whitley must execute a Release in the manner attached as Appendix B.

(6) The defendants shall pay the monetary award to Mr.

Whitley, after appropriate deductions are made, within thirty (30) days of their receipt of the executed Appendix B release.

c. RECORDS

(1) The defendants shall provide the Department of Justice a signed copy of the notice letter to Mr. Whitley within ten (10) days from the date it is mailed to Mr. Whitley, and a copy of Mr. Whitley's response, including any Appendix B forms, within ten (10) days of the defendants' receipt of the response.

(2) The defendants shall retain during the life of this Decree records necessary to document the implementation of this Decree. The defendants shall make those records and all other documents relevant to their compliance with and implementation of this Decree available for inspection and copying, at the expense of the Department of Justice, within thirty (30) days of any written request sent by the Department of Justice to the defendants' attorney. The defendants shall similarly furnish information or reports on matters relevant to compliance with and implementation of the Decree to the Department of Justice upon written request to the defendants' attorney.

b. IMPLEMENTATION

(1) The parties shall attempt to resolve informally any disputes that may occur under this Consent Decree. If the parties are unable to reach agreement within thirty (30) days after a matter has been brought to the attention of one of the parties by another party, the issue may be submitted by either party to the Court for resolution.

(2) The Court shall retain jurisdiction over this Decree during the life of the Decree for the purposes of enforcing the Decree, resolving any disputes that may arise between the parties under the Decree and entering such orders as may be appropriate.

(3) This Decree shall terminate two (2) years from the date of its entry. Prior to its termination any party may move, for good cause shown, for an extension of this Decree's term.

(4) Each party shall bear its own costs, including attorney's fees.

DONE SO AND ORDERED, this 28th day of December, 1993

Incia Smith Wilbourn
UNITED STATES DISTRICT JUDGE

Agreed and Consented To:

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CERTIFIED TRUE COPY
ROBERT R. DEBBARD, CLERK
BY: J. M. [Signature]
DEPUTY CLERK