

No. 22-820

**In The
Supreme Court of the United States**

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

LORI D. MCLAUGHLIN,

Petitioner,

v.

MERRICK B. GARLAND, in his official capacity
as United States Attorney General,

Respondent.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit**

PETITION FOR REHEARING

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INTRODUCTION

I.

On March 27, 2023, this Court denied Lori McLaughlin's Petition for Writ of Certiorari on the same day as the American people were mourning several deaths from another mass shooting in Nashville, Tennessee. With the continued surge, we have had several mass shootings since this Court's ruling. To highlight the illegal removal of law enforcement officers from our streets, Lori McLaughlin respectfully files this *Petition for Rehearing* pursuant to Rule 44.2 of this Court's rules.

The evidence is clear and convincing that the ATF Giglio Policy enforced by the U.S. Department of Justice is unconstitutional, as there is no "due process" component to ensure equal protection for law enforcement officers. APP-A at 1 Again, the EEO Sworn Declaration of the ATF Giglio Official confirmed that the policy did not include any due process rights. During his interview with the EEO investigator, USA Matthew Martin (MDNC) stated "the DOJ does not have policies that allow Special Agents to challenge decisions made by the U.S. Attorney's Office when it refuses to prosecute criminal investigations conducted by a specific special agent". APP-O at 104.

The due process clause of the Fourteenth Amendment to the Constitution of the United States mandates:

Amendment XIV, Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This case is a gross miscarriage of justice, and this Court refuses, for whatever reason, to recognize that Attorney General Merrick Garland has allowed DOJ officials to weaponize “Giglio” against Federal law enforcement officers. Without due process rights, the U.S. Department of Justice has the authority to determine the racial makeup of the Federal law enforcement workforce with the capability to bar minority special agents from investigating Federal criminal violations without any just cause.

REASONS TO GRANT REHEARING

I.

This Court is sending a very strong message to the American people that the U.S. Department of Justice is above the law in this country. In June 2019, the DOJ revised the ATF Giglio Policy because the old policy was dated September 30, 2014. This revision clearly

occurred after the ATF Giglio Official and the U.S. Attorney's Office was contacted by the EEO Counselor regarding Lori McLaughlin's allegations about the lack of due process rights surrounding their Giglio determination. For the record, the EEO Counseling Report is dated March 29, 2019. APP-K at 80 Yet, the DOJ intentionally and maliciously failed to address the due process rights of law enforcement officers in their revised policy.

At this point, this Court is clearly aware that ATF, DOJ, and all other oversight agencies are refusing to investigate egregious misconduct committed by DOJ management officials in violation of Federal regulations. In July 2018, DAD Peter Forcelli made an official referral to the ATF Office of Professional Responsibility and Security Operations (OPRSO) regarding the removal of Lori McLaughlin from her "field" position and ATF refused to conduct any investigation. APP-B at 19 In March 2019, the Office of Special Counsel (OSC) also refused to conduct any investigation against DOJ in connection with the complaint filed by Lori McLaughlin. APP-C at 22 Even after, Lori McLaughlin forwarded the EEO Sworn Declarations to substantiate the egregious misconduct associated with her removal from a "field" position.

In the meantime, ASAC Benjamin Gibbons continued the falsehood that Lori McLaughlin "could not present cases to the USAOs in North Carolina based on the USAOs decision – not ATF". APP-D at 25 For his misconduct, ASAC Benjamin Gibbons received two (2) career promotions from AD Marvin Richardson,

including the SAC of Internal Affairs Division. The American people are bound by 18 U.S.C. 1001 (Lying to Federal Agent), but DOJ management officials commit this offense on a regular basis without consequences or penalty. Nevertheless, Lori McLaughlin was forced to file two (2) formal complaints with the DOJ/OIG and IG Michael Horwitz refused to investigate the DOJ citing a lack of resources. APP-E at 28 Unfortunately, IG Michael Horwitz has a long history of refusing to investigate egregious misconduct (i.e., S/A SherryAnn Quindley/Sexual Harassment, Adam Delgado/Perjury, Joseph Reese/Misclassification of LEO Positions) committed by DOJ management officials and costing the American people millions of dollars in connection with OSC File Number DI-18-1734 (Misclassification of LEO Positions).

Previously, the Government Accountability Office (GAO) promised to contact Lori McLaughlin and other "African American" employees in connection with their official investigation into the abuse of misconduct investigations. APP-H at 57 Based on information from whistleblowers, this investigation was conducted at the request of Senator Charles Grassley. Due to their courage and integrity, several DOJ employees emailed GAO and volunteered to be interviewed regarding the unfair misconduct investigations conducted by DOJ. However, GAO issued their final report without conducting any contact or interviews with "African American" employees. Recently, Senator Charles Grassley suggested that a "Rose Garden" ceremony on Whistleblower Appreciation Day will inspire confidence in

those who witness wrongdoing to stand up and do something to fix it. Senator Grassley further stated, that “it would help build a culture of integrity where employees are not afraid to raise legitimate concerns because they know retaliators will be punished, not the whistleblower”.

In April 2022, Lori McLaughlin filed a formal complaint with the U.S. Congressional House Committee on Oversight and Accountability. APP-G at 52 The primary mission of this committee is to root out waste, fraud, abuse and mismanagement in the Federal government. Lori McLaughlin mailed her complaint (notebook binder) through Federal Express with a GPS tracker to confirm delivery of the complaint. APP-G at 56 Shortly after delivery, Lori McLaughlin placed a telephone call to the committee office, and she received verbal confirmation from a committee staff member that the committee was in receipt of the complaint. Furthermore, a committee staff member advised that a supervisor would contact Lori McLaughlin after her complaint was reviewed by the supervisor. As of this petition, Lori McLaughlin never received any telephone call from this committee. Moreover, Lori McLaughlin never received any written acknowledgement or notice of receipt for her complaint. Ironically, this committee refused to investigate the egregious misconduct committed by DOJ (the Federal government) while vigorously investigating misconduct allegations against the Washington Football Team and U.S. Gymnastics.

On March 2, 2023, AG Merrick Garland waived his right to file a response petition regarding Lori McLaughlin's allegations of discrimination, abuse of authority and constitutional right violations being committed inside the U.S. Department of Justice. On March 8, 2023, AG Merrick Garland again waived his rights to file a response petition in connection with another SCOTUS case filed by a former DOJ employee (S/A Adam Delgado/Case #22-0774) with egregious misconduct by DOJ management officials. On the same day, AG Merrick Garland stood before the American people passing judgment on the Louisville Police Department for discrimination, abuse of authority and constitutional right violations. AG Merrick Garland stated, "this conduct is unacceptable, and it is heart-breaking," when the conduct is being committed by local law enforcement. When Lori McLaughlin requested an official investigation into the same conduct being committed inside the DOJ, AG Merrick Garland refused to investigate the "unacceptable" conduct inside his own department and failed to even acknowledge receipt of her official memorandum. APP-F at 33

Instead of enforcing DOJ policies, AG Merrick Garland made concessions for AD Marvin Richardson to remain in a leadership position at ATF without any requirements for the law enforcement mandatory retirement. Based on his actions, AG Merrick Garland has shown that this conduct is totally acceptable inside his department. Again, DOJ Policy Memorandum #2015-04 states, "disciplinary action will be taken against supervisors and managers who either condone

or fail to act promptly to report or correct harassing conduct brought to their attention. APP-W at 191 Likewise, the Department's EEO Policy states "we will take swift and appropriate corrective and/or disciplinary action when employees are found to have engaged in discrimination, retaliation, or harassment, including sexual harassment, which are prohibited by our policies regardless of whether the discrimination, retaliation, or harassment violates federal law". APP-V at 186 So, DOJ is allowed to violate the U.S. Constitution, equal employment laws, OPM personnel regulations and their own departmental policies. This is just another sign to the American people that DOJ is above the law.

History has attempted to teach us what happens when we allow ATF management officials to go without oversight and accountability. In 1993, the U.S. Department of Treasury failed to provide leadership over the ATF and approximately 87 American citizens loss their lives in Waco, TX, including four law enforcement officers. In 2010, the U.S. Department of Justice refused to enforce boundaries at the ATF and American citizens loss their lives in connection with firearms sold during the Fast and Furious Firearms Trafficking Investigation, including a Border Patrol Agent. After the next tragedy in ATF history, this court can look itself in the mirror and ask what role did this court play in the loss of these American lives.

For decades, the courts have turned a blind eye to the egregious misconduct being committed by DOJ in the litigation process. Conduct that diminishes the

integrity of our court system. In 2009, DOJ attempted to coerce a deceptive EEO settlement without any consequences. APP-Q at 154 In March 2013, DOJ misrepresented evidence in a civil lawsuit and the judge refused to address a Motion in Limine filed on the court docket containing the necessary documentation to support misconduct. APP-S at 165 Given that DOJ does not have to play by any rules, DOJ continuously engaged in ex parte communication with the court. APP-R at 158 In 2017, Lori McLaughlin was wrongfully removed from her “field” position without any due process rights. In 2018, IA Robin Burton had her National Security Clearance suspended by DOJ with another due process violation. The repeated refusal to hold DOJ accountable only serves to embolden DOJ to start violating the constitutional rights of the American people.

II.

This Court has failed to honor their oath to “administer justice” in Lori McLaughlin’s case. After thirty (30) years of government service, Lori McLaughlin (Federal Law Enforcement Officer/Undercover Agent) was permanently removed from her “field” criminal investigator’s position without any integrity violation or “due process rights” to defend her professional career in the Charlotte Field Division, Greensboro Field Office. Again, S/A Johnnie Meadors and other “African Americans” were also removed from their “field” criminal investigator’s positions. However, our “white” counterparts have known integrity violations and

DOJ did not remove them from their “field” criminal investigator’s positions. In fact, they (white/male) are protected by DOJ and allowed to commit possible “Brady” violations against the American people.

During the EEO investigation, USA Matthew Martin stated that “MDNC currently prosecutes criminal investigations conducted by S/A Paul Johnson (White/Male), ATF Greensboro Field Office, who is currently subject to a Giglio Order”. APP-O at 104 In December 2021, AD Marvin Richardson allowed AG Merrick Garland to give an “ATF Meritorious Award/ Distinguished Service Medal” to S/A Timothy Moore (White/Male) who had committed PERJURY. An Administrative Judge with the EEOC ruled that “Moore’s narrative shifted significantly on multiple occasions and is also disputed by other witnesses, including a wholly objective employee from outside of ATF – AUSA Dellabetta”. APP-P at 139 In addition, the AJ ruled that “the testimonies and statements of Christy, Kimm, Cekada, Moore and Clop are not credible and forthright and/or relied on factually incorrect circulated hearsay and gossip about Complainant Meadors”. APP-P at 143 Again, AD Marvin Richardson and ATF Chief Counsel settled the lawsuit and refused to investigate the possible “perjury” allegations against four (4) “white” criminal investigators.

In support, S/A Adam Delgado (Mexican American/Male) made “perjury” allegations against S/A Chris Labno (White/Male) in connection with a federal criminal trial. However, S/A Adam Delgado was never interviewed by any ATF or DOJ/OIG investigator

regarding any official investigation into the misconduct allegation. Lori McLaughlin emailed the evidence (i.e., MSPB Decision, Deposition Testimony, Court Motion, etc.) to ATF Chief Counsel Pamela Hicks to support the possible "Brady" violations associated with the court testimony of S/A Chris Labno, Chicago Field Division. APP-T at 171 In addition, the arrest of S/A James Burk (White/Male) was all over the internet for stealing wine from a local business. Again, DOJ did not remove him from his "field" position.

In retaliation, Lori McLaughlin (African American/Female) was removed from her position without any integrity violations. Yet, DOJ allowed the above special agents to continue putting American citizens in Federal prison with known integrity violations. Most disturbing, AD Marvin Richardson still promoted S/A Chris Labno to a leadership position while forcing Lori McLaughlin into retirement. There is no doubt that rewarding Federal law enforcement officers for committing PERJURY will unfairly and disproportionately impact poor, uneducated and disadvantaged American citizens.

III.

This Court is allowing the lower court decisions to rest on the testimony of a government witness who committed PERJURY on more than one occasion. This Court did so without even requiring the U.S. Department of Justice to file a response petition. Again, USA Robert Higdon contradicted the testimony that Lori

McLaughlin could not conduct criminal investigations in North Carolina. APP-J at 71 Furthermore, the court of appeals ruled that SAC Wayne Dixie explains, “the United States Attorneys were not willing to accept cases investigated by McLaughlin due to the disparaging remarks that McLaughlin had made against officials with the DOJ, ATF, and USAOs”. Clearly, this statement does not appear in the sworn declaration signed by SAC Wayne Dixie. APP-I at 62

Most importantly, the court of appeals used witness testimony given outside of the civil lawsuit. Specifically, SAC Wayne Dixie gave his sworn declaration in connection with the case before the Merit Systems Protection Board. However, SAC Wayne Dixie refused to cooperate with the EEO investigation in connection with the civil lawsuit. In fact, the EEO investigator noted that “SAC Wayne Dixie is retired and elected not to respond to requests for completion of the interrogatory”. APP-L at 89 Conversely, SAC Wayne Dixie was also retired when he voluntarily completed the declaration for the MSPB case. APP-I at 62 Coincidentally, SAC Wayne Dixie voluntarily cooperated with the EEO counselor in connection with the civil lawsuit but not the EEO investigator. APP-K at 82 It appears that when DOJ can control the questions, SAC Wayne Dixie is a cooperating government witness, and he is RETIRED when a “neutral party” controls the questions. Nevertheless, both lower courts based their decisions on a responsible management official who was uncooperative with the civil lawsuit.



CONCLUSION

For the foregoing reasons, Lori McLaughlin respectfully requests that the Court grants a rehearing of its order denying the petition for certiorari, vacate that order, and remand this case back to the Middle District of North Carolina for a jury trial. In accordance with the U.S. Constitution, this Court should require the U.S. Department of Justice and other law enforcement agencies to revise their Giglio Policy to ensure due process rights for law enforcement officers. In 2021, there were **660,288** full-time law enforcement officers employed in the United States. Given that DOJ has rendered her ineligible to hold another law enforcement position without just cause, Lori McLaughlin will now focus her resources on sharing her journey to injustice with the American people. As, evil triumphs when good men and women do nothing!

Dated: April 21, 2023

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH

Pursuant to Rule 44.2, Petitioner certifies that the Petition for Rehearing is restricted to the grounds specified in the Rule with substantial grounds not previously presented. Petitioner certifies that this Petition for Rehearing is presented in good faith and not for delay.

LORI D. McLAUGHLIN, *Pro se*

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APPENDIX A

U.S. Department of Justice
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Order

ATF O 9410.1B

SUBJECT: GIGLIO POLICY DATE: 06/17/2019
RECERTIFICATION
DATE: 06/17/2024
OPI: 200000

TO: ALL ATF EMPLOYEES

1. PURPOSE. This order provides formal guidelines to implement the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF's) "Giglio Policy."
2. CANCELLATION. ATF O 9410.1A, "Giglio Policy" dated 9/30/2014, is hereby cancelled.
3. AUTHORITY. Discovery obligations in criminal cases are generally established by Federal Rules of Criminal Procedure 16 and 26.2, 18 U.S.C. § 3500 (the Jencks Act); Brady v. Maryland, 373 U.S. 83 (1963); and Giglio v. United States, 405 U.S. 150 (1972).
 - a. Justice Manual (JM), Title 9-5.100 Policy Regarding the Disclosure to Prosecutors of Potential Impeachment Information Concerning Law Enforcement Agency Witnesses ("Giglio Policy").
 - b. Criminal Resource Manual 165, *Guidance for Prosecutors Regarding Criminal Discovery*.

4. BACKGROUND.

- a. On December 9, 1996, the Attorney General established a policy for the timely disclosure to prosecutors of any potential impeachment information concerning employees of the Department of Justice (DOJ) who will be providing a sworn statement (e.g., affidavit for search warrant, complaint for arrest warrant) or testimony in a criminal case on behalf of the Government. That policy was codified in the United States Attorney's Manual in section 9-5.100 and is referred to as DOJ's "Giglio Policy." The United States Attorney's Manual was renamed the JM in 2018.
- b. On May 12, 2014, the Deputy Attorney General issued a Memorandum, Amendment of Section 9-5.100 of the Justice Manual (The "Giglio Policy"), announcing changes to DOJ's "Giglio Policy" effective on July 11, 2014. Revisions were made with respect to the candid conversation between a prosecutor and an agency employee; the definition of potential impeachment information; record-keeping; information that must be provided to agencies; the transfer of Giglio-related information between prosecutors; and the notification to prosecutors of Giglio issues when an agency employee is transferred to a new district.
- c. On September 30, 2014, ATF updated its own "Giglio Policy" to incorporate the DOJ changes and set forth procedures for employee reporting of events, which may be subject to disclosure as potential impeachment information, and the obligation of potential affiants and

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witnesses to directly inform prosecutors of any potential impeachment information regarding themselves.

- d. The revisions contained herein are relatively minor and build on the experience obtained since the Order was last revised in 2014.

5. POTENTIAL IMPEACHMENT INFORMATION.

In *Giglio v. United States*, 405 U.S. 150 (1972), the Supreme Court held that the Government's duty to disclose evidence in its possession that is favorable to the defendant and material to guilt or punishment may include evidence that can be used to impeach the credibility or reliability of Government witnesses. DOJ's "Giglio Policy" states that potential impeachment information has been generally defined as impeaching information, which is material to the defense. It also includes information that either casts a substantial doubt upon the accuracy of any evidence—including witness testimony—the prosecutor intends to rely on to prove an element of any crime charged, or might have a significant bearing on the admissibility of prosecution evidence. This information may include but is not strictly limited to: (a) specific instances of conduct of a witness for the purpose of attacking the witness' credibility or character for truthfulness; (b) evidence in the form of opinion or reputation as to a witness' character for truthfulness; (c) prior inconsistent statements; and (d) information that may be used to suggest that a witness is biased.

6. INFORMATION SUBJECT TO DISCLOSURE.

Specific examples of potential impeachment

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information may include, but are not limited to, the following:

- a. Any finding of misconduct that reflects upon the truthfulness or possible bias of the employee, including a finding of lack of candor during a criminal, civil, or administrative inquiry or proceeding;
- b. Any past or pending criminal charge brought against the employee;
- c. Any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;
- d. Prior findings by a judge that an agency employee has testified untruthfully, made a knowing false statement in writing, engaged in an unlawful search or seizure, illegally obtained a confession, or engaged in other misconduct;
- e. Any misconduct finding or pending misconduct allegation that either casts a substantial doubt upon the accuracy of any evidence, including witness testimony, that the prosecutor intends to rely on to prove an element of any crime charged, or that might have a significant bearing on the admissibility of prosecution evidence. Accordingly, agencies and employees should disclose findings or allegations that relate to substantive violations concerning:
 - (1) Failure to follow legal or agency requirements for the collection and handling of evidence, obtaining statements, recording

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communications, and obtaining consents to search or to record communications;

- (2) Failure to comply with agency procedures for supervising the activities of a cooperating person confidential informant (CI), confidential source (CS) and confidential human source (CHS), etc.;
 - (3) Failure to follow mandatory protocols with regard to the forensic analysis of evidence;
- f. Information that may be used to suggest that the agency employee is biased for or against a defendant (See U.S. v. Abel, 469 U.S. 45, 52 (1984). The Supreme Court has stated, “[b]ias is a term used in the ‘common law of evidence’ to describe the relationship between a party and a witness which might lead the witness to slant, unconsciously or otherwise, his testimony in favor of or against a party. Bias may be induced by a witness’ like, dislike, or fear of a party, or by the witness’ self-interest.”); and
 - g. Information that reflects that the agency employee’s ability to perceive and recall truth is impaired.
 - h. Allegations concerning the truthfulness or bias of an employee that cannot be substantiated, are not credible, or resulted in exoneration of the employee are generally NOT considered to be potential impeachment information subject to disclosure. However, United States Attorney’s Offices (USAOs) and courts have the right to request and examine such

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information. These requests can arise, but are not limited to, the following instances:

- (1) When the requesting official advises the agency official that it is required by a court decision in the district where the investigation or case is being pursued;
 - (2) When, on or after July 11, 2014, the allegation was made:
 - (a) by a Federal prosecutor, magistrate judge, or judge; or
 - (b) the allegation received publicity.
 - (3) When the requesting official and the agency official agree that such disclosure is appropriate, based upon exceptional circumstances involving the nature of the case or the role of the agency witness; or
 - (4) When disclosure is otherwise deemed appropriate by the agency.
- i. The fact that information may qualify as potential impeachment information does not mean that it must necessarily be disclosed to the defendant in a specific criminal case. Whether to disclose potential impeachment information to the defendant in a specific case is a decision that must be made by the prosecutor and should be made in consultation with ATF's Giglio Official.

7. EMPLOYEE AND SUPERVISOR RESPONSIBILITIES.

- a. Employees' responsibilities.

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- (1) Because employees are typically aware of matters that may adversely reflect on their credibility or reliability as a witness, an ATF employee who occupies a position in which it is reasonably possible that he/she will act as an affiant or testify as a witness in a criminal case (a "testifying position") has an affirmative obligation to timely inform his/her first-line supervisor of any information described in paragraph 6 above or other conduct, occurrence or situation, whether or not related to the employee's employment, that may constitute potential impeachment information, to include both on-duty and off-duty matters. This obligation continues for as long as the employee occupies a testifying position. Any employee who is not certain that his/her supervisor has specific knowledge of a particular matter has an affirmative duty to discuss the matter/information with his/her supervisor and provide, if applicable, a copy of all documentation relating to the matter (e.g., letter of reprimand).
- (2) In circumstances where an employee is not scheduled to act as an affiant or provide testimony in a pending criminal case, timely notification is considered to be within 5 business days of the conduct, occurrence or situation that constitutes potential impeachment information.
- (3) When an ATF employee is a potential affiant or witness in a specific Federal or

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State criminal case or investigation, that employee also has an affirmative obligation to inform the prosecutor(s) of any information described in paragraph 6 above or other conduct, occurrence or situation, whether or not related to the employee's employment, that may constitute potential impeachment information, to include both on-duty and off-duty matters prior to providing a sworn statement or testimony, even in the absence of a specific request from the prosecutor. This obligation extends to information that may already be available to the public and continues for as long as the case or investigation remains pending. It is expected that the employee will take the initiative to fully inform prosecutors regarding all such information during the normal course of the investigation or preparation for hearings and trials. If doubt exists as to whether a disclosure to the prosecutor is required, the employee and his/her supervisor must directly consult with ATF's Giglio Official prior to making a decision to disclose or not to disclose information to the prosecutor. Information an employee must disclose to prosecutors under the "Giglio Policy" includes, but is not limited to, the information set forth in paragraphs 5 and 6 above. Whenever an employee's disclosure results in a determination by the prosecutor that the employee will not be allowed to testify or serve as an affiant, or results in a

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determination by a judge that the employee is untruthful or biased, the employee must immediately notify their first-line supervisor of that fact.

- (4) ATF employees should be mindful of the types of content, photos, videos, friends, postings, etc., that appear on popular social networking sites like Facebook, Instagram, Twitter, LinkedIn, and others. Although ATF policy does not prohibit the legitimate use of such sites, information found on such sites may become the subject of cross-examination in a court proceeding and accordingly, in using such sites, employees must comply with ATF O 8800.5A, Social Media Conduct and Accountability, dated 6/9/2014.

b. Supervisors' responsibilities.

- (1) All supervisors up to and including assistant special agents in charge (ASACs), directors of industry operations (DIOs), and division chiefs, who are informed or become aware of potential impeachment information concerning an employee who occupies a testifying position must notify his/her immediate supervisor of that information within 24 hours of it having been acquired, regardless of the source.
- (2) Special agents in charge (SACs) and deputy assistant directors (DADs) who are informed or become aware of potential impeachment information concerning an employee who occupies a testifying

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position must notify ATF's Giglio Official. In situations where the employee is not imminently scheduled to provide a sworn statement or testimony in a criminal case the notice should be provided within 5 business days of acquiring the information. In all other cases, the notice must be provided sufficiently in advance of the testimony or statement to permit the employee's chain of command and/or ATF's Giglio Official to coordinate with the prosecutor.

- (3) Certain emerging Giglio matters must be addressed by the chain of command in a time-sensitive manner to ensure the special agent or employee is provided the utmost benefit of support when warranted. If an allegation is made where the Bureau would consider mitigating the issue, the SAC must expeditiously notify their DAD and engage their chain of command and Chief Counsel's office in conversations regarding any efforts that can be taken to mitigate the situation if warranted.

c. ATF's Giglio Official.

- (1) Upon learning of potential impeachment information or learning of a Giglio request for information described in paragraph 8 concerning an ATF employee who occupies a testifying position, ATF's Giglio Official shall confirm with the employee and the employee's supervisors the extent to which that employee has

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been, or is scheduled to be, a witness or affiant in a pending criminal case.

- (2) If all appropriate prosecutors have been notified, ATF's Giglio Official will coordinate with the prosecutors to ensure that any decisions about whether potential impeachment information should be released to the defendant are consistent with the applicable laws pertaining to criminal discovery.
- (3) If a prosecutor has not yet been notified of the potential impeachment information, ATF's Giglio Official will ensure that all appropriate notifications are made, unless the Office of Professional Responsibility and Security Operations (OPRSO), and/or the DOJ Office of Inspector General (OIG) indicate that no notification should be made.
- (4) ATF's Giglio Official will coordinate ATF's response to requests received subject to the procedures contained in paragraph 8. ATF's Giglio Official shall ensure that all potential impeachment information of which he or she becomes aware is maintained in a location that ensures its availability when such requests are received by ATF.
- (5) ATF's Giglio Official is the agency official responsible for providing ATF responses to requesting officials as described in paragraph 8; consulting with requesting officials regarding court cases and practices

governing the definition and disclosure of impeachment information; and recommending, when appropriate, that the prosecutor seek a protective order and/or an ex parte, in camera review and decision by the court regarding whether potential impeachment information must be disclosed to defense counsel.

- d. Division Counsel. ATF's division counsels are available for consultation concerning DOJ's "Giglio Policy" and the provisions of this order. ATF's division counsels are not responsible for providing ATF's responses regarding Giglio requests described in paragraph 8. Pursuant to a request from ATF's Giglio Official, however, division counsel may be available to assist with notification to a prosecutor.
8. DISCLOSURE PURSUANT TO A WRITTEN REQUEST. When a prosecutor makes a written request to ATF for potential impeachment information in a specific criminal case, pursuant to Justice Manual 9-5.100, paragraph 4, the procedures in this paragraph shall apply.
- a. Requesting Officials. Requesting officials are the officials designated by prosecutors (e.g., USA() or other DOJ officials) to be points of contact with ATF and other investigative agencies concerning requests for potential impeachment information.
 - b. Agency Officials. The SAC of a field division is the agency official responsible for coordinating the transmission of USAO requests originating within their field divisions to ATF's

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Giglio Official. The SAC may authorize direct communication between a requesting official and ATF's Giglio Official if the SAC determines that direct communication is the most effective and efficient method of responding to such requests. For employees who are the subject of a USAO request for potential impeachment information, but who are not assigned to a field division, the employee's division chief is responsible for coordinating the transmission of the USAO request to ATF's Giglio Official.

c. Responding to Requesting Officials.

- (1) Upon receipt of an inquiry from a requesting official, ATF's Giglio Official will coordinate a review of the subject's personnel files for any potential impeachment information.
- (2) The Assistant Director (AD), Office of Human Resources and Professional Development (HRPD), shall ensure that potential impeachment information contained within the databases maintained by HRPD is accurate and complete.
- (3) The AD (OPRSO), shall ensure that potential impeachment information contained within the databases maintained by OPRSO is accurate and complete.
- (4) The DOJ OIG has the first right of refusal in all DOJ component investigations, both criminal and administrative. As such, the OIG may directly receive allegations pertaining to ATF employees that it

may, or may not, at the Inspector General's (IG) sole discretion, disclose to ATF. Therefore, the most up-to-date *Giglio* information will reside with the assigned OIG case agent for matters that the OIG has received directly, or has retained for investigation from an initial Internal Affairs Division (IAD) complaint. In such matters, the prosecutor will be referred to the OIG for potential impeachment information. For matters that the OIG has delegated or deferred to IAD for investigation, the most up-to-date *Giglio* information will reside within IAD.

- (5) The Chief, Office of Equal Employment Opportunity (EEO) shall be responsible for potential impeachment information contained within any files maintained by EEO.
- (6) Upon request by ATF's Giglio Official, HRPD and OPRSO shall be responsible for providing potential impeachment information to ATF's Giglio Official for use in responding to a requesting official. A review of any information provided shall be conducted under the direction of ATF's Giglio Official. Information so provided is covered by the Privacy Act, 5 U.S.C. § 552a; and ATF O 9000.1B, Public and Governmental Affairs, dated 10/10/2013.
- (7) Since courts often expect prosecutors to have knowledge of allegations of conduct covered by DOJ's "Giglio Policy" that cannot be substantiated, are not credible, or

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which resulted in exoneration, HRPD and OPRSO will be responsible for maintaining and providing these records to ATF's Giglio Official for review and potential disclosure to a requesting official.

- (a) When the ATF Giglio Official provides any such information in paragraph 6, he/she shall ensure that a copy of such information is maintained for use in responding to any future requests concerning the subject employee. Potential impeachment information must be transmitted, retained, and secured by all ATF personnel in accordance with its sensitive nature.
- (b) ATF's Giglio Official shall ensure that when potential impeachment information is provided to a requesting official, the requesting official is aware of any limits on the scope of the information provided.
- (c) DOJ's "Giglio Policy" does not authorize USAOs to initiate a general record check of special agents or other personnel in a field division or other ATF offices. Requests must be individualized, in writing, and must concern potential affiants or witnesses in a specific investigation or case.
- (d) As noted in the Attorney General's memorandum of 5/12/2014, " ...

much of the information in the Giglio system of records is sensitive information which if released or reviewed without a case-related need could negatively impact the privacy and reputation of the agency-employee to whom it relates, and could violate the Privacy Act.”

9. CONTINUING DUTY TO DISCLOSE.

- a. Allegations. The AD (OPRSO) is responsible for identifying any allegation of potential impeachment information regarding an employee, as outlined above in paragraph 6 for matters that the OIG has delegated or deferred to IAD for investigation. As soon as practicable, ATF’s Giglio Official and the appropriate SAC, DIO, division chief, DAD, or AD should be advised of this information. Similarly, other appropriate supervisory officials should be notified when an allegation concerns an employee who is not under the SAC’S supervision. When new or additional information is received about an ATF employee who has been the subject of a request under paragraph 8, ATF’s Giglio Official shall ensure that the requesting official is made aware of the new or additional information in a timely manner as described in paragraph 7. The prosecutor will be referred to the OIG to determine whether any new or additional impeachment information was received for matters that the OIG has retained for investigation.

b. Retirement, Transfer, or Change in Employee Status.

- (1) When potential impeachment information has been disclosed to defense counsel, prosecutors are authorized under DOJ's "Giglio Policy" to maintain records, retrievable by the name of the employee, containing the disclosed information and any judicial rulings and related pleadings, even after the case in which it has been disclosed has been completely resolved. When an employee retires, is transferred, or no longer occupies a testifying position, however, prosecutors are required to destroy such information once all cases involving that employee have been resolved. Accordingly:
 - (a) Any employee with potential impeachment information who is about to retire, or is being transferred to another office in a different Judicial district, or who has been reassigned to a non-testifying position, is responsible for notifying ATF's Giglio official who will alert the prosecutor to ensure that the required destruction occurs as soon as possible.
 - (b) Employees with potential impeachment information who have been transferred to another office in a different judicial district are also responsible for ensuring the prosecutor(s) with which the employee will

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work in the new district are familiar with any potential impeachment information pertaining to the transferring employee before the employee begins working in a capacity that may require the employee to testify or become an affiant for the prosecutor(s).

- (2) Reporting Impact of Giglio on Potential Witnesses. In those situations where the prosecutor is reluctant or refuses to use an employee as an affiant or witness because of potential impeachment information, it is incumbent on the prosecutor and the employee to inform the SAC of the field division responsible for the criminal investigation or the division chief, through the employee's supervisory channels. The SAC or division chief will notify the appropriate DADs, Office of Field Operations or Office of Science and Technology and ATF's Giglio Official of any such circumstances so that possible options can be considered, i.e. reassignment of the employee to a non-testifying position, a non-law enforcement position or removal from service. Each case will be individually evaluated by the agency.

10. QUESTIONS. Any legal issues pertaining to this order shall be referred to the Office of Chief Counsel at 202-648-7000.

/s/ [Illegible]
Chief Counsel

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APPENDIX B

McLaughlin, Lori D.

From: Forcelli, Peter
Sent: Monday, July 23, 2018 12:23 PM
To: McLaughlin, Lori D.; Temple, William A.
Cc: Higley, Jason (OIG); Schlosser,
Donellen S. (OIG); AndersonN@gao.com
Subject: RE: Reassignment

Special Agent McLaughlin,

I recently assumed the Deputy Assistant Director. Field Operations (East) position and was not familiar with your case, but I have taken the time to get caught up. I am also in receipt of your email, dated July 17, 2018 and the accompanying documentation. Based upon my review of your case. I believe that it is now appropriate to allow you to return to the Greensboro Field Office, where you may continue to perform the duties assigned to you by the Charlotte Field Division's Crime Gun Intelligence Center. You will continue to work for the CGIC, until which time your matter, in which the United States Attorney's Office has stated that they have a conflict of interest in handling cases with you, has expired. In short, once the District Court case has concluded, you will return to your normal duties unless the USAO advises ATF otherwise. At your soonest convenience, you may return to your residence and conclude your time on TDY assignment.

In addition, since your email contained verbiage that indicated that ATF employees may have engaged in

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misconduct, I have an obligation to report your allegations to the Office of Professional Responsibility and Security Operations. Internal Affairs Division. Therefore, your email and all of its attachments were forwarded to IAD after I thoroughly reviewed them. Please know that I myself, as a "Whistleblower" who testified before Congress, the OIG and the OSC, take allegations of retaliation very seriously.

Thank you for your patience.

Peter J. Forcelli

Deputy Asst. Director

Field Ops.- East

Desk- 202-648-7216

Cell- 202-699-1624

From: McLaughlin, Lori D.

Sent: Tuesday, July 17, 2018 12:23 PM

To: Temple, William A. <William.Temple@atf.gov>;
Forcelli, Peter <Peter.Forcelli@atf.gov>

Cc: Higley, Jason (OIG) <Jason.Higley@usdoj.gov>;
Schlosser, Donellen S. (OIG) <Donellen.S.Schlosser@usdoj.gov>;

AndersonN@gao.com; McLaughlin, Lori D.
<Lori.McLaughlin@atf.gov>

Subject: Reassignment

Hello –

Per your instructions, I have reported back to the CGIC in Charlotte, North Carolina. Given the ongoing emotional distress, humiliation, embarrassment and reputational damages suffered by me, I would greatly appreciate a final response regarding the relentless retaliation by ATF management officials. SAC Wayne Dixie has denied me the daily

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use of my personal residence for the past four (4) months without any justification or written documentation. Most importantly, his retaliatory decision has cost the "American taxpayer" approximately fourteen-thousand dollars (\$14,000) in associated travel expenses. SAC Wayne Dixie's ongoing abuse of authority, violations of DOJ/ATF policies and waste of government funds is a direct result of Deputy Director Thomas Brandon's refusal to hold him accountable for his actions.

As previously stated, there is no legitimate reason for me not to work inside the ATF Greensboro Field Office. Prior to my removal, I did not have ANY issues with any other employee assigned to the ATF Greensboro Field Office. In fact, I did not have any incidents with RAC Jason Walsh from October 2017 thru January 2018 because I was no longer under his "unfair" supervision. Due solely to the ongoing retaliation by RAC Jason Walsh and SAC Wayne Dixie, I was removed from the ATF Greensboro Field Office. To that end, I have attached the necessary evidence to assist you with your evaluation process.

Thanks!

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APPENDIX C

**[SEAL] U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street NW, Suite 218
Washington, DC 20036-4505
(202) 804-7000**

March 4, 2019

Ms. Lori McLaughlin
6606 Jockey Club Drive
Whitsett, North Carolina 27377
Delivered via email to <LoriMcLaughlin@atf.gov>

Re: OSC File No. MA-19-1905

Dear Ms. McLaughlin:

This letter responds to the above-referenced complaint you filed with the U.S. Office of Special Counsel (OSC). OSC is authorized to investigate allegations of prohibited personnel practices and certain activities prohibited by civil service law, rule, or regulation. 5 U.S.C. §§ 1214(a)(1)(A), 1216(a) and 2302(b). OSC reviews all prohibited personnel practice complaints submitted to OSC and evaluates whether further investigation is warranted. In making that determination, OSC considers whether the information provided for each allegation is sufficient to suggest a prohibited personnel practice occurred. Our decision depends on whether the facts of the case appear likely to satisfy all elements of the alleged prohibited personnel practice. These elements are found in 5 U.S.C. § 2302(b) and case law established by the courts or the Merit

Systems Protection Board (MSPB), which is OSC's deciding authority.

In your complaint, you allege that officers or employees of the Department of Justice (DOJ) committed one or more prohibited personnel practices against you. Specifically, you allege that DOJ U.S. Attorneys and Bureau of Alcohol, Tobacco, and Firearms (ATF) officers or employees refused to prosecute cases investigated by you and removed you from the field due to favoritism as well as your race, sex, prior equal employment opportunity (EEO) activity, disclosures, and federal district court filings alleging a variety of misconduct including EEO-covered discrimination.

OSC considered all such allegations in a separate matter you initiated with OSC: File No. MA-18-3104. In September 2018, we closed our file on that matter, finding insufficient reason to believe that a prohibited personnel practice had occurred. You have provided no information to indicate that these findings constituted material error, or that new and material information sufficient to disrupt these findings has surfaced.

Congress has explicitly authorized OSC to close our file on such allegations without further inquiry or investigation. 5 U.S.C. § 1214(a)(6)(A)(i)(I). Therefore, having already considered and closed our file on these allegations, we will exercise our statutory authority to close our file on these allegations without further inquiry or investigation.

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For the foregoing reasons, we have made the final determination to close our file on your complaint.

Sincerely,

/s/

Jeffrey M. Elkin, Esq.

Attorney

Investigation & Prosecution Division

U.S. Office of Special Counsel

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APPENDIX D

[SEAL]

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives
6701 Carmel Road, Suite 200
Charlotte, North Carolina 28226

www.atf.com

May 8, 2019

MEMORANDUM TO: Special Agent Lori McLaughlin
Charlotte Group IV

FROM: Benjamin Gibbons, ASAC
[s/ Benjamin Gibbons 5/8/2019]
Charlotte Field Division

SUBJECT: Response to Inquiries of
April 30th and May 7, 2019

The purpose of this memorandum is to provide a response to your e-mails dated May 7, 2019, and April 30, 2019.

In the April 30, 2019, email you request notification regarding the decision to remove you from your criminal investigator position. You also state that you would like to know the negative information used for the decision. You have not been removed your criminal investigator position and remain in the 1811 series. Regarding the decision to reassign you to the CGIC, it is my understanding from your emails that you are pursuing this matter in the EEO forum. In addition, it is clear from your emails that ATF has provided you with

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the basis for your reassignment to the CGIC. I do not have any additional information that you have not already been provided.

May 7, 2019 E-Mail

In the May 7, 2019, email you requested the status of the above referenced email. In addition, you stated that you “personally advised [me] of the statement written by former SAC Wayne Dixie.” This is false. As stated above, it is clear that you are pursuing this matter through the EEO process and you have in fact obtained the answers you are seeking – albeit not the answer(s) you want. As you have been informed multiple times, the only prohibition you have is that you are unable to present cases to the USAOs in North Carolina based on the USAOs decision – not ATF. So, your NIBIN related assignment with the Durham Police Department does not conflict with the above prohibition.

Communications with EOUSA and USAs

On March 25, 2019, you wrote to the United States Attorneys for the Middle District, Eastern District and Western District of North Carolina, requesting official written notification from each United States Attorney’s Office as to the information regarding your placement into a Giglio status – although there is no indication from your emails that you have been placed in a Giglio status by ATF or any USAO. You were directed by Ms. Snyder, Senior Legal Counsel for the Executive Office for the United States Attorneys (EOUSA), by e-mail dated March 26, 2019, to

communicate through her and not through individual EOUSA personnel, including United States Attorneys. Although you received this explicit instruction from Ms. Snyder on March 26, 2019, you again copied the United States Attorneys on an e-mail you sent to Ms. Snyder on April 26, 2019.

You are hereby directed to cease communications with the United States Attorneys using your official ATF e-mail address and in your official capacity as an ATF employee. If you have a specific question, you may contact Ms. Snyder. You may also contact ATF's EEO office regarding your current EEO complaint or any other issue you deem necessary.

In the event you have any work related issues, .e.g. related to work assignments, that you believe should be addressed by the USAO(s), you are directed to coordinate that communication through your first line supervisor – and not communicate with any USAO(s).

I want to be clear that you may contact the appropriate entity or office (i.e., OIG, IA, EEO, Congress, or OSC, etc.) regarding any complaints that you believe are covered by EEO, Whistleblower, or other employment related protections.

APPENDIX E

[SEAL]

U.S. Department of Justice
Office of the Inspector General
Investigations Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

March 6, 2020

Lori D. McLaughlin
6606 Jockey Club Drive
Whitsett, NC 27377

Dear Ms. McLaughlin:

The purpose of this letter is to acknowledge receipt of your additional correspondence dated January 31, 2020, which has been reviewed by the staff of the Office of the Inspector General Investigations Division.

Whistleblowers perform an important public service when they come forward with information, and they should never be subject to retaliation for doing so. Jurisdiction over alleged reprisal of the type that you described in your correspondence generally is allocated by law to the U.S. Office of Special Counsel (OSC). The primary mission of this independent federal agency is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, specifically including reprisal for protected whistleblowing. In furtherance of that mission, OSC possesses special statutory tools such as the ability, where appropriate, to seek a stay of a personnel action, corrective action to address wrongdoing, and even

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possible disciplinary action against wrongdoers. For this reason, you should file your complaint with the OSC as the OIG will not be opening an investigation into the matters you described.

Additional information about OSC is available on its website at www.osc.gov. Correspondence to OSC should be directed to:

Office of Special Counsel
1730 M Street, NW
Washington, DC 20036-4505.

Thank you for your interest in the elimination of fraud, waste and abuse in the programs and operations of the Department of Justice.

Sincerely,

Office of the Inspector General
Investigations Division

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[SEAL]

U.S. Department of Justice
Office of the Inspector General
Investigations Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

November 21, 2019

Lori McLaughlin
6606 Jockey Club Drive
Whitsett, NC 27377

Dear Ms. McLaughlin:

The Office of the Inspector General (OIG) has received your correspondence and reviewed the information you provided. After careful consideration and in view of the limited resources of the OIG, we have decided not to open an investigation of the allegations you raise.

However, we believe that the issues you raise should be brought to the attention of the responsible components/agencies for possible administrative inquiry and management review. We would therefore like to forward your correspondence to the Bureau of Alcohol, Tobacco, Firearms & Explosives, Internal Affairs Division, for further action.

Please indicate by marking the appropriate box below whether and under what conditions you consent to the OIG forwarding your complaint to this component/agency. Please return this consent decision to us in the enclosed, pre-addressed envelope. If you elect to provide us with a modified or redacted version of your

complaint, please provide that when you return the consent decision. A copy of this letter is included for your records.

Your response is appreciated and time sensitive. If you do not return your consent decision to us within two months of our mailing date, the OIG will close the matter and take no further action regarding your complaint.

If you have any questions, please contact us again.

Sincerely,

Office of the Inspector General
Investigations Division

- ☐ **I understand and agree that the OIG will forward my complaint to the component/agency designated above and that my identity will be revealed to that component/agency.**
- ☐ **I understand and agree that the OIG will forward my complaint to the component/agency designated above but only after I remove or redact any identifying information or other portions of my complaint that I do not want shared with the component/agency. I understand that if I select this option, it is my obligation to provide the OIG with a modified version of the complaint that I then authorize the OIG to provide to the component/agency. If I fail to provide a modified version of my complaint, my original material will be filed and no further action will be taken by the OIG.**

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- ☐ **I do not consent to the OIG forwarding my complaint for further action. I understand that this will preclude any additional review of my complaint.**

Signature

Date

APPENDIX F

[SEAL]

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

763065:LDM

MEMORANDUM TO: Attorney General
THRU: Deputy Attorney General
THRU: ATF Executive Staff
THRU: Charlotte Field Division
FROM: Lori McLaughlin
[L.D.M (3-1-22)]
Special Agent
Greensboro, North Carolina
SUBJECT: Request for GAO Investigation
into Egregious Misconduct by
DOJ Employees

This memorandum is written to request an official investigation by the Government Accountability Office (GAO). I have repeatedly requested official investigations from the Office of Special Counsel and the Office of the Inspector General regarding the egregious misconduct committed by DOJ Attorneys and ATF management officials. However, both "oversight" agencies have refused to conduct investigations in accordance with Federal regulations. Therefore, a GAO investigation is the last opportunity to seek accountability and consequences for the egregious misconduct violations.

For almost (5) years, I have been removed from my “field” criminal investigator’s position and barred from conducting criminal investigations based on false statements by ATF management officials. Specifically, ATF management officials have maliciously perpetuated the falsehood that I could not conduct criminal investigations in North Carolina, due to a “conflict of interest” with my pending civil action lawsuit. Based on evidence, Deputy Assistant Director Peter Forcelli (ATF Whistleblower/Fast and the Furious) requested an official investigation by the ATF Office of Professional, Responsibility and Security Operations (OPRSO) in July 2018. In addition, ATF management officials also reassigned me to Charlotte, North Carolina based on false information. As evidence, DAD Peter Forcelli was given the travel voucher authorizations generated in connection with the retaliatory reassignment. The ATF waste, fraud and abuse of authority billed approximately \$14,000 to the American taxpayers. Amazingly, I was never contacted by OPRSO regarding the egregious misconduct allegations reported by DAD Peter Forcelli.

In July 2018, Inspector General Michael Horowitz had the first rights of refusal regarding the misconduct allegations submitted by DAD Peter Forcelli. Given that I was never contacted by OPRSO or DOJ/OIG, IG Michael Horowitz refused to open an official investigation with his office. In fact, he failed to oversee OPRSO to ensure that any official investigation was conducted regarding the matter. After I was placed in a “Giglio” status without any written notification or “due process

rights” to respond, I officially requested an OIG investigation in November 2019. However, IG Michael Horowitz and the Office of Special Counsel refused to investigate my misconduct allegations. In fact, IG Michael Horowitz suggested that his office would forward my complaint back to the agency for action. I believe his decision to be **gross negligence** in his oversight responsibility, as IG Michael Horowitz was clearly aware that OPRSO had already failed to conduct the misconduct investigation regarding the allegations in July 2018. In light of the **limited resources** mentioned inside IG Michael Horowitz’s letter, I elected to submit a large binder containing most of the relevant evidence to further assist his office with their investigation. Again, IG Michael Horowitz refused to open any official investigation in January 2020. Due to the lack of oversight by IG Michael Horowitz, I have been permanently removed from my “field” criminal investigator’s position since October 2017.

For the past four (4) years, I have repeatedly reported the egregious misconduct committed against me, including former Acting Director Regina Lombardo and current Acting Associate Deputy Director Thomas Chittum without the benefit of any official investigation in accordance with ATF policy. In February 2021, I reported the egregious misconduct to Acting Director Marvin Richardson with the same negative results. **(Exhibit # 1, Memorandum to AD Marvin Richardson)** After receiving the memorandum detailing the egregious misconduct, AD Marvin Richardson also failed to order any official investigation in accordance

with ATF policy. As a result, I requested a meeting with someone from the Office of the Deputy Attorney General (Lisa Monaco) with negative results. **(Exhibit # 2, Email Requesting DAG Meeting)** On the other hand, AD Marvin Richardson did make an “attempt” to settle my lawsuits against the agency. Given that the EEO settlement was unlikely to lead to any accountability or consequences for ATF management officials, I elected to terminate the process. Most importantly, I strongly believed that AD Marvin Richardson would allow the same egregious misconduct against another ATF employee during his tenure.

On March 9, 2021, Congressional Representative Kathy Manning notified Assistant Attorney General Helaine Greenfeld about the egregious misconduct committed against me, including the violation of the DOJ Giglio Policy by DOJ attorneys assigned to the ATF Counsel’s Office and the U.S. Attorney’s Office. According to her office, DOJ reviewed materials relating to the egregious misconduct committed against me. As of this letter, I have not spoken to anyone or received any correspondence from any DOJ government official. Needless to say, I am overwhelmed, perplexed and dismayed at the manner in which DOJ has handled or not handled this situation. The American people and sworn law enforcement officers deserve better from our U.S. Department of Justice.

In October 2021, the Merit Systems Protection Board (MSPB) ordered a Settlement Conference in my case. After speaking with my attorney, I agreed to make a good faith effort to resolve my lawsuits against the

agency. During the telephone conference, **I learned that AD Marvin Richardson would not consider any settlement offers that did not include my separation from the agency.** Prior to my removal, I was the top-producing special agent assigned to the Greensboro Field Office with almost thirty (30) years of government service. During my law enforcement career, I have volunteered to serve as an undercover agent (Tampa FD/Dallas FD), FBI Joint Terrorism Taskforce, Hurricane Katrina and the DOJ/DEFY Program. In appreciation for my service and personal sacrifices to this country, AD Marvin Richardson is attempting to **constructively discharge** me from Federal Service. Coincidentally, I do not recall the ATF Executive Staff requiring or requesting then-S/A Marvin Richardson's "separation" from the agency, when S/A Marvin Richardson collected his settlement check in connection with the ATF Black Agents Class Action Lawsuit.

Nevertheless, AD Marvin Richardson has previously served as the "Chair" of the ATF Professional Review Board. Also, Acting Associate Deputy Director Thomas Chittum has served as the SAC, Internal Affairs Division and Chief of Staff, OPRSO. Both "SES" government officials have facilitated disciplinary actions against ATF employees for the same misconduct violations, that they are now willing to condone when committed by ATF management officials. In 2021, the ATF Executive Staff authorized EEO/MSPB settlement awards totaling almost \$1,000,000 (taxpayer dollars) without any disciplinary action to a single ATF

management official connected to these lawsuits. In fact, an EEOC judge rendered a finding of discrimination in the case of S/A Johnnie Meadors (African American), who was also removed from his “field” criminal investigator’s position based on false accusations by ATF management officials. In accordance with ATF standard practice, the ATF management official received a career promotion despite the EEOC decision and the allegations of “lack of candor” made by the judge. **(Exhibit # 3, News Article – S/A Johnnie Meadors/May 27, 2021)**

After the election, President Biden proudly stated, “I will aggressively hold the line against any effort to undermine workers’ rights and to diminish federal employees’ right to due process in the workplace”. Likewise, Acting Attorney General Monty Wilkinson stated, “you work tirelessly to protect the American people, to safeguard the rule of law, and to preserve the principles of equity, equality, and justice for all”. Your recent memorandum written for the Establishment of the Attorney General’s Diversity, Equity, Inclusion, and Accessibility Advisory Council states, “the Justice Department was founded over 150 years ago to ensure the rule of law and the make real the promise of equal justice under the law”.

Based on the promises and pledges made by President Biden and his administration, I am requesting an official GAO investigation into the egregious misconduct being committed by DOJ Attorneys and ATF management officials inside our Department of Justice. In order to facilitate this request, I have forwarded a copy

of the black binder that was returned back to me from the Office of the Inspector General. This binder contains the relevant emails, letters, memorandums, policies and Sworn EEO Declarations to support my allegations. I would appreciate your immediate attention to this matter, as Acting Director Marvin Richardson and Acting Associate Deputy Director Thomas Chittum have failed to discipline RAC Jason Walsh and refused to remove me from the “hostile work environment” inside the Greensboro Field Office in violation of the EEO Policy. If ATF employees commit misconduct violations, they are typically reassigned at the government’s expense. If ATF management officials commit misconduct violations against you, Acting Director Marvin Richardson and Acting Associate Deputy Director Thomas Chittum believes the employee (Lori McLaughlin) should bear the financial burden of the relocation and the enforcement of their EEO Policy.

As anyone can imagine, it is very difficult to work inside the same office as the law enforcement officer (RAC Jason Walsh) who was responsible for labeling you “Giglio” impaired with malicious intentions. For years, I have been forced to seek EAP counseling to address the mounting stress and anxiety associated with the ongoing retaliation. There is no doubt, this ordeal has caused me a great deal of emotional distress, humiliation and embarrassment among my co-workers and law enforcement peers. In the end, ATF management officials were very successful at destroying my professional career. As such, I am very motivated to do everything in my power to ensure that ATF

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management officials do not have the same opportunity to destroy the career of another “African American” law enforcement officer.

If you have any questions or require any additional information, please feel free to contact me on 407-595-1787.

Sincerely,

/s/ Lori D. McLaughlin
Lori D. McLaughlin

CC: Representative Carolyn B. Maloney, [3-1-2022]
Committee for Government Oversight
and Reform

Exhibit # 2

McLaughlin, Lori D.

From: McLaughlin, Lori D.
Sent: Tuesday, June 8, 2021 2:07 PM
To: Richardson, Marvin G.
Cc: McLaughlin, Lori D.
(Lori.McLaughlin@atf.gov)
Subject: FW: Malfeasance at the ATF
Attachments: WhistleblowersComplaint.pdf;
VLBapplication.pdf

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Tracking:

Recipient	Delivery	Read
Richardson, Marvin G.	Delivered: 6/8/2021 2:07 PM	
McLaughlin, Lori D. (Lori.McLaughlin@ atf.gov)	Delivered: 6/8/2021 2:07 PM	
McLaughlin, Lori D.		Read: 6/8/2021 7:49 PM

Hello –

Unfortunately, the below email did not reach the Office of the Deputy Attorney General due to some DOJ email restrictions. Therefore, I would greatly appreciate you forwarding my email to someone in the aforementioned office. As, we believe it is very important for ATF employees to ensure that the new administration is working with the most accurate information regarding the ATF organizational culture and work environment, including the violations of our constitutional rights to “due process” by the ATF Executive Staff. Most importantly, we need to ensure that the new administration is aware of the ongoing corruption inside OPRSO regarding their refusal to investigate egregious misconduct violations committed by ATF management officials. Without addressing this corruption, AG Merrick Garland can never restore the integrity and “rule of law” back into the Department of Justice. If the new administration is unwilling to speak with us, we will

continue to seek accountability and justice using other avenues of redress. Thanks!

P.S. A few other current/retired employees will be supporting this effort.

From: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>

Sent: Friday, May 28, 2021 12:54 PM

To: The Deputy Attorney General

<Ex_DeputyAttyGeneral@jmd.usdoj.gov>

Cc: Richardson, Marvin G. <Marvin.Richardson@atf.gov>;

Lombardo, Regina <Regina.Lombardo@atf.gov>;

McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>

Subject: Malfeasance at the ATF

Hello –

My name is Lori D. McLaughlin (African-American) and I am currently a Senior Special Agent assigned to the ATF Charlotte Field Division. For over thirty-three (33) years, I have answered the call of public service, which includes serving in positions as the Bureau's EEO Specialist (approximately 10 years/EEO Office) and a Personnel Specialist (approximately 3 years). Unfortunately, I was also forced to become a Whistle-blower and EEO Complainant during my law enforcement career (approximately 21 years).

Based on AG Merrick Garland's recent pledge to restore the "integrity and rule of law" back into the DOJ, I would like to officially request the opportunity to speak directly with someone from the Office of the Deputy Attorney General. Most importantly, I have repeatedly voiced my concerns with the ATF Executive Staff

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(i.e., AD Regina Lombardo, ADD Marvin Richardson, AD's, DAD's, GS's, etc.) without the benefit of any misconduct investigation in accordance with ATF policy. Under the shield of the Whistleblower's Protection Act, I would like to report the following:

- Violation of DOJ Giglio Policy by the US Attorney's Office and DOJ/ATF Attorneys.
- Removal of "African-American" Criminal Investigator's from "field" positions based on false accusations by ATF management officials.
- Violation of "due process rights" by ATF management officials.
- Abuse of authority regarding retaliatory misconduct investigations, details and reassignments used against whistleblowers/EEO complainants.
- Refusal to generate official "Personnel Action" documentation or issue written notifications for personnel decisions affecting the terms/conditions of employment in accordance with OPM regulations.
- Failure to investigate egregious misconduct violations by ATF management officials.
- Placement of ATF management officials with integrity issues into the Office of Professional Responsibility & Security Operations.
- Refusal of DOJ/JMD to provide oversight regarding unethical conduct by the Bureau's EEO Office.

- Refusal of DOJ/OIG and OSC to investigate egregious misconduct committed by ATF management officials.

As a show of the agency's arrogance and blatant disregard for any rule of law, DAD Marcus Watson has previously **invited** me to contact the EEO Office, Office of Special Counsel, Internal Affairs Division, Department of Justice's Office of Inspector's General or **Congress** regarding my allegations. For decades, the ATF Executive Staff has condoned and supported the retaliatory culture that is deeply embedded inside the ATF. Nevertheless, the wrongful removal of myself and other "African-American" Criminal Investigators from "field" positions does not support the Department's commitment to reduce violent crime. Moreover, this unethical tactic by ATF management officials could lead the American people to view our "Department of Justice" as part of the problem and not the solution during our time of racial divide.

Believe me, there is no greater insult than an "honorable" law enforcement officer being treated like a common criminal by the Department of Justice, after risking our lives as undercover agents in some of the most dangerous communities in our society. We have sacrificed to enforce the laws and to protect the civil rights of other America citizens, while falling victim to the same. Such malfeasance against minority law enforcement officers is not reflective of any level of appreciation for our service to this country. Like many other ATF whistleblowers/EEO complainants, we have paid an enormous price with our mental health in suffering

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with the stress and anxiety associated with the relentless retaliation by ATF management officials.

To that end, DAG Lisa Monaco pledged to pursue the Constitution's promise of equal justice for **ALL** who call America home. For President Joe Biden to successfully "restore the soul of our nation", it is crucial for our "Department of Justice" to lead by example and not just by words. Therefore, we are very hopeful that our new administration will safeguard both the rule of law and the "due process rights" of ATF employees. As American citizens, we also deserve equal protection under the law. Remember, black lives can never matter on the streets of America until they first matter inside the walls of the Department of Justice.

Respectfully Submitted,

Lori D. McLaughlin
Senior Special Agent
972-342-0056 (Work Cell)
407-595-1787 (Personal Cell)

From: The Deputy Attorney General
<Ex DeputyAttyGeneral@jmd.usdoj.gov>
Sent: Wednesday, April 21, 2021 4:50 PM
To: The Deputy Attorney General
<Ex DeputyAttyGeneral@jmd.usdoj.gov>
Subject: Message for All DOJ Employees
from the Deputy Attorney General

To all:

I am honored to be back at the Department of Justice and to have the opportunity to serve with you once again to advance its mission.

Since the first time I entered the Main Justice building as an intern 26 years ago, to serving as an Assistant United States Attorney, a senior official at the FBI, Principal Associate Deputy Attorney General and Assistant Attorney General for National Security, I have been honored to serve alongside the dedicated professionals at the Department, and I am grateful to be able to do so again. In the coming days, I look forward to hearing and learning from you about the work you are doing. Most important, I look forward to working with you to tackle some of the most pressing and consequential issues facing our country: from combatting domestic and foreign terrorism, cyber threats, violent crime, fraud, and hate crimes, to enhancing civil rights enforcement, to advancing meaningful change in immigration, criminal justice and environmental justice. There is no more important work than the work you all do to safeguard the rule of law, pursue the Constitution's promise of equal justice and ensure the safety of all who call America home.

Thank you for the work you do every day to serve the Constitution and the mission of the Department of Justice. I am excited to get to work.

Best,
Lisa

Lisa O. Monaco
Deputy Attorney General

Exhibit # 3

5/27/2021 A Victory for Federal Employees Facing
Hostile Work Environments

[LOGO] Kalijarvi, Chuzi, Newman & Fitch, P.C.

Committed to fighting the systematic injust

About Us Our Team COVID-19 Hazard Pay
COVID-19 Resources Practice Areas
For Clients Insights



Special Agent Johnnie Meadors, Ph.D., represented by KCNF attorney **Nina Ren**, won his EEO complaint, which raised hostile work environment claims based on his race (African American) and retaliation against the Bureau of Alcohol, Tobacco,

Firearms, & Explosives, in the U.S. Department of Justice. Dr. Meadors's claims spanned five years and comprised 24 distinct issues. During the three-day hearing, the Administrative Judge (AJ) heard testimony from the Special Agent in Charge (SAC), the Assistant Special Agent in Charge (ASAC), an Assistant United States Attorney (AUSA), Drug Enforcement Administration (DEA) Special Agents (SAs), and ATF Group Supervisors, Training Agents (TAs), and SAs. After hearing this testimony and reviewing the documentary evidence, the Administrative Judge ruled entirely in Dr. Meadors's favor.

Before becoming a SA, Dr. Meadors earned a Ph.D. and a master's degree from Indiana University and taught undergraduate and graduate student level mathematics as an Adjunct Professor at the University of the District of Columbia. After losing a brother to a seizure and learning another brother had been shot, Dr. Meadors felt called to work in law enforcement – and, in 2014, he entered on duty as a SA at ATF's Baltimore Field Office. There, he worked on violent high-profile drug

<https://kcnfdc.cominews/a-victorv-for-federal-employees-facina-hostile-work-environments/> 1/4

and gang-related cases. More importantly, Dr. Meadors also encountered rampant racism – much of it from the very same individuals he depended upon to safeguard his life while on assignment. When he started a Title III wire investigation into a large, international, violent organization that had operations throughout Baltimore, all of his white co-workers voted against the investigation, refused to assist, and actively undermined him within senior leadership. Moreover, his purported teammates alternatively subjected him to the silent treatment or openly screamed at him. Dr. Meadors's chain of command – despite being fully aware of this pervasive and abusive behavior – failed to take any reasonable action to address the hostile work environment. Instead, the ASAC and SAC decided that Dr. Meadors [illegible] the “problem,” reassigned him, and finally referred him to the Office of Professional Responsibility (OPR) by making false and career-ending claims regarding his work. Although

OPR did not sustain the ASAC and SAC's allegations against Dr. Meadors, the damage was done. The Agency succeeded in ending Dr. Meadors's ambitions as a SA.

In his decision, the AJ described ATF's Baltimore Field Office as "support[ing] a generalized culture of favoring White SAs to the detriment of Black SAs, and in particular, Complainant Meadors." Specifically, the AJ was disturbed that Dr. Meadors's Training Agent, who was responsible for nurturing Dr. Meadors's law enforcement career, instead "openly and expressly disparage[d] Complainant during the early phases of Complainant's career after leaving the Academy." On one occasion, the TA "came close to physically assaulting Complainant." Another SA publicly criticized Dr. Meadors when he accidentally left behind a piece of his undercover equipment and falsely accused him of simultaneously working on two Title III investigations. Rumors that Dr. Meadors was an "idiot," a "piece of shit," and a "liar" were widely circulated by other SAs – including one who actually lied repeatedly and under oath. The AJ noted that "Complainant was not permitted to advance his side of the story, a fact that repeatedly occurs in this case again and again, to Complainant's detriment."

The AJ also discussed "a race-based email titled 'The Night Before Inauguration'" that the Executive Assistant to the Special Agent in Charge circulated throughout the Baltimore Field Division. That email derogatorily referenced 'Black Lives Matter' and the firing of President Obama." The AJ noted that the

Executive Assistant – a member of ATF Baltimore’s Front Office – received an Agency response, but the

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Agency failed to even investigate any of the other agents for their abusive conduct. The Administrative Judge concluded:

More importantly, these three incidents, and others as set forth above [], manifest the culture of the Baltimore ATF during the time and events in this matter. Perhaps worst was the gradual false narrative being projected about Complainant being a poor SA among the White personnel in Group II. These incidents demonstrate) the license and temerity that White SAs and TAs felt comfortable in assailing and maligning Complainant. It certainly did not help Complainant that two White TAs . . . opposed him all the way. This false narrative impugning Complainant’s character, professionalism and performance would lead to the more troubling employment actions taken against Complainant later.

Notably, the AJ applauded the courage of several witnesses who truthfully testified: “Many of these witnesses could be in danger of reprisal for speaking in support of the Agency discrimination against Complainant, yet they testified on behalf of Complainant fearlessly.” To the contrary, the AJ held that five of ATF’s witnesses were “not credible and forthright and/or relied on factually incorrect circulated hearsay and gossip about Complainant Meadors.” Ultimately,

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the AJ held that “the instances of disparate treatment in this matter are numerous and indefensible.”

Phone: (202) 331-9260 Get Directions
Fax: (866) 452-5789

818 Connecticut Ave., NW Suite 1000
Washington, D.C. 20006

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APPENDIX G

Whistleblowers Complaint

On my first day in office, President Biden stated, "I will aggressively hold the line against any effort to undermine workers' rights and to diminish federal employees' right to due process in the workplace."

My name is **Lori D. McLaughlin**, and I am currently employed as a Senior Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, Charlotte Field Division, Greensboro, North Carolina. In addition, I'm a native of Washington, DC and a graduate of Howard University in Washington, DC. After thirty (30) years of government service, I (Federal Law Enforcement Officer/Undercover Agent) was permanently removed from my "field" criminal investigator's position (ATF Special Agent) without any official notification or "due process rights" to defend my professional career.

Furthermore, the removal was based on falsehoods told by ATF management officials. This egregious misconduct and the falsehoods associated with my removal were perpetuated under the leadership of former Acting Director Regina Lombardo and continued under the leadership of Acting Director Marvin Richardson. Clearly, ATF management officials (Senior Executive Service) knew of the falsehoods and failed to speak out or take any appropriate actions to remedy the malfeasance. Most importantly, DOJ/ATF management officials have failed to identify a single allegation, complaint or official investigation of any "integrity"

violation committed by me. Coincidentally, IG Michael Horwitz refused to investigate this complaint twice in violation of Federal regulations.

In addition, S/A Johnnie Meadors (African American/Male) was also removed from his "field" criminal investigator's position based on false information. During his EEOC hearing, the Administrative Judge ruled that several ATF employees were not creditable witnesses. To which, S/A Johnnie Meadors was never contacted regarding any official misconduct investigation by ATF or DOJ/OIG. When S/A Johnnie Meadors and I complain, we are labeled as "troublemakers". Conversely, when "white" ATF employees complain their called "whistleblowers" and protected by our government oversight committees.

Moreover, S/A Adam Delgado (Mexican American/Male) made "perjury" allegations against another special agent (white/male) in connection with a federal criminal trial. However, S/A Adam Delgado was never interviewed by any ATF or DOJ/OIG investigator regarding any official investigation into the misconduct allegation. In short, our "white" counterparts have known integrity violations and they were not removed from their "field" criminal investigator's positions. In fact, they (white/male) are protected by DOJ Attorneys and allowed to commit possible "Brady" violations against the American people.

Due to their malicious and willful violation of the DOJ Giglio Policy, I appropriately labeled these DOJ Attorneys (Officers of the Court) as "criminals" inside

an email forwarded to ATF management officials. For exercising my constitutional right to free speech and in retaliation for contacting Congressman Mark Walker's Office, ASAC Benjamin Gibbons suspended me for eight (8) days without pay. However, Acting Director Marvin Richardson failed to take any actions regarding the falsehoods by ATF management officials and my wrongful removal from my "field" criminal investigator's position. Most concerning, Acting Director Marvin Richardson rewarded (promotion) the ATF management official (ASAC Benjamin Gibbons, Charlotte Field Division to SAC Benjamin Gibbons, Atlanta Field Division) who facilitated the "retaliatory" suspension.

Given the retaliatory culture and gross mismanagement, I have been removed from my "field" criminal investigator's position for almost (5) years based on falsehoods by ATF management officials. On March 1, 2022, I forwarded a memorandum to AG Merrick Garland regarding my "giglio" impairment with no response or actions by DOJ. There is absolutely no indication that AG Merrick Garland or DAG Lisa Monaco have any problems with this egregious misconduct condoned by high-ranking government officials inside the DOJ. Unfortunately for DOJ/ATF employees, we're still waiting for AG Merrick Garland to make good on his pledge to restore the integrity and rule of law back into the DOJ. This type of misconduct has no place inside our Department of Justice, as I have never been contacted by any ATF or DOJ/OIG investigator

regarding any official misconduct investigation in accordance with DOJ/ATF policy.

Accordingly, I am requesting an official “review” by the Government Accountability Office into the DOJ Giglio Policy and the *enforcement* of the DOJ Code of Conduct Policy. This review is necessary to ensure that no other special agent (African American) endures the mental distress, humiliation and embarrassment suffered by myself and S/A Johnnie Meadors, while endangering our lives to protect and serve the American people. As such, we deserve for DOJ/ATF management officials to be held accountable for their egregious misconduct. The primary mission of the House Oversight and Reform Committee is to root out waste, fraud, abuse, and mismanagement in the federal government. Based on the recent investigation into the Washington Commanders organization, we (African American/ATF Special Agents) are requesting the same investigative efforts to ensure that DOJ/ATF employees are protected from harassment, retaliation and other workplace misconduct.

EQUAL PROTECTION UNDER THE LAW . . .

/s/ Lori D. McLaughlin (4-27-22)

Lori Devon McLaughlin
6606 Jockey Club Drive
Whitsett, North Carolina 27377
Lorimack5503@gmail.com
407-595-1787

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FedEx®

October 18, 2022

Dear Customer,

The following is the proof-of-delivery for tracking number: 272496879339

Delivery information:

Status:	Delivered	Delivered To:	
Signed for by:	R.WALKER	Delivery Location:	WASHINGTON, DC,
Service type:	FedEx First Overnight		
Special Handling:	Deliver Weekday	Delivery date:	Apr 28, 2022 11:23

Shipping Information:

Tracking number:	272496879339	Ship Date:	Apr 27, 2022
Recipient:	WASHINGTON, DC, US,	Weight:	
		Shipper:	Whitsett, NC, US,

Signature image is available. In order to view image and detailed information, the shipper or payor account number of the shipment must be provided.

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APPENDIX H

[LOGO] Gmail Lori Mack <lorimack5503@gmail.com>

ATF Abuse of Internal Affairs Process

Maurer, Diana C <MaurerD@gao.gov> Mon, Sep 25, 2017
To: Lori Mack <lorimack5503@gmail.com> at 8:42 AM

Good morning Lori,

Thank you for your recent email to the GAO. We did indeed receive a request from Chairman Grassley to review ATF and USMS processes and policies for filing complaints of misconduct and investigating and adjudicating such cases. We have not yet assigned staff to begin this work, but once we do, I will make sure the team reaches out to get your perspectives and insights. Given the competing demands on GAO's resources, it may be a few months before that happens, but we will definitely contact you.

I appreciate your willingness to assist in our review and we look forward to meeting with you.

Best regards,

Diana Maurer, Director
Law Enforcement Issues
Homeland Security and Justice Team
U.S. Government Accountability Office
202-512-9627
maurerd@gao.gov
[Quoted text hidden]

[LOGO] Gmail Lori Mack <lorimack5503@gmail.com>

ATF Abuse of Internal Affairs Process

Lori Mack <lorimack5503@gmail.com> Wed, Sep 20, 2017
To: Maurer, Diana C <MaurerD@gao.gov> at 12:26 PM
Hello –

This email is being forwarded in response to the letter written by Senator Charles Grassley on July 31, 2017. I have contacted Senator Grassley's Office and the DOJ/OIG regarding the above issue.

Therefore, I would greatly appreciate speaking with the GAO regarding the three (3) retaliatory IA investigations conducted against me. In addition, I have requested via email for OPRSO to forward my IA investigations for inclusion in your pending GAO investigation. As a former EEO Specialist, I know that ATF does not always cooperate in good faith with releasing pertinent information regarding external investigations.

In addition, I have the contact information for several retirees who would like to speak with GAO personnel regarding the matter.

Thanks,

Lori D. McLaughlin
Senior Special Agent
Charlotte Field Division
Greensboro Field Office
972-342-0056 (Work Cell)
407-595-1787 (Personal Cell)

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[LOGO] Gmail Lori Mack <lorimack5503@gmail.com>

Fwd: ATF IA Investigation Process

1 message

Tarrance Jones <tjones7887@sbcglobal.net> Thu, Oct 5,
To: lorimack5503@gmail.com 2017 at 9:44 AM

Sent from my iPhone

Begin forwarded message:

From: "Maurer, Diana C" <MaurerD@gao.gov>
Date: October 4, 2017 at 4:18:00 PM CDT
To: "Tarrance Jones" <tjones7887@sbcglobal.net>
Subject: RE: ATF IA Investigation Process

Good afternoon Tarrance,

Thank you so much for reaching out. We have not yet begun our review at ATF, but expect to do so in the next couple of months. Once we do get started, I will make sure someone from the team contacts you to get your input and perspectives.

Best regards,

-Diana

Diana Maurer, Director
Law Enforcement Issues
Homeland Security and Justice Team
U.S. Government Accountability Office
202-512-9627
maurerd@gao.gov

-----Original Message-----

From: Tarrance Jones
[mailto:tjones7887@sbcglobal.net]
Sent: Wednesday, October 04, 2017 10:45 AM

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To: Maurer, Diana C
Subject: ATF IA Investigation Process

Hello,

My name is Tarrance Jones. I was an employee of ATF. I would like to speak with you in reference to the investigation you are conducting. I can be reached via email or phone. [REDACTED] or [REDACTED].

Thanks

Sent from my iPhone

[LOGO] Gmail Lori Mack <lorimack5503@gmail.com>

Fwd: Status of GAO Investigation

2 messages

Lori.D.McLaughlin@usdoj.gov Tue, Jun 19, 2018
<Lori.D.McLaughlin@usdoj.gov> at 9:41 AM
To: lorimack5503@gmail.com

FYI. Below.

I know that current ATF employees (Lori McLaughlin, Elvenia Latson) and retirees (S/A Arnold Smalley, S/A Tarrence Jones) have all emailed the GAO directly to volunteer to be interviewed in support of the "Grassley" investigation. We all have been subjected to retaliation for our participation in the EEO process. Most importantly, the above employees have forwarded their supporting documentation to the Office of Charles Grassley in support of his request for the investigation.

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I personally forwarded the supporting documentation for the retired ATF employees to his office.

Thanks!

From: McLaughlin, Lori D.
Sent: Thursday, March 22, 2018 5:11 PM
To: MaurerD@gao.gov
Cc: McLaughlin, Lori D. (Lori.McLaughlin@atf.gov) <Lori.McLaughlin@atf.gov>; Latson, Elvenia A. <Elvenia.Latson@aff.gov>
Subject: Status of GAO Investigation

Hello –

We are approaching a year, since Senator Charles Grassley requested the GAO investigation into the ATF Disciplinary System. Last year, we were repeatedly told that GAO would start their investigation in “a few months”. However, no ATF employee has been contacted by any GAO officials regarding the investigation. In the meantime, ATF management officials continue to violate Federal regulations and the rights of ATF employees. In addition, I have continued to report these violations to OPRSO with negative results. Can you please advise ATF employees, if Senator Charles Grassley withdrew his request for this investigation?

Thanks!

APPENDIX I

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE**

LORI D. McLAUGHLIN)	Docket Number
Appellant,)	DC-1221-19-0114-W-1
v.)	
DEPARTMENT OF JUSTICE)	
Agency.)	

DECLARATION OF WAYNE DIXIE

I, Wayne Dixie, provide the following statement in relation to the above-referenced case, knowing this statement may be used in evidence.

1. I was employed by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF or Agency) until I retired on November 30, 2018.
2. Prior to my retirement, I served as the Special Agent in Charge (SAC) for the Charlotte Field Division, and I held this position from November 2017 until my retirement on November 30, 2018.
3. In my former capacity as SAC, I served as Ms. McLaughlin's third-line supervisor from November 2017 until November 30, 2018.

4. Prior to my arrival as SAC of the Charlotte Field Division, around October 2017, the United States Attorney's Office for the Middle District of North Carolina (USA-OMD) informed the Agency that it had an apparent conflict of interest with Ms. McLaughlin because employees and attorneys assigned to the Middle District of North Carolina may be witnesses in Ms. McLaughlin's federal civil suit. As such, USAOMD requested that Ms. McLaughlin not present cases to the USAOMD in order to avoid any appearance of conflict. As a result, Ms. McLaughlin was not removed from her criminal investigator position, but was instead reassigned to work with the Criminal Gun Intelligence Center (CGIC). The CGIC is part of the Charlotte Field Division in Charlotte, North Carolina, but Ms. McLaughlin was assigned to work remotely with the CGIC from the Greensboro Field Office. This reassignment was done prior to my arrival and I was not involved in this decision.
5. Prior to my arrival as SAC of the Charlotte Field Division, I was also informed that the USAO for the Eastern District of North Carolina and Western District of North Carolina could not accept any of Ms. McLaughlin's cases due to an apparent conflict of interest. I was informed that employees and/or attorneys with the Eastern District of North Carolina may be witnesses in Ms. McLaughlin's federal civil suit and that the Western District of

North Carolina was assigned by the Associate Deputy Attorney General as the office that would defend the government in Ms. McLaughlin's federal civil suit. Again, this reassignment occurred prior to my arrival in the Charlotte Field Division and I was not involved in this decision.

6. When I reported as SAC of the Charlotte Field Division in November 2017, I was informed that the USAOs conflict with Ms. McLaughlin would resolve once her federal civil suit was closed.
7. As part of Ms. McLaughlin's reassignment to the CGIC, she was informed that all of her pending cases would be reassigned and that each of the USAOs in North Carolina had an apparent conflict of interest with her. However, in February 2018, Ms. McLaughlin continued to interject herself in her former investigation(s) and cases. This caused a problem for ATF because ATF was informed by the USAOMD that it had a conflict with Ms. McLaughlin and could not accept cases from her.
8. In late February 2018, Assistant Special Agent in Charge Ernie Diaz reminded Ms. McLaughlin that her cases were reassigned and directed her not to conduct any follow up activity on her previous cases. In early March 2018, Ms. McLaughlin refused to comply and instead attempted to provide excuses or justifications as to

why she was still participating or involving herself in cases where the USAOMD determined it had a conflict. As a result, in part, in March 2018, I determined it would be best to temporarily assign Ms. McLaughlin to the Charlotte Field Division so that there would be more separation between her and her former cases. In addition, I found it necessary to, at least temporarily, separate Ms. McLaughlin from her former supervisor and other employees in the Greensboro Field Office. I found this necessary because I received numerous complaints about Ms. McLaughlin and her conduct to and towards other employees in the Greensboro Field Office. It was my hope that a temporary relocation to the Charlotte Field Division would alleviate some of the conflicts in the Greensboro Field Office and it would allow Ms. McLaughlin to interact directly with her CGIC supervisor – who was assigned to the Charlotte Field Division. Ms. McLaughlin's temporary reassignment to the Charlotte Field Division ended in July or August 2018.

9. Sometime in July 2018, I was made aware that Ms. McLaughlin's federal civil suit was resolved or would be resolved in the near future. I inquired with each of the USAOs in North Carolina and was informed that each office was still not willing to accept cases from Ms. McLaughlin based on the fact that each USAO determined that in the event Ms. McLaughlin

were to testify the offices believed that they would be required to turn over information to defense counsel regarding Ms. McLaughlin. Each office believed that this information could potentially harm federal prosecutions that were assigned to Ms. McLaughlin. ATF was required to make a decision as to whether or not to continue to allow Ms. McLaughlin to investigate criminal cases for presentment to these USAOs. In July 2018, I decided to pursue a reassignment for Ms. McLaughlin that would resolve the conflicts in the Greensboro Field Office and the USAOs in North Carolina.

10. In July 2018, I recommended Ms. McLaughlin be reassigned to work remotely from her home in Greensboro, North Carolina, with ATF's National Center for Explosives Training and Research (NCETR). I took this action because it would resolve any conflicts in ATF's Greensboro Field Office, the USAOs in the North Carolina, and Ms. McLaughlin recently applied and was not selected and it was canceled in August 2018. Ms. McLaughlin never reported to NCETR.
11. I am not aware of any allegations or complaints contained in and have not read Ms. McLaughlin's October 31, 2017; January 5, 2018, or March 5, 2018 motions filed in her federal civil action case number 27-cv-759.

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12. I did not take, threaten to take, or recommend to take any personnel action(s) against Ms. McLaughlin because of any complaint(s) or disclosure(s) she may have made.

I HAVE READ THE ABOVE STATEMENT AND DECLARE UNDER PENALTY OF PERJURY THAT IT IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Dated this 17th day of December, 2018.

/s/ Wayne L. Dixie Jr.
Wayne Dixie

APPENDIX J

Affidavit of
Robert Higdon

I, Robert Higdon make the following statement
(Affiant's Name) freely and voluntarily to
William Hardison, on this day of _____
(Investigator Name) (Month, Day, Year)
who has identified

himself/herself to me as a Contract EEO Investigator,
c/o MRM EEO Services, Inc., assigned by the Bureau
of Alcohol, Tobacco, Firearms and Explosives to con-
duct this investigation ATF-2019-00324. I acknowl-
edge that this statement may be used in evidence, and
I understand that this statement is not confidential
and may be shown to any party who must have access
to this information in order to carry out his or her offi-
cial duties.

1. What is your name, position title, series and grade,
organization, and organizational address?

A. Robert. J. Higdon, Jr.
United States Attorney-Eastern District
of North Carolina
No series/grade
U.S. Attorney's Office
150 Fayetteville Street
Suite 2100
Raleigh, NC 27601

2. How long have you been with the Federal government?

A. 27 years (during two separate terms of service)

3. How long with the Bureau of Alcohol, Tobacco, Firearms and Explosives?

A. N/A

4. How long have you been in your current position?

A. 20 months

5. How long have you been in your current position?

A- See above

6. How long have you been in your current position?

A- See above

7. How long have you been in your current position?

A. See above

8. How long have you been in your current position?

A. See above

Page 1 of 7

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/s/ RJH
Initials

9. How long have you been in your current position?

A. See above

10. Who were your first and second-line supervisors with titles in December of 2018?

A. Jefferson B. Sessions, III Attorney General of the United States

B. Rod J. Rosenstein, Deputy Attorney General of the United States

11. Do you know Lori McLaughlin, hereafter referred to as Complainant? If so, in what capacity and how long have you known her?

A. I do not know her

12. What was your management relationship to the Complainant, if any, in December 2018?

A. None

13. To your knowledge, what is the Complainant's race, gender and age?

A. I am aware that she is a female. I do not know the answer to any of the other questions.

14. For the record, what is your race, gender, and age?

A. White, Male, 55

15. Have you been involved in prior EEO activity and if so, please indicate in what capacity, i.e., Responding Management Official, Complainant, or Witness.

A. Yes, Responding Management Official

16. Do you know if the Complainant has engaged in prior EEO activity and if so, when did you first learn of her prior protected activity?

A. I do not know

Claim 1: Whether Complainant was discriminated against and subjected to a hostile work environment based on sex (female), age (DOB: 5/29/69), race (African American), and in retaliation for prior participation in the EEO process when on December 18, 2018, she learned that the United States Attorney Office (USAO), North Carolina decided not to prosecute any criminal investigations conducted by her.

1. What knowledge, if any, do you have of this claim? If you were involved, please describe your role and what you actually did.

A. I have no knowledge of it.

2. Please explain why the USAO decided not to prosecute any criminal investigations conducted by Complainant.

A. The United States Attorney for the Eastern District of North Carolina has made no such decision.

3. Was the USAO decision influenced in any manner by Complainant's race, gender, age, and/or prior EEO activity? If yes, please explain.

A. See answer above.

4. Did you or anyone under your supervision ever inform SAC Wayne Dixie, ATF Charlotte Field Division that your U.S. Attorney Office would not prosecute any criminal investigations conducted by S/A Lori McLaughlin? If so, please explain with specific detail and include the date?

A. Not to my knowledge

5. Did you or anyone under your supervision ever inform SAC Wayne Dixie, ATF Charlotte Field Division that your U.S. Attorney Office had “information” against S/A Lori McLaughlin that would harm the prosecution of criminal investigations conducted by S/A Lori McLaughlin? If so, please explain with specific detail and include the date?

A. No

6. Does your U.S. Attorney’s Office currently have any “information” that prevents S/A Lori McLaughlin from testifying in Federal court? If so, please identify with specific detail?

A. We have been provided with information by the Office of the General Counsel at ATF concerning issues related to Ms. McLaughlin’s performance. That was provided to us on October 30, 2018. I have never reviewed those materials but forwarded them to the U.S. Attorney’s Office for the Middle District of North Carolina pursuant to agreement with the General Counsel’s Office of ATF. I have not reviewed them to my knowledge we have no pending matters in the Eastern District involving S/A McLaughlin.

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/s/ RJH
Initials

7. Do you have any documentation to support the specific “information” that prevents S/A Lori McLaughlin from testifying in Federal court? If so, please provide a copy?

A. See answer above

8. Did you ever report or discuss the "information" with the ATF Giglio Official? If so, please explain with specific detail and include the date? If not, why?

A. No. But I have discussed this matter with ATF's General Counsel.

9. What actions did you take to corroborate the "information" being used against S/A Lori McLaughlin?

A. None.

10. Did you ever generate any paperwork (i.e. emails, memorandum, letter, etc.) for ATF or for inclusion in S/A Lori McLaughlin's Official Personnel File (OPF)? If so, when?

A. No

11. Did you or anyone under your supervision ever speak with S/A Lori McLaughlin regarding the "information" being used against her? If so, please explain with specific detail and include the date?

A. No

12. Did you ever offer S/A Lori McLaughlin the opportunity to provide an oral or written response to the "information" being used against her? If so, please explain with specific detail and include the date?

A. No

13. Under what legal authority, can the U.S. Attorney's Office refuse to prosecute criminal investigations conducted by a specific special agent?

A. The United States Attorney has plenary discretion to prosecute or decline any matter referred by any investigator or any investigative agency.

14. Does DOJ have any policy that allows special agents to challenge decisions made by the U.S. Attorney's Office, when they refuse to prosecute criminal investigations conducted by a specific special agent? If so, please identify the policy?

A. Not that I am aware of. See answer above.

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/s/ RJH
Initials

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15. Does DOJ have any policy, protocol or requirements for making "official notification" to special agents, when the U.S. Attorney's Office refuse to prosecute criminal investigations conducted by a specific special agent? If so, please identify the policy?

A. Not that I am aware of. Although it is our practice to notify the referring agency anytime this office declines to prosecute a matter for any reason.

16. Do you have any witnesses that have **direct evidence or direct knowledge** to support your contentions in this matter? If so, please state his/her name, position titles, work address, telephone numbers, email address and **briefly state** in one or two sentences what the person will state. If not please state, "No."

- A. I am making no contentions in this matter and have no first hand knowledge concerning S/A McLaughlin's performance. Therefore I have no witnesses to identify in response to this question.**

Claim 2: Whether Complainant was discriminated against and subjected to a hostile work environment based on sex (female), age (DOB: 5/29/69), race (African American), and in retaliation for prior participation in the EEO process when on December 18, 2018, the Assistant Special Agent in Charge (ASAC) reassigned Complainant from the position of "field" Criminal Investigator based on a decision by the USAO.

17. Please speak to the Complainant's claim that on December 18, 2018, the ASAC reassigned her from the position of "field" Criminal Investigator based on a decision by the USAO.

A. I have no information concerning this claim.

18. What role or input, if any, did you play in the Complainant's reassignment?

A. None.

19. Were there any alternatives that could have been explored rather than reassignment?

A. I have no idea.

20. Have other employees been reassigned from field Criminal Investigator positions because of a USAO decision? If so, can you please indicate their race, sex, age and EEO activity, if known?

A. I have no idea.

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/s/ RJH
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21. Did the Complainant express any degree of dissatisfaction to you about her reassignment? If so, when and what did she say?

A. I have never met with the complainant, nor had any conversation or communication with her.

22. Did the Complainant's race, sex, age or prior EEO activity have anything to do with the decision to reassign her? If yes, please explain.

A.I have no idea

23. Do you have any witnesses that have **direct evidence or direct knowledge** to support your contentions in this matter? If so, please state his/her name, position titles, work address, telephone numbers, email address and **briefly state** in one or two sentences what the person will state. If not please state, "No."

A. I am making no contentions in this matter and have no first hand knowledge concerning S/A McLaughlin's performance. Therefore I have no witnesses to identify in response to this question.

24. Do you have any documents to provide for the record that support your claim that you acted properly in this matter? If so please describe the document(s) and provide with submission of your affidavit.

- A. I took no action in this matter and have no evidence of any kind to offer.**

Claim 3: Whether Complainant was discriminated against and subjected to a hostile work environment based on sex (female), age (DOB: 5/29/69), race (African American), and in retaliation for prior participation in the EEO process when on December 18, 2018, she learned that the ASAC transferred her to Charlotte, North Carolina based on complaints filed against her by several employees assigned to the Greensboro Field Office.

25. Please speak to the Complainant's claim that on December 18, 2018, the ASAC transferred her from the Greensboro Field Office to the Charlotte, NC Office based on complaints filed against her by several employees.

- A. I have no information concerning this allegation.**

26. Was there an investigation into the complaints filed against the Complainant by the other employees?

- A. I have no idea**

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/s/ RJH
Initials

27. Was the Complainant afforded an opportunity to rebut any of the complaints that had been filed against her?

- A. I have no idea**

28. Did you ever speak with S/A Lori McLaughlin regarding the employee complaints? If so, please explain with specific detail and include the date?

A. No

29. Did the Complainant's race, sex, age or prior EEO activity have anything to do with the decision to transfer her? If yes, please explain.

A. I have no idea

30. Do you have any witnesses that have **direct evidence or direct knowledge** to support your contentions in this matter? If so, please state his/her name, position titles, work address, telephone numbers, email address and **briefly state** in one or two sentences what the person will state. If not please state, "No."

A. No

31. Do you have any documents to provide for the record that support your claim that you acted properly in this matter? If so please describe the document(s) and provide with submission of your affidavit.

A. No

32. Do you have anything to add, which is not covered above, on the claims being investigated?

A. No

I have reviewed this statement, which consists of 7 pages, and hereby solemnly ___swear___ affirm that it is true and complete to the best of my knowledge and belief. I understand that the information I have given

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will not be held confidential and may be shown to the interested parties as well as made a permanent part of the record of investigation.

Robert J. Higdon

July 2, 2019

(Signature of Affiant)

(Date)

William Hardison

(Signature of Investigator/Witness)

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APPENDIX K

[SEAL]

Office of the
Equal Employment Opportunity
Bureau Alcohol, Tobacco,
Firearms and Explosives

EEO COUNSELOR'S REPORT

ATF-2019-00324

I. REQUIRED ELEMENTS

A. AGGRIEVED PERSON

Name: Lori McLaughlin

Job Title/Series/Grade: Special Agent, GS-1811-13

Place of Employment: Field Operations/Charlotte
Field Division

Home Phone No: [REDACTED]

Work Phone: (338) 235-4900

Home Address:

Number: [REDACTED] Apartment:

Street: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

B. CHRONOLOGY OF EEO COUNSELING

Date of Initial Contact: 8-Jan-19

Date of Initial Interview: 31-Jan-19

Date of Alleged Discriminatory Event: 18-Dec-18

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45th Day after Event: Reason for delayed contact beyond 45 days, if applicable:

Date Counseling Report Requested: 13-Mar-19

Date Counseling Report Submitted: 29-Mar-19

C. BASIS(ES) FOR ALLEGED DISCRIMINATION

- 1) ☒ Race (African American)
- 2) ☐ Color (Specify)
- 3) ☐ National Origin (Specify)
- 4) ☒ Sex (Female)
- 5) ☒ Age (5/29/69)
- 6) ☐ Mental Disability (Specify)
- 7) ☐ Physical Disability (Specify)
- 8) ☐ Religion (Specify)

II. SUMMARY OF INFORMAL RESOLUTION ATTEMPTS

A. IF THE COUNSELOR ATTEMPTED RESOLUTION

1. Contact

EEO Counselor contacted and informed the individuals listed below via email or phone of Ms. McLaughlin allegations as listed above in section D. (1) Counselor contacted Matthew Martin of USAO via email. Mr. Martin email response is attached and dated 3/7/19. (2) Counselor contacted Andrew R. Murray of USAO via email. Mr. Murray email response is attached and dated 3/13/19. (3) Counselor telephoned Robert J. Higdon of USAO at (919) 856-4530, left a voice message on 2/11/19; no response.

2. Documents Reviewed

NA

3. Summary of Informal Resolution Attempt

(4). Counselor contacted Ernest Diaz on 2/21/19. Mr. Diaz stated that he had already provided an interrogatory to the same questions in another complaint. Mr. Diaz suggested that I telephone Joshua Henline. Mr. Diaz responded to the questions via email dated 3/8/19 (attached). (5) EEO Counselor contacted Wayne Dixie, Special Agent In Charge on 2/22/19. Wayne Dixie stated Ms. McLaughlin knows why she is not conducting criminal investigation.

B. IF AGGRIEVED OPTED FOR ADR, COUNSELOR'S STATEMENT THAT THE ADR PROCESS WAS FULLY EXPLAINED TO THE AGGRIEVED INDIVIDUAL/SUMMARY OF INFORMATION GIVEN TO THE AGGRIEVED INDIVIDUAL AND THE AGENCY BY THE COUNSELOR.

ADR Accepted ☐ Yes ☒ NO

Date Offered: 19-Apr-18

Successful ☐ Yes ☐ NO

Agency Representative/Counsel	Aggrieved Representative/Counsel
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Management Representative	Mediator
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<u>Brenda Bryant</u>	<u>(202) 648-8760</u>
Name of EEO Counselor	Telephone Number
<u>Brenda Bryant</u>	99 New York Ave., NE,
Signature of Counselor	Rm. 3E320
<u>3/29/19</u>	Washington, DC 20226
Date	Office Address

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Additional Information:

(6) EEO Counselor contacted Peter Forcelli, Deputy Assistant Director of Field Operation (West) via email on 2/8/2019. DAD Forcelli responded via email dated 2/18/19 (attached).

(7) Counselor contacted Sophia Kil via email and Barry Orlow responded via email dated 2/27/19 (attached).

8) Counselor contacted Deputy Assistant Director (DAD) William Temple via email; Mr. Temple responded via email dated 3/11/19 (attached).

APPENDIX L

Lori McLaughlin

ATF 2019-00324

TABLE OF CONTENTS

- Exhibit 1: Formal Complaint of Discrimination of Lori McLaughlin, dated March 26, 2019.
- Exhibit 2: Letter of Acceptance of the Complaint of Discrimination, dated May 2, 2019, Notice of Receipt of Complaint of Discrimination, dated March 27, 2019, and Notice of Rights and Responsibilities, dated January 31, 2019.
- Exhibit 3: EEO Counselor's Report, dated March 29, 2019, Notice of Right to File Discrimination Complaint, dated March 8, 2019, and Attachments
- Exhibit 4: Letter of Authorization, dated May 2, 2019.
- Exhibit 5: Organizational Chart of Charlotte, NC Field Office.
- Exhibit 6: Workforce Profile of Charlotte, NC Field Office, comprising Complainant and co-workers.
- Attachment B: Survey of General Environment
- Exhibit 7: Affidavit of Complainant, Lori McLaughlin, Criminal Investigator, GS-1811-13, Charlotte Field Division – Crime Gun Intelligence Center, 1801 Stanley Road,

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Suite 325, Greensboro, NC 27407, dated June 25, 2019, and Attachments¹

Attachment 1: Email, dated 12/18/2018, Re: Request for EEO Informal Counseling and former SAC Dixie MSPB Declaration.

Attachment 2: Emails during March 2019, Re: EEO Complaint

Attachment 3: Email, dated 10/16 & 27/2017, Re: Civil Action Lawsuit

Attachment 4: Memo, Re: Formal Notice: Middle District of North Carolina

Attachment 5: ASAC Gibbons' 5/8/2019 memo to Complainant, Re: Response to Inquiries of 4/30/2019 and 5/7/2019, and Complainant's 5/17/2019 Response

Attachment 6: Summary of Retaliation

Attachment 7: Court decision to deny Complainant's reconsideration request

Attachment 8: SSA Grace Reisling 10/16/2017 email to Complainant

Attachment 9: Pattern of "Retaliatory" Reassignments

Attachment 10: Complainant's 6/24/2019 request for an extension of EEO investigation

Exhibit 8: Affidavit of Ernesto Diaz, Assistant Special Agent-in-Charge (ASAC), GS-1811-15, ATF Los Angeles Field Division, 9449

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Balboa Ave., Suite 200, San Diego, CA 92123., dated June 5, 2019, and Attachments.

Attachment 1: Internal Affairs Division Incident Report, dated 5/12/2015

Attachment 2: EEO Complaint Notification, dated 10/10/2017

Attachment 3: First-Assistant Attorney Hairston's 10/11/2017 email to former SAC Hyman, Re: S/A McLaughlin

Attachment 4: Temporary Reassignment of Duties memo, dated 10/13/2017

Exhibit 9: Affidavit of Shawn Arthur, Division Operations Officer (DOO), GS-14, Charlotte Field Division, 6701 Carmel Road Suite 200, Charlotte, NC, 28226, dated June 17, 2019.

Exhibit 10: Affidavit of Sandra J. Hairston, First Assistant United States Attorney, United States Attorney's Office, 101 S. Edgeworth Street, 4th Floor, Greensboro, NC 27401, dated June 10, 2019, and Supplemental Affidavit, dated June 17, 2019.

Exhibit 11: Affidavit of Barry Orlow, ATF Office of Chief Counsel, GS-15, ATF HQ 99 New York Ave., NE, Suite 5-N-524, Washington, DC 20226, dated June 18, 2019, and Attachment: Giglio Policy.

Attachment 1: ATF 0 9410.1A, Giglio Policy, dated 9/30/2014

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Exhibit 12: Affidavit of Peter J. Forcelli, Deputy Assistant Director (DAD), Office of Human Resources and Professional Development, GS-1811-SES, 99 New York Ave., NE, Suite 5-N-524, Washington, DC 20226, dated May 30, 2019, and Attachments.

Attachment 1: Complainant's entails, dated September 2018, Re: McLaughlin Proposed Clearance Suspension

Attachment 2: Emails, Re: Notification to OPRSO-Continued Retaliation and Harassment Against S/A McLaughlin (to include Reassignment)

Exhibit 13: Affidavit of Marino Vidoli, Assistant Director, Office of Field Operations, ES1811, ATF, 99 New York Ave., NE, Washington, DC 20226, dated June 24, 2019.

Exhibit 14: Affidavit of Jason Walsh, Resident Agent-in-Charge (RAC), ES1811-14, Field Operations, Charlotte Field Division, Greensboro Field Office, 1801 Stanley Road, Suite 300, Greensboro, NC 27406, dated July 2, 2019.

Exhibit 15: Affidavit of Andrew Murray, WDNC U.S. Attorney (Department of Justice), U.S. Attorney's Office, Carillon Tower, 227 W Trade St. #1650, Charlotte, NC 28202, dated July 12, 2019.

Exhibit 16: Affidavit of Matthew G.T. Martin, United States Attorney, Middle District of North Carolina 101 South Edgeworth Street

Greensboro, North Carolina 27401, dated July 11, 2019.

Attachment 1: Emails of Giglio information in response to Complainant's Question, and emails regarding Complainant's Informal Complaint

- Exhibit 17: Affidavit of Robert Higdon Jr., United States Attorney-Eastern District of North Carolina, U.S. Attorney's Office, 150 Fayetteville Street, Suite 2100, Raleigh, NC 27601, dated July 2, 2019.
- Exhibit 18: Note of attempts to acquire testimony from former SAC Wayne Dixie, Special Agent in Charge (Retired).²
- Exhibit 19: Complainant's Position Description (Criminal Investigator/Special Agent, (GS 1811-13)
- Exhibit 20: Email, dated July 1, 2019, of OEEO granting Complainant's request for an extension of the investigation.
- Exhibit 21: EEO Policy

Investigator Notes:

¹ Complainant has included Attachments that she references in her affidavit as Exhibits. To avoid confusion with the labeling convention of the ROI, where the Complainant references Exhibit in her affidavit the word Attachment has been substituted.

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² SAC Wayne Dixie is retired and elected not to respond to requests for completion of the interrogatory.

APPENDIX M

AFFIDAVIT OF THERESA DURAN

The affiant, Theresa Duran, being first duly sworn, deposes and states as follows:

1. My name is Theresa Duran. This affidavit is based on my personal, firsthand knowledge.

2. I was an Industry Operations Investigator (IOI) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from October 16, 2005 through November 20, 2015 and was stationed in the Albuquerque II Field Office, Phoenix Field Division during the entire ten years that I was employed by ATF.

3. It was within the first week that I was hired and showed up at the Albuquerque II Field Office, October 16, 2005, I met Wayne Dixie, Resident Agent in Charge (RAC).

4. A couple of days later, within that first week, I had to be sworn in as an ATF IOI by Mr. Dixie. One of my co-workers took a picture as Mr. Dixie was swearing me in.

5. On April 13, 2006, I was assigned to go to a warrant that ATF Special Agents were a part of. I, along with a co-worker, went to the warrant, because we were assigned to review the required records that a federal firearms licensee is required to keep per ATF regulations.

6. I was there at a private residence reviewing records all day and had to leave early, around 4:30pm,

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to pick up my son. I asked Mr. Dixie if I could leave early and he stated I could.

7. I asked Mr. Dixie if he could give me a ride back to the field office, since my co-worker was going to use the vehicle we arrived in, so that he could drive back to the office. Mr. Dixie agreed to drive me back to the field office.

8. When we arrived at the field office, we had to use two separate elevators in order to get to the actual office itself. During the time in the second elevator that took us to the 15th (fifteenth) floor of the office, Mr. Dixie asked me a question that made me feel quite uncomfortable and I couldn't believe that he asked such a question.

9. Mr. Dixie asked me "have you ever been with a black man"? I knew what he was talking about by the way he asked me the question. He seemed so cocky and confident expecting an answer I didn't give him. I was shocked and stunned when he asked me that question.

10. I reluctantly answered Mr. Dixie by stating that I had only kissed a black man.

11. From what I gathered after I stated that, he didn't take the conversation further. I sensed that he noticed that I was very uncomfortable by him asking me the question that he did.

12. We got off the elevator and he said have a good night and I said the same. As we walked, he turned left going to the criminal enforcement side of

the office and I turned right going to the industry operations side of the office.

13. I got to my desk, got my computer, and left the office as quickly as I could. As I was driving, I was thinking about what happened. I said to myself I cannot complain to anyone, who'd believe me, since I just started as an IOI in that office. I didn't want them to retaliate against me by complaining about a manager. I also said to myself that I would just ensure that I would never be by myself if I were ever around him again.

14. The next time that I was around Mr. Dixie for a while was during a going away party that the special agents were having for him at the Fraternal Order of Police (FOP) on June 8, 2006 (**Exhibit 1**). Mr. Dixie was moving away to the Columbus I Field Office to become the Group Supervisor (**Exhibit 2**).

15. I arrived there approximately 6:00 pm, since I was helping Cindy Martinez, Special Agent in the same office, to set up for the party.

16. At around 7:00 pm, everyone started showing up. Everyone was eating the food that was purchased. Almost everyone was drinking alcohol. I say almost everyone, because I do not drink alcohol. I was drinking water with ice and lemon.

17. At approximately 9:00-9:30 pm, I was by Ms. Martinez. I was standing and she was sitting on the pool table where her knees were bent hanging down from the table. Her friend was on the other side of Ms.

Martinez. I then noticed Mr. Dixie coming over to speak with Ms. Martinez. They were both drinking alcohol and it looked, as they were a little tipsy. He was standing right in front of her. I must've looked away for a few seconds when I looked back at Ms. Martinez and Mr. Dixie were extremely close that Mr. Dixie's body (hips) was in between Ms. Martinez's legs. When I saw that, I was shocked! I couldn't believe that a subordinate would allow a manager (RAC who supervises her) to do what Mr. Dixie was doing. I was so shocked, that I looked at what was happening in front of me, but then looked away with the utter shock by what I had seen. I didn't say anything, but I was quite uncomfortable. I didn't see anything more than what I just described. It was quite obvious that Ms. Martinez enjoyed what was happening because she was speaking to him, smiling and laughing. He was there for a few minutes. I acted as though I needed the restroom, left the situation and headed in that direction.

18. As I was in the restroom, I was thinking, I can't believe what I just saw. I couldn't believe that Ms. Martinez would allow Mr. Dixie to do what he did. Or, maybe she just opened her legs while he was just standing in front of her, and he knew that she was allowing him to go further – he went in as far as he could. Not sure, but it was one or the other. I observed that the pool table was stopping him from going further.

19. When I left the restroom, I headed back to where Ms. Martinez was, still sitting on the pool table, but the only reason I went back was because Mr. Dixie had left.

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20. One hour later I left, approximately 10:30 pm. I didn't see that happen again what happened between Mr. Dixie and Ms. Martinez.

Further the Affiant Sayeth Naught.

/s/ Theresa Duran
Theresa Duran

Signed and Sworn to (or affirmed) before me on December 22, 2017, by Theresa Duran.

/s/ Juliana Rueda
Notary Public

[SEAL] OFFICIAL SEAL
JULIANA RUEDA
NOTARY PUBLIC – State of New Mexico
My Commission Expires 6/20/19
(Seal) My Commission Expires: 6/20/19

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APPENDIX N

FILED IN OPEN COURT
ON 3/21/12 JR

Julie A. Richards, Clerk
US District Court
Eastern District of NC

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:12-CR-31-IF(4)

UNITED STATES OF AMERICA)
)
 v.) INDICTMENT
)
 MICHAEL JUSTIN FANELLY)

The Grand Jury charges that:

COUNT ONE

Tampering With A Witness
18 U.S.C. § 1512(b)(3)

On or about June 8, 2011, in the Eastern District of North Carolina, the defendant, MICHAEL JUSTIN FANELLY, did knowingly, corruptly persuade another person, and attempt to do so, that is, North Carolina Alcohol Law Enforcement Special Agent Wayne Bisette, with the intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission and possible commission of a Federal offense, to wit: distribution of cocaine hydrochloride by Claudia

Loreana Tellado; in violation of Title 18, United States Code, Section 1512(b)(3).

COUNT TWO

Tampering With A Witness
18 U.S.C. § 1512(b)(3)

On or about June 8, 2011, in the Eastern District of North Carolina, the defendant, MICHAEL JUSTIN FANELLY, did knowingly, corruptly persuade another person, and attempt to do so, that is, James Tyrone Hamm, with the intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission and possible commission of a Federal offense, to wit: distribution of cocaine hydrochloride by Claudia Loreana Tellado; in violation of Title 18, United States Code, Section 1512(b)(3).

COUNT THREE

MATERIAL FALSE STATEMENTS
18 U.S.C. § 1001

On or about June 8, 2011, in the Eastern District of North Carolina, in a matter within the jurisdiction of the Executive Branch of the Government of the United States, the defendant, MICHAEL JUSTIN FANELLY, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, to wit, that Claudia Lorena Tellado was in a sexual relationship with a Special Agent with the Drug Enforcement Administration, whereas the

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defendant then and there knew, Claudia Lorena Tel-
lado was in a sexual relationship with the defendant;
in violation of Title 18, United States Code, Section
1001.

A TRUE BILL

/s/ _____
FOREPERSON

DATE: 3/21/12

REDACTED VERSION

Pursuant to the E-Government Act and the
federal rules, the unredacted version of
this document has been filed under seal.

Ripley Rand
Attorney for the United States
Acting under authority
conferred by 28 U.S.C. § 515

/s/ Terry M. Meincke
BY: TERRY M. MEINCKE

Special Attorney
U.S. Attorney's Office

APPENDIX O

Lori McLaughlin
ATF 2019-00324

**BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES**

REPORT OF INVESTIGATION

I. DESCRIPTION OF COMPLAINT

Name of Complainant: Lori McLaughlin
Title and Grade of Complainant's Position: Criminal Investigator,
GS-1811-13
Complaint No.: ATF-2019-00324
Name and Location of Agency: Bureau of Alcohol, Tobacco,
Firearms and Explosives
Charlotte Field Office
1801 Stanley Road
Suite 300
Greensboro, NC 27407
Date of Alleged Discrimination: December 18, 2018
Kinds of Discrimination Alleged: Race, Sex, Age and Reprisal
Representative: None

II. DESCRIPTION OF INVESTIGATION

Identity of Investigator: William Hardison
Contract EEO Investigator
MRM EEO Services
3031 Nantucket Cove
Conyers, GA 30012

Date Report of
Investigation

submitted to Agency: July 25, 2019

Place of Investigation: Greensboro, NC

Dates of Investigation: May 7, 2019–July 17, 2019

Method of Investigation: Interrogatories

III. DESCRIPTION OF BASES, ISSUES AND STANDARDS OF PROOF

By letter dated May 2, 2019, the following claims were accepted for investigation:

Whether Complainant was discriminated against and subjected to a hostile work environment based on sex (female), age (DOB: 5/29/69), race (African-American), and in retaliation for prior participation in the EEO process when the following events occurred:

1. On December 18, 2018, she learned that the United States Attorney Office (USAO), North Carolina decided not to prosecute any criminal investigations conducted by her;
2. On December 18, 2018, the Assistant Special Agent in Charge (ASAC) reassigned her from the position of “field” Criminal Investigator based on a decision by the USAO; and
3. On December 18, 2018, she learned that the ASAC transferred her to Charlotte, North Carolina based on complaints filed against her by several employees assigned to the Greensboro Field Office.

Relevant Case Law

Sex discrimination: Complainant v. Dep't of Energy, EEOC Appeal No. 0120131136 (August 13, 2013), Complainant v. Soc. Sec. Admin., EEOC Appeal No. 0120102267 (August 22, 2013), Washington v. Garrett, 10 F.3d. 1421, 1435 (9th Cir. 1993).

Race discrimination: Complainant v. Soc. Sec. Admin., EEOC Appeal No. 0120102267 (August 22, 2013), Washington v. Garrett, 10 F.3d. 1421, 1435 (9th Cir. 1993).

Age discrimination: Complainant v. Sanderson Plumbing Products, Inc. (2000) 530 US 133, 120 S.Ct. 2097.

Reprisal: Complainant v. Dep't of Energy, EEOC Appeal No. 0120131136 (August 13, 2013), Complainant v. Soc. Sec. Admin., EEOC Appeal No. 0120102267 (August 22, 2013), Washington v. Garrett, 10 F.3d. 1421, 1435 (9th Cir. 1993); Shirley v. Chrysler First, Inc., 970 F.2d 39, 42-43 (5th Cir. 1992); Crump v Department of Veterans Affairs, 114 M.S. P.R. 224.

IV. SUMMARY

Lori McLaughlin (female, 50, African-American, prior EEO activity), Criminal Investigator/Special Agent, GS-13-1811, Charlotte Field Division, Greensboro Field Office, 1801 Stanley Road, Suite 325, Greensboro, NC 27407, hereafter referred to as "Complainant," states that she has worked for the Federal Government 32 years, 31 of which with ATI'. She adds that she has been in her current position 18 years.

Complainant testifies that her first and second-line supervisors were GS Shawn Arthur and ASAC Ernie Diaz, respectively. She states that she has previously filed EEO complaints against the agency. (Exhibit 7)

Claim 1: Whether Complainant was discriminated against and subjected to a hostile work environment based on sex (female), age (50), race (African-American), and in

* * *

in writing or orally to their decision. Attorney Murray states that he based his decision on the review of Complainant's lawsuit and the presiding judge's order of denial, and he did not discuss this matter with Complainant or a Giglio Official. Attorney Murray testifies that as a United States Attorney he has discretionary authority concerning what cases his office chooses to accept and prosecute based on a variety of factors including: (1) the strength of the evidence, (2) foreseeable problems, (3) witness issues, (4) and possible defenses. (Exhibit 15)

Attorney Murray states that he does not know of a policy that allows Special Agents to challenge decisions made by the U.S. Attorney's Office when it refuses to prosecute criminal investigations conducted by a specific Special Agent. He adds that he is also unaware of any policy or requirement for making "official notification" to Special Agents when the U.S. Attorney's Office refuse to prosecute criminal investigations conducted by a specific Special Agent. (Exhibit 15)

Matthew G.T. Martin (male, 40, White, no prior LEO activity), Middle District of North Carolina (MDNC) United States Attorney, (no listed series/grade), U.S. Attorney's Office, Department of Justice, 101 South Edgeworth Street, Greensboro, North Carolina 27401, testifies that he has been with the Federal Government and in his current position as a United States Attorney since January 3, 2018. He states that his first and second-line supervisors are Deputy Attorney General Rod Rosenstein and Acting Attorney General Matthew Whitaker. Attorney Martin states that he does not work with the ATF and does not have a management relationship to Complainant. He adds that he has no knowledge of Complainant's race, age, gender or prior EEO activity outside of the information provided in this instant EEO complaint. (Exhibit 16)

Attorney Martin testifies that he has no knowledge of what may or may not have occurred at ATF on December 18, 2018, involving Complainant. He states that to the best of his knowledge and belief, Complainant did not present cases to USAO for the MDNC at any time in late 2018, and the USAO kw the MDNC did not decide to not prosecute any criminal investigations conducted by Complainant. (Exhibit 16)

Attorney Martin states that on August 8, 2018, ATE former SAC Dixie sent him an email with attached documents related to Complainant and indicated that he wanted to discuss them with him. Attorney Martin testifies that he forwarded the documents to the First-Assistant United States Attorney and the Criminal Chief, both in the MDNC USAO for their review. He reports

that he told former SAC Dixie that he would try to call him shortly thereafter. (Exhibit 16)

Attorney Martin testifies that in his talk with former SAC Dixie, the issue was whether Complainant's actions and the resulting ATE discipline would impact her ability to testify in criminal prosecutions. Attorney Martin states that he does not remember the date of his discussion but he does recall that he spoke in general terms about this issue with United States Attorneys for Eastern and Western Districts of North Carolina, First-Assistant United States Attorney and Assistant United States Attorney for the Middle District of North Carolina. He adds that he also sought legal advice from counsel at the General Counsel's Office at the Executive Office for United States Attorneys. (Exhibit 16)

According to Attorney Martin, in October 2018 he and the attorney for the EDNC spoke with Deputy Associate Chief Counsel for the ATF, Mary H. Suettinger, and she on October 30, 2018, sent the EDNC attorney materials concerning four matters involving Complainant that had been investigated by ATF Internal Affairs Division. Attorney Martin states that EDNC attorney forwarded the documents to him via email on the same day. Attorney Martin states that based upon Complainant's actions and disciplinary record related to the ATF Internal Affairs Division investigations, which would have to be disclosed if Complainant were to serve as a case agent and witness in a criminal prosecution, he informed former SAC Dixie that the MDNC

USAO would not be able to prosecute cases that she presented for prosecution. (Exhibit 16)

Attorney Martin states that in regards to "information" preventing Complainant from testifying in Federal Court, he never informed former SAC Dixie that he had such information. He states that he did have information about Complainant related to the ATF Internal Affairs Division investigations, but he did not take steps to corroborate the "information" against Complainant. He adds that he does not know the Giglio Official and did not have any discussions with him about this matter. Attorney Martin testifies that neither he or anyone in his office ever spoke with Complainant about this matter, never generated any paperwork to put in Complainant's personnel file, and did not provide Complainant an opportunity to respond in writing or orally. Attorney Martin states that the Judiciary Act of 1789 establishes that the US Attorney is responsible for prosecuting federal criminal matters with the US Attorney's federal district and concludes that the USAO MDNC, accordingly, has such legal authority to determine which cases to prosecute in its district. (Exhibit 16)

USA Martin testifies that the DOJ does not have policies that allow Special Agents to challenge decisions made by the U.S. Attorney's Office when it refuses to prosecute criminal investigations conducted by a specific Special Agent. He states that MDNC currently prosecutes criminal investigations conducted by SA Paul Johnson, ATF Greensboro Field Office, who is currently subject to a Giglio Order. (Exhibit 16)

Robert Higdon Jr. (male, 55, White, prior EEO activity as RMO) Eastern District of North Carolina (EDNC) United States Attorney, (no listed series/grade), U.S. Attorney's Office, Department of Justice, 150 Fayetteville Street, Suite 2100, Raleigh, NC 27601, testifies that his first and second-line supervisors were Assistant Attorney General Rod Rosenstein and former Attorney General Jeff Sessions. He states that he does not know Complainant. He adds that he has been involved in prior protected activity as an RMO, but is not aware of previous protected activity on the part of Complainant. (Exhibit 17)

Attorney Higdon states that he has no knowledge of the matter other than that the EDNC USAO did not make any decision to not prosecute criminal investigations conducted by Complainant, and he is not aware of anyone from the USAO informing former SAC Wayne Dixie that the USAO would not prosecute criminal investigations conducted by Complainant. (Exhibit 17)

Attorney Higdon states that with regards to "information" preventing Complainant from testifying in Federal Court, he claims that on October 30, 2018, the EDNC USAO received information from ATF's Office of the General Counsel concerning issues related to Complainant's performances. Attorney Higdon testifies that he never reviewed the materials provided by ATF's OGC but forwarded the material on to the MDNC pursuant to the agreement with ATF's OGC. Attorney Higdon states that he did not report or discuss the information with the ATF Giglio Official, but

did discuss the matter with ATF's OGC. He indicates that he did not take steps to corroborate the "information" against Complainant; neither he or anyone from his office ever spoke with Complainant about this matter; never generated any paperwork to put in Complainant's personnel file, and did not provide Complainant an opportunity to respond in

* * *

APPENDIX P
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
BALTIMORE FIELD OFFICE
Hopkins Plaza #1432
Baltimore, Maryland 21201

JOHNNIE MEADORS,	(EEOC CASE NO:
COMPLAINANT	(531-2020-00001X
v.	(
DEPARTMENT OF	(
JUSTICE (BUREAU OF	(
ALCOHOL, TOBACCO,	(
FIREARMS, &	(
EXPLOSIVES	(
AGENCY	(AGENCY CASE NO:
	(ATF-2019-00400

DECISION¹

APPEARANCES:

COMPLAINANT'S REPRESENTATIVE:

Nina Ren, Esquire

AGENCY'S REPRESENTATIVE:

Jennifer Weger, Esquire

BEFORE: Laurence Gallagher
ADMINISTRATIVE JUDGE

¹ This Decision Finding Liability against the Agency in favor of Complainant was issued on March 4, 2021.

I. PROCEDURAL BACKGROUND

This matter is before the United States Equal Employment Opportunity Commission pursuant to § 717 of Title VII of the Civil Rights Act of 1964, as amended. The procedural requirements provided in the implementing regulations at 29 C.F.R. § 1614.101 *et seq.* were completed. A hearing was held by video-conference through the Baltimore Field Office of the U.S. Equal Employment Opportunity Commission on July 13, 14, and 17 2020. The parties' written closings were submitted on July 31, 2020, thus closing the record on the liability phase.

II. CLAIMS

Did the Agency unlawfully discriminate against Complainant Meadors on the bases of race (African American) and retaliation (oppositional conduct and participation) when from approximately 2016 to present, the Agency subjected him to an ongoing hostile work environment and or/ disparate treatment including:

(1) Throughout 2016, Dr. Meadors experienced a lack of support for an investigation targeting violent criminals; (2) In April 2016, during a Title III investigation, another agent told Dr. Meadors he was blamed him for the reassignment of the Group Supervisor (GS); (3) In April 2016, other agents were informed that Dr. Meadors and the GS were pending indictment because of the Title III investigation; (4) From approximately July 2016 through September 2016, Dr. Meadors' newly

assigned training agent scrutinized his work and office presence, and continued the lack of support for Dr. Meadors; (5) In September 2016, Dr. Meadors was singled out by a newly assigned training agent (July 2016) about his whereabouts and training reports; (6) In October 2016, another Special Agent told a confidential informant not to trust Dr. Meadors; (7) On January 20, 2017, the Executive Assistant to the Special Agent in Charge (SAC) sent a racist email titled "The Night Before Inauguration" throughout the Baltimore Field Division referencing "Black Lives Matter" and the firing of President Obama; (8) On March 9, 2017, Dr. Meadors was falsely accused of working simultaneously on two Title III investigations; (9) From approximately March 17, 2017 to July 2017, Dr. Meadors was reassigned to Group III and in accordance with the Assistant Special Agent in Charge (ASAC) was because members of Group II did not "like" Dr. Meadors; (10) From approximately March 17, 2017 to July 2017, Dr. Meadors was instructed not to work with outside agencies/personnel (predominantly black/African Americans) that were not assigned to Group III whereas other Group III agents worked with outside agencies/personnel; (11) Between May and June 2017, a co-worker told Enforcement Enhancement Initiative (EEI) agents that Dr. Meadors was not a good agent and made an inappropriate comment (a piece of shit) about him and during a June meeting Dr. Meadors was instructed not to work or sit with Under Cover (UC) personnel because they were "shit"; (12) In August 2017, a Senior Special Agent provided a false statement to a federal grand jury and blamed Dr. Meadors for

a false statement to management; (13) On August 24, 2017, Dr. Meadors was verbally insulted, called a piece of “shit” and that he “did not belong”, by another agent and felt harassed in front of Group III coworkers; (14) On September 1, 2017, Dr. Meadors was counseled by the ASAC for the August 24, 2017, “in reference to proper resolution of disagreement with co-workers”; (15) On October 10, 2017, Dr. Meadors received a negative comment on his annual performance evaluation; (16) On March 8, 2018, a special agent from another field division informed Dr. Meadors that another special agent in his group told her that Dr. Meadors was a piece of “shit” and she should not work with him; (17) On August 9, 2018, Dr. Meadors was accused of not seeking Group III assistance on his cases; (18) On various dates, the Assistant Special Agent in Charge (ASAC) allowed ATF Baltimore Group III Task Force Officers to circumvent the chain of command to spread additional false statements about Dr. Meadors’ and an additional African American special agent; (19) On August 20, 2018, the ASAC provided a false statement to another agent stating that Dr. Meadors was fearful of undercover work; (20) On August 21, 2018, Dr. Meadors was informed that he was investigated by Internal Affairs; (21) On August 22, 2018, the Group Supervisor stated that the SAC and ASAC stated that Dr. Meadors was afraid of undercover work in Baltimore, MD; (22) On December 3, 2018, Dr. Meadors was falsely accused and investigated by Internal Affairs for falsifying an email; (23) On January 31, 2019, Dr. Meadors was falsely accused and investigated by Internal Affairs for “padding statistics”; (24) From January

15, 2020 to present, the Agency has not issued Dr. Meadors any substantive assignments; and, (25) On September 30, 2019, the Agency issued Dr. Meadors a “No Rating” for rating period October 1, 2018 to September 30, 2019.

III. FINDINGS OF FACT

Hostile Work Environment in Baltimore Group II – April to September 2016

1. Complainant Johnnie Meadors (African American, prior EEO activity) began working for the Agency as a Special Agent in May 2014. H.T. Vol. I at 12.²
2. Complainant was an Adjunct Professor/Advisor at the University of the District of Columbia prior to becoming a Special Agent and developed curriculum and taught math courses at the undergraduate and graduate level. His Ph.D. and Master’s degrees are from Indiana University. July 13 H.T. at 10-12, C’s SJ Ex. 2.
3. Complainant worked in Baltimore Group II from approximately October/November 2016. His colleagues were Javon Weaver (African American), Sergeant Johnson (Caucasian), Dave Azur (Caucasian), Jeff Silver (Caucasian), and Daniel May (Caucasian). July 13 H.T. at 50.

² Abbreviations are as follows: H.T. – hearing transcript; Ex. – exhibit; ROI – Report of Investigation; A. – Agency(s); p. – page; pp. – pages; Aff. – Affidavit; and C. – Complainant(s); Assistant Special Agent in Charge – ASAC; FOF – AJ’s Finding of Fact.

4. The chain of command for Complainant's organization was as follows: training agents, Group Supervisor, and the highest rank of all was Assistant Special Agent in charge (ASAC).
5. His Group Supervisor was Ram Mahanand (South Asian). Complainant's second-level supervisor from approximately 2016 to May 2017 was ASAC Jeffrey Matthews (Caucasian, prior EEO activity about 2 years ago). July 17 H.T. at 565, ROI (Matthews Aff. p. 3).
6. Kevin Kimm (Caucasian) was Complainant's Training Agent from approximately 2014 to July 2016. Lisa Christy (Caucasian) became his Training Agent in approximately August 2016. July 13 H.T. at 17, 40, 249.
7. Training Agents guide the trainees through the first two years after leaving the Academy, including conducting investigations, participating in operations, helping with paperwork and logistics, providing oversight, and ensuring that the trainee is involved in their cases. July 13 H.T. at 16, 249.
8. Complainant became the lead Case Agent on a Title III investigation in April 2016. A Title III investigation is an advanced investigation technique generally consisting of nonconsensual monitoring of a suspected criminal's communications. The investigations are highly scrutinized by the federal government and require extensive justifications and documentation prior to receiving approval to conduct the investigation. ROI at 81.

9. Most Title III investigations within the Baltimore Division had been handled by white Special Agents, who received praise for conducting proactive investigations. July 13 H.T. at 29-30.
10. The focus of Complainant's investigation was Larry Gilmer, a five-time felon. The Baltimore Police Department, the Southern District, was having difficulty with this target and asked Complainant to assist. Complainant learned that Gilmer was involved in a large, international, and violent organization that had operations throughout Baltimore. July 13 H.T. at 21, 45-46.
11. ATF Director Thomas Brandon personally approved Complainant's Title III investigation. Group Supervisors Ellis and Mahanand also wanted Complainant to pursue the Title III investigation. July 13 H.T. at 22, ROI 81.
12. All white Special Agents voted against the Title III investigation, and Christy suggested it was not a good idea for this case. July 13 H.T. at 26, 250.
13. Christy testified that there were two black Task Force Officers (TFOs) who voted against working on the Title III wire. July 13 H.T. at 254-255.
14. Matthews testified that Training Agents Kevin Kimm, Christy, and a "really tall African American male" reported that the case was worthy of a Title III investigation. Complainant's Ex. 3 at 27-28, July 14 H.T. at 394.
15. Michael Glenn (African American, prior EEO history unknown) was 6'1, and Edgar Allen (African American, no prior EEO) was 6'4 "absolutely did

not complain to Jeffrey Matthews about being frustrated about Title III investigation in any way." Glenn was the only other Black task force officer working in Group II at the time. Allen also testified that he did not vote against the wire. July 13 H.T. at 277; Exs. 4, 5.

16. Only white Special Agents, including agents Christy and Kimm, complained to Matthews about Complainant's Title III wire. Kimm also yelled at Meadors that he was "the reason the Ram was kicked out³." Allen had to come and grab Kimm and pull him away from Complainant. Ex. 4, July 13 H.T. at 28. Kimm should have been disciplined for this incident, but he was not.
17. Kimm stopped speaking to Complainant over the course of the wire and made no effort to provide oversight on Complainant's cases. He also did not assist with the hefty amount of documentation required by the ATF for a Title III investigation. July 13 H.T. at 30-31.
18. Christy, who was the "person that would act in place of a supervisor most of the time" did not check in with Complainant as his training agent nor assist in the wire room during the Title III investigation. July 13, H.T. at 36, 251-252; Complainant's SJ Ex. 6.
19. Christy said "the only arrests that are coming out of this case are Complainant and Ram." Complainant reported his concerns about Kimm's behavior and felt he was not being treated fairly. He explained to Mahanand that he felt punished for

³ Complainant was not the reason for Mahanand leaving.

doing proactive work, for which his white colleagues were rewarded. Complainant's SJ Ex. 6 at 1, 32.

20. When Complainant realized the lack of support he would receive on his Title III investigation from Group II, he found additional assistance and resources from the DEA.⁴ Mahanand testified that, to his knowledge, ATF was supposed to have access to the DEA's equipment during an ATF Title III. Complainant's SJ Ex. 7 at 2.
21. DEA Special Agent Raynette Kornickey (African American, no prior EEO) provided support as the DEA liaison on Complainant's Title III investigation, handled the DEA reports, assisted with funding, and provided use of the DEA listening post. July 13 H.T. at 293.
22. Kornickey testified that Complainant took care of everything on the ATF side and was responsible for all of the Title III warrants, all of the arrest warrants, tracker warrants, and general paperwork. Complainant worked extensively, sometimes sleeping overnight at his office on a cot purchased by contract monitors assisting him in the wire room. July 13, H.T. at 293-295.
23. Kornickey did not remember seeing Kimm or Christy in the wire room and believed that Complainant's work product as an investigator was outstanding. July 13, H.T. at 37-38, 294-95.
24. ASAC Matthews ended Complainant's Title III investigation in August 2016 because he believed

⁴ DEA stands for Drug Enforcement Agency.

that the targets were not violent enough. While the investigation initially targeted individual police shootings and increased violence, the majority of Complainant's targets were seasoned who had been drug trafficking for a long time. They were part of the violent Bloods gang. July 13 H.T. at 37-38, 299, 301-2.

25. All of Group II knew that Complainant was putting in a lot of extra work at the end of the Title III investigation. July 13, H.T. at 40.
26. Christy had two trainees aside from Complainant, Brendan Plasha (Caucasian) and Jim Keay (Caucasian). She only emailed Complainant claiming that he was out of the office so much that she needed to know what he was doing. Complainant's Ex. 1.
27. Complainant considered the email to be harassment and reported it to his supervisor, Group Supervisor Bernie Arellano (Caucasian). Complainant also considered it discriminatory because his Caucasian coworkers were not subjected to the same scrutiny. Arellano only told Complainant to take his training report directly to Christy. He also did not address Complainant's concerns. Ex. 1. July 13 H.T. at 20-41.
28. Keay became lead Case Agents on a Title III investigation in Group II. Plasha, unlike Complainant, had assistance of a cold case agent, a senior agent to assist with all of the administrative tasks, and advanced undercover agents. July 13 H.T., at 48-49.

Hostile Work Environment – Baltimore Group III –
Fall 2016 to Spring 2017

29. Matthews temporarily assigned Complainant to Group III to assist Dannenfelser (Caucasian, prior EEO history unknown) from approximately October/November 2016 to February 2017. July 13 H.T. at 50, 62.
30. Complainant's supervisors in Group III were the following: Dennis Turman (African American, unknown prior EEO history) until about March 2017; John Oakey (Caucasian, unknown prior EEO history) from May 2017 to about April 2018; Timothy Lee (African American) from about April 2018 to December 2018; and Christopher Elof (Caucasian, unknown prior EEO history) from approximately February 2019 to present⁵. Complainant's SJ Ex. 1; ROI 377, 292, 455.
31. The Group III Special Agents were Timothy Moore (Caucasian, unknown prior EEO), Jonathan Vaccarelli (Caucasian, unknown prior EEO), Troy Dannenfelser (Caucasian, unknown prior EEO), Sean Sullivan (Caucasian, unknown prior EEO), Lindsay Erbe (Caucasian, unknown prior EEO), and Jimmie Grissette (African American, unknown prior EEO). Christy transferred to Group III around April 2018. July 13 H.T. at 50-51, 52-53, 126.
32. Complainant reached out to Agent John Cooney (Caucasian, unknown past EEO) to use his

⁵ The term "present" needs some clarification since Complainant was transferred to Headquarters and now occupies a position there.

Confidential Informant (CI) during September or October of 2016. Cooney told Complainant that if his CI wanted to work with Complainant, he could. July 13 H.T. at 52-54.

33. Special Agent Whitney Cruse (African American, Prior EEO as a complainant, filed in May 2019 awaiting Hearing) contacted Complainant about a week later stating that she overheard Cooney in her office telling his CI not to work with or trust Complainant. July 13 H.T. at 54, July 14 at 331.
34. Cooney had several conversations with his CI in front of Cruse. Cruse was also concerned for Complainant's safety and warned him, since it is rare for Special Agents to warn about other Special Agents to CIs. It can create potentially dangerous situations or the CI purposefully placing the Special Agent in danger. July 13 H.T. at 55, July 14 H.T. at 324, 334.
35. Complainant had not heard of any special agent tell a CI not to trust another federal agent as that would put that agent's life at risk. July 13 H.T. at 55, 58.
36. Cooney had never worked with Complainant before but believed he had a negative reputation in the Baltimore Field Division. Cooney testified that he had heard rumors that Complainant had allegedly lied on an affidavit for a Title III wire-tap investigation and provided information to another ATF agent that caused that agent to provide untruthful testimony to a grand jury. July 13 H.T. at 316-18.

37. Special Agent in Charge Daniel Board's Executive Assistant, Kimberly Morningstar (unknown prior EEO), sent an email entitled "The Night Before Inauguration". It contained racial implications to the Baltimore Field Division. She is part of the Front Office, the "face" of the organization. July 13 at 60.
38. Jonathan Vaccarelli (Caucasian, unknown prior EEO) falsely accused Complainant of working on two Title III investigations at the same time. Vaccarelli told Complainant that he had some "fucking nerve". July 14 H.T. at 63-64.
39. Complainant reported harassment to Dannenfelser who acted as if Complainant said nothing. Turman, who was retiring, told Complainant "This is how it is. Get used to it." July 13 H.T. at 67-68.
40. Dannenfelser had two case agents, all of Group III, and Task Force Officers assisting his Title III investigation, unlike Complainant. July 13 H.T. at 68.

Hostile Work Environment Baltimore Group III –
March 2017 forward

41. ASAC Matthews permanently reassigned Complainant to Group III via email on March 16, 2017. Complainant had believed that he would be returning to Group II at the conclusion of his temporary assignment. Complainant Ex. 2, July 13 H.T. at 69-70.
42. ASAC Matthews admitted that "Basically the truth to the matter is that Johnnie's being

transferred because he wasn't liked by Group II." July 13 H.T. at 276.

43. Moore and Dannenfelser instructed Complainant not to work with the DEA Task Force Officers. Moore told the EEI that Complainant was a "piece of shit" and that the undercovers who supported Complainant were "shit." July 13 H.T. at 74; ROI at 102.
44. Complainant participated in an undercover operation in the Eastern District of Baltimore by conducting surveillance on a "simple illegal contraband purchase" on July 28, 2017. July 13 H.T. at 82.
45. Complainant completed his surveillance and typed up the report to the ATF database and he reported and submitted it the following Monday. Complainant wrote in his final report that "MORGAN walked over to . . . Virgil HOLLAND . . . and retrieved an unknown item (suspected illegal narcotics) from HOLLAND." July 13 H.T. at 84-95; ROI 334.
46. U.S. Attorney Matthew Dellabetta (unknown prior EEO) called Complainant about surveillance. Moore had told Dellabetta that Complainant had seen greater specificity than what was in the report. July 13 H.T. at 85, July 14 H.T. at 376.
47. Complainant never departed from his report and did not advise Moore that he saw anything more specific than what was in his report, including gelatin capsules. July 14 H.T. at 375-76.
48. Moore asserted that Complainant had "lied to both myself and the United States Attorney's

office in the past.” Moore openly called Complainant a “liar and shifty agent” and advised another agent, Rebecca Tomlison (race and prior EEO unknown) to work with Complainant at “her own risk.” July 14 H.T. at 349, 375-76; July 13 H.T. at 86.

49. Dellabetta did not consider the ATF Report to contain any lies. July 17 H.T. at 378-79.
50. Retired Group Supervisor Turman explained that operational plans are “a template document which is used as a guide and an informational document to make all those aware participating in the operation of the developments, persons, places, things, nature of the operation, type of operation.” He also states that it is “not out of the ordinary for the number of occupants to differ from the operational plan in urban police settings.” July 14 H.T. at 420-21, Complainant’s Ex. 1.
51. Uncontrollable variables include “Mostly just the activity inside or out the house can change at the drop of a dime, and we know that, but the operational plan is pretty basic . . . it’s the best case scenario.” July 14 H.T. at 421.
52. What Moore had described was “within the realms of a normal contingency.” Complainant’s Ex. 1.

Hostile Work Environment Allegations 14-16, Baltimore Group III

53. Senior Special Agent for the Internal Affairs division (OPRSO) Jordi Clop (prior EEO unknown) emailed Complainant to schedule an interview

regarding the contract monitors on July 25, 2017. July 13 H.T. at 94-95.

54. Clop stopped the recorder and asked Complainant about Group II after the interview concluded and Complainant explained the harassment, unfair treatment, and racial discrimination that he experienced in Group II. July 13 H.T. at 95-96
55. Complainant conducted undercover work for the Enhanced Enforcement Initiative (EEI) on August 24, 2017. EEI Agents asked Complainant to purchase \$15,000 to \$20,000 worth of heroin from a violent organization in Baltimore. Group Supervisor Oakey (unknown prior EEO) instructed Special Agent Vaccarelli to allow Complainant to use his rental car. July 13 H.T. at 97-99.
56. Complainant used a cigar to avoid smoking marijuana when offered during the undercover drug transaction. He returned to the ice to complete the paperwork and accidentally left the cigar in the car console. July 13 H.T. at 97-99.
57. Vaccarelli yelled at Complainant; "You're a piece of shit. You don't belong. You can't do one thing flicking right." Complainant responded that they should at least try and be professional when talking to each other in the office. July 14 H.T. at 101, 473.
58. Complainant then cleaned and returned the car after Vaccarelli informed him about the cigar and the rental company did not charge any penalty. July 14. H.T. 101, ROI at 38990.
59. Oakey emailed Complainant and Vaccarelli to instruct them to report to ASAC Clop for a meeting.

Complainant emailed Oakey to explain his perspective on what had happened on the same day. Clop instructed both agents to “work together” and stated that he “could have initiated an Internal Affairs investigation against” them. July 14 H.T. at 474-75.

60. Complainant stayed past the meeting to tell Clop that he felt harassed when he was called a “piece of shit”. He was rated 4 out of 7 on his Full Year 2017 performance appraisal on October 10, 2017. July 13 H.T. at July 14 H.T. at 111.
61. Complainant’s Full Year 2017 performance appraisal originally listed “Member was verbally counseled in reference to proper resolution of disagreements with coworkers.” July 13 H.T. at 114-115.
62. Complainant emailed ASAC Clop and Group Supervisor Oakey on October 11, 2017 that Vaccarelli “Verbally Assaulted, Verbally insulted, and verbally degraded[,] yelled and cursed [. . .] all while telling me that I do not belong on this job.” Complainant also explained that he did not want to be perceived as the “Angry Black Man” stereotype. Complainant’s Summary Judgment Exhibits 9 and 10.
63. Both Complainant’s and Vaccarelli’s FY 2017 performance appraisals referenced the verbal altercation and depicted them as being equally at fault despite the fact that Complainant was verbally abused. Vaccarelli testified that while he was raising his voice during the altercation, Complainant was “not really, no.” July 14 H.T. at 473.

64. Vaccarelli received a “5” rating, while Meadors received a “4.” Agency’s SJ Ex. 14. Vaccarelli also refused to sign his appraisal. Hr’g Tr. Vol. II at 477-78.
65. This episode demonstrates that coworkers could freely, openly and with hostility challenge Complainant Meadors with impunity. Vaccarelli should have been disciplined with at least a suspension of some length, perhaps one to three days, or more if a full investigation revealed aggravating circumstances, such as the use of profanity or abject disrespect. The fact that the Agency did little or nothing to Vaccarelli after he verbally attacked Complainant Meadors, without Vaccarelli first mildly discussing the matter prior to the hectoring of Complainant, is illustrative.
66. On July 25, 2017, Jordi Clop, Senior Special Agent for the Internal Affairs Division (OPRSO) at the time, emailed Dr. Meadors to schedule an interview regarding the contract monitors. HT Vol. I at 94-95.
67. Once the interview concluded, Clop paused the recorder and asked Dr. Meadors about Group II. HT Vol. I at 95-96. Dr. Meadors described the harassment, unfair treatment, and racial animosity he experienced in Group II. *Id.* at 96.
68. On August 24, 2017, Dr. Meadors was conducting undercover work for the Enhanced Enforcement Initiative (EEI) when the EEI Agents asked Dr. Meadors to purchase \$15,000 to \$20,000 worth of heroin from a violent organization in Baltimore. HT Vol. I at 97-99. Because Dr. Meadors’s undercover identity was from out of town, Group

Supervisor Oakey instructed Special Agent Vaccarelli to allow Dr. Meadors to use his rental car. *Id.* at 99.

69. On March 8, 2018, Moore told Rebecca Tomlison a Special Agent from the Washington Field Division, that Dr. Meadors “had lied in the past during one of [Moore’s] investigations[.]” ROI 321. He told Tomlison that Meadors “was a liar and a shifty agent and to work with him at her own risk[.]” *Id.*
70. Tomlison shared Moore’s statements with Dr. Meadors and said, “I can’t believe one of your own group people is calling and saying these things about you.” HT Vol. I at 121. After this, Dr. Meadors reported the harassment to Group Supervisor Oakey. HT Vol. I at 120.
71. On June 4, 2018, Robert Cekada became the Special Agent in Charge of the Baltimore Field Division. As the Special Agent in Charge, he was Dr. Meadors’s third-level supervisor. Agency’s SJ Ex. 17, p. 1.
72. During this time, the Group III Task Force Officers were William Knoerlein (Caucasian), Michael De Franco (Caucasian), Paul Geare (Caucasian), Ivo Louvado (Caucasian), Chris Faller (Caucasian), Dave Pietryak (Caucasian), and Michael Pratt (African American). *Id.* at 51-52, 75, 126; ROI at 114. In May 2017, Jimmie Grissette (African American) joined Group III. HT Vol. III at 519.
73. Around August 2018, ASAC Clop stated that “SA Meadors did not work with other members of his

group and worked independently or with his trainee.” ROI 413. Group Supervisor Timothy Lee, Dr. Meadors’s direct supervisor, did not agree with Clop’s position. HT Vol. III at 500-501. Lee “didn’t agree with it because every time that [Dr. Meadors] had an operation that was scheduled or he was doing undercover or whatever the case may be, you know, he would put in the op plan or submit the op plan just like any other agent or TFO and, you know, we had everybody on board and went out and covered these fields, so I just didn’t know where that statement came from.” *Id.*⁶

74. Generally, Special Agents “worked in tandem with just another agent or maybe three agents at the most.” HT Vol. I at 127. Often, Christy worked with John Hayden; Pietryak worked with De Franco; and Geare worked with Sean Sullivan. *Id.* On occasion, the agents would conduct one-person surveillance. Complainant’s Hrg. Ex. 5; HT Vol. I at 130-131.
75. When Dr. Meadors asked other members for assistance, most declined. HT Vol. I at 128; ROI 114. Other Group members did not invite Dr. Meadors to work on their cases. HT Vol. I at 128; HT Vol. III at 542 (“If anybody asked to help him like I did, he probably would have, you know, relished the fact of getting some help.”); 557-558 (Grisette explaining that Dr. Meadors would talk to

⁶ Lee explained that working independently with the trainee was “basically how it . . . works.” HT Vol. III at 501. The training agent is supposed to “take the trainee up under your arm, up under your wing, basically, and show him or her, you know, the ropes, the power to do the job.” *Id.*

task force officers frequently regarding his cases).

76. In July or August 2018, Group III TFOs, including De Franco and Knoerlein, asked Dr. Meadors and Grissette to place a surveillance car in Baltimore City for an ongoing investigation. HT Vol. III at 521. About “a month or a couple weeks later,” Group III accused Dr. Meadors of conducting surveillance with his trainee, Grissett, without notifying the supervisor, while “wearing black outfits, a balaclava, black ball-cap, dark vest and a M4 weapon visible, with no law enforcement or POLICE markings visible.” ROI at 415; *see also* HT Vol. I at 213; Hr’g Tr. Vol. III at 521. However, Complainant testified that the only time that Dr. Meadors had put a mask on was to get out of the vehicle with the video camera installed in, to get back into the second vehicle which the other agent was driving – the reason why he did this was so the subjects would not be able to identify him, as he was under cover in Baltimore. HT Vol. III at 502. Dr. Meadors “didn’t get out of the car with a rifle” and that all ATF Agents had rifles in their Government vehicles. Agency’s SJ Ex. 15, p. 40, 42; HT Vol. III at 502-3. No one had instructed Dr. Meadors that he was required to seek written permission from Cekada and the Resident Agent in Charge prior to using balaclavas. HT Vol. I at 216; HT Vol. III at 626-27. No one had instructed Dr. Meadors that he was required to wear an ATF vest while wearing the balaclava. *See also* HT Vol. III at 552 (“you don’t normally wear markings on surveillance.”) Dr. Meadors had been working on undercover operations in balaclavas and without ATF vests, with the full knowledge

of the Group and in conjunction with EEI Special Agents. HT Vol. III at 521-23, 25-26. Grissette was “shocked because for me[,] Dr. Meadors had always, you know, been, you know, overtly cautious, always very concerned about safety, always trying to follow, you know, proper rules and procedures.” HT Vol. III at 521-22.

77. ASAC Cloup accused Lee of not being aware of the circumstances. ROI 413. Group III never attempted to discuss the incident with Dr. Meadors or Grissette and bypassed Group Supervisor Lee and complained directly to ASAC Cloup and SAC Cekada. HT Vol. I at 214; HT Vol. III at 522 (Grissette “was shocked that the task force officers didn’t come to us and express a concern, you know, skipped coming to us and expressing concern or asking a question. They went right to the ASAC and SAC.”)
78. Dr. Meadors usually spoke with Lee by phone two or three times a day to keep his supervisor apprised of his investigative activities. HT Vol. I at 123; Complainant’s SJ Ex. 13. He would also usually speak with Lee in person in the mornings and talk with him throughout the day. HT Vol. I at 125; *see also* HT Vol. III at 499.
79. While Lee was in training from August 6 to 17, 2018, he was available by phone and email. ROI 296; HT Vol. III at 497-98. Other than a couple occasions when was away for training or on vacation, he was in the office. HT Vol. III at 497.
80. SAC Cekada informed Dr. Meadors to “eat crow” and seek Group III assistance on his investigations. ROI 413. Cekada instructed Dr. Meadors

not to conduct any “further investigative duties without seeking the assistance of Group III members.” *Id.* Dr. Meadors “departed from the meeting believing members of the Baltimore field division could harass or do anything to [him] because the members were supported by management.” *Id.* When Dr. Meadors reported this incident to Group Supervisor Lee, he responded that he also felt that he was being harassed by management because he was an African American. *See* ROI 297 wherein Lee stated that “I felt like I was treated unfairly as the [Group Supervisor] and although I don’t [know] if race had anything to do with [it,] it sure did feel like it did.”

81. On August 15, 2018, Clop referred Dr. Meadors to an Internal Affairs (IA) investigation by alleging that he “falsified” an email and exposing him to a career ending “Lack of Candor” charge. Agency’s SJ Ex. 16, p. ATFIAD-000003. The August 10, 2018 email, located on page ATFIAD-000128, Agency’s SJ Ex. 16, is regarding “Prisoner Transport (761040-16-0011) Jesse Elder.” HT Vol. I at 154. For “prisoner transports there isn’t a formal process [for notifying the Group Supervisor], but you could just simply let your group supervisor know that you’re doing it.” HT Vol. I at 255-56. Prisoner transports are a common, low-level activity, and Christy has handled more than a hundred transports while working with ATF. HT Vol. I at 256. Dr. Meadors always kept Lee apprised of his surveillance and undercover operations. HT Vol. III at 498. He had orally informed Lee that he would be conducting a prisoner transport and had attempted to send an email as

a simple formality and reminder. Agency's SJ Ex. 16, ATFIAD-000153-56.

82. Clop called Erbe and Christy to ask them if they received the email. HT Vol. I at 223. Clop informed Cekada that Meadors falsified an email on August 16, 2018. HT Vol. I at 222. Cekada reported the incident to his superiors and the United States Attorneys' Office. *Id.* at 224-225. Lee explained "it didn't appear that they tried to look at it any further." Agency's SJ Ex. 15 at 35.
83. Clop never reached out to Dr. Meadors for his explanation, side of the story.
84. During the IA investigation, "An experienced contractor with the Office of Science and Technology (OST) asserted that the problems experienced by SA Meadors with the August 10, 2018, e-mail are very common" and that "OST is aware of at least three documented e-mail issues in the last six months, which influenced the receipt and delivery of email. Those issues were either under Microsoft or DOJ's responsibility to fix." Agency's SJ Ex. 16 at 4.
85. The Agency did not charge Dr. Meadors with falsifying the email, Lack of Candor with respect to falsifying the email, and did not issue him a *Giglio* determination. *See* Agency's SJ Ex. 21.
86. In early August 2018, ASAC Clop and SAC Cekada offered Meadors the choice of working administrative assignments in Group III or being assigned to the Tactical Operations Office, TOO. HT Vol. I at 174, 228. Dr. Meadors elected TOO. *Id.* at 228.

87. On August 20, 2018, ASAC Clon told Grissette that Dr. Meadors was afraid of undercover work. HT Vol. III at 539-40. On August 22, 2018, ASAC Clon and SAC Cekada told Lee that Dr. Meadors was afraid of undercover work. ROI 296.
88. On December 3, 2018, Dr. Meadors learned that the Internal Affairs investigation was initiated by ASAC Clon and was regarding a falsified email. ROI 120.
89. On January 7, 2018 while as Acting Group Supervisor, Moore provided ASAC Clon with cases that he believed were “padding statistics.” ROI at 332. On January 31, 2019, Dr. Meadors learned that he was being accused of padding statistics. ROI 124. Christy assisted Moore in reviewing N-Force for entries where Dr. Meadors had the same defendants in different cases listed. HT Vol. I at 256-57; ROI at 329. Acting Group Supervisor Moore, Christy, and ASAC Clon never attempted to discuss the entries with Dr. Meadors. Agency’s SJ Ex. 19, pp. 25-26; HT Vol. I at 257; HT Vol. II at 356.
90. “[O]ther than the fact that there was duplication, [Moore] did not provide Clon with any other evidence that Dr. Meadors had been disingenuous with his case management and documentation[.]” Hr’g Tr. Vol. II at 356. The only information that Mr. Moore provided Mr. Clon regarding the allegation that Dr. Meadors padded statistics is “[j]ust what you see in that e-mail.” *Id.*; *see also* ROI 332 (email).
91. Retired Group Supervisor Turman explained that “You could get duplicate defendants on

N-Force, especially if you have merging or spin-off cases. When that happens, the defendants in one case may appear in another case. Usually, you would just talk to the agent to figure out why there are duplicates and to subtract a defendant from one case or the other, or instruct the agent not to merge the case, or take some other action on the database. The responsibility for resolving the duplication is with management. If the duplication was an unintentional error, then I don't view it as 'padding statistics.' However, you need to have that conversation with the agent first to find out if the error was intentional or not." Complainant's SJ Ex. 1 at 3. "You would confirm with the agent or agents, plural, to deconflict, meaning you would ascertain if a particular defendant is related to both investigations, you would try to either find out whether they're merging the investigation, closing and keeping one open, but that's a conversation with the people involved and the deconfliction, which is a term, common, that we use." Hr'g Tr. Vol. II at 424.

92. Ultimately, the Agency did not charge Dr. Meadors with padding statistics, or Lack of Candor with respect to padding statistics, and did not issue him a *Giglio*⁷ determination. See Agency's SJ Ex. 21.

⁷ *Giglio v. United States*, 405 U.S. 150 (1972), is a United States Supreme Court case in which the Court held that the prosecution's failure to inform the jury that a witness had been promised not to be prosecuted in exchange for his testimony was a failure to fulfill the duty to present all material evidence to the jury, and constituted a violation of due process, requiring a new trial.^[1] This is the case even if the failure to disclose was a matter

93. On March 9, 2019, Dr. Meadors filed a formal EEO complaint, and the Agency began collecting affidavits from Agency witnesses in and around late June 2019. *See, e.g.*, ROI at 393 (ASAC Clop), 453 (GS Elof), 483 (ASAC Crosby).
94. The Internal Affairs investigation concluded in August 2019. HT Vol. I at 174.
95. On September 30, 2019, Elof and SAC Cekada issued Dr. Meadors a “No Rating” for FY 2019, because they had not assigned him any substantive work due to the Internal Affairs investigation. HT Vol. I at 229; Agency’s SJ Ex. 18; Agency’s SJ Ex. 17, T7-8.
96. During the IA investigation, the Agency obtained text messages from Dr. Meadors’s cellphone that contained explicit language and images, the bulk of which were not sent by Dr. Meadors. Complainant’s SJ Ex. 8. He served a two-day suspension on October 21, 2019 for a Charge of Failure to Follow Policies, Procedures or Instructions. Agency’s SJ Ex. 21.
97. The U.S. Attorneys’ Office completed its *Giglio* review on January 14, 2020. Agency’s SJ Ex. 17, p. 3. They did not issue a *Giglio* letter. HT Vol. I at 172.

of negligence and not intent. The case extended the Court’s holding in *Brady v. Maryland*,^[2] requiring such agreements to be disclosed to defense counsel.^[3] As a result of this case, the term *Giglio material* is sometimes used to refer to any information pertaining to deals that witnesses in a criminal case may have entered into with the government.

98. As of the hearing, the Agency has not returned Dr. Meadors to a position. HT Vol. I at 178-79. From January 15, 2020 to the hearing, the Agency has not issued Dr. Meadors any substantive assignments. *Id.* The Agency has not proffered any reasons for the delay, *See generally supra.*

Other Evidence of Race and Reprisal-based Discrimination, Disparate Treatment and Harassment

99. For black Special Agents, the experience at ATF was much different than the general experience for white Special Agents. Special Agent Cruse described “a cultural issue within the ATF.” HT Vol. II at 339. She testified:

You’re not treated fairly. People walk past you without speaking. It’s that kind of toxic environment that we have to earn it up and it’s kind of just like you deal with it, you know. . . . Like, I would be looked at differently if I was seen speaking to Johnnie in public. So it’s a toxic environment for African-Americans. *Id.*

100. Retired Group III Supervisor Turman described a conversation with Assistant Special Agent in Charge, Brian Klass, who called Turman to warn him that “several members of the group [III]” were “racist” and “liars and that they were not to be trusted.” HT Vol. II at 432. Turman stated that

While at the Baltimore Field Division, I experienced bias as a black agent and based on my experience there, I believed that there is a bias against black agents and minorities.

Complainant's SJ Ex. 1, p. 4.

101. Group Supervisor Lee attested "I felt like I was treated unfairly as a GS and although I don't [know] if race had anything to do with [it,] it sure did feel like it did." ROI 297.
102. Special Agent Grissette observed a difference in treatment between white and black agents, where he was treated worse, and Dr. Meadors even [worse] so. HT Vol. III at 549-550.
103. Former Group II Supervisor, Ram Mahanand, attested that "I was in a hostile work environment created by Jeffrey Matthews. There weren't that many other minority supervisors in Baltimore Division. I believe he exhibited biases against minorities." Complainant's SJ Ex.7, p. Mahanand further testified that:

While I was Johnnie's Group Supervisor, I felt him to be a brilliant, sharp, and excellent agent. He wanted to do what was best, he wanted to learn, he wanted to put the bad guys in jail. He was a hard worker. He's a great kid, an outstanding individual, really wanted to make a difference. It is very rare that a rookie agent would want to take on the responsibility of a Title III, [which] numerous senior agents would not touch.

Complainant's SJ Ex. 7, p. 2.

104. DEA Special Agent Komickey and ATF Special Agent Weaver described Dr. Meadors as dedicated, smart, hungry, fine in writing skills, energetic and hard-working. HT Vol. 1 at 301-2 and Vol III at 577.

105. Lee, GS from Group III, testified that:

Q. How did he [Complainant Meadors] rank with Group 3 in terms of hours worked?

A. I think . . . he was ranked at the very top, if not the top, because he worked all times of the night and then was there during the day.

Q. And how did he rank with the group in terms of productivity?

A. Again, I felt that he was one of the better agents and I think he ranked at the top.

HT Vol III at 497.

106. Grissette testified that “the majority of [agents in ATF] was essentially like 9 to 4:30ish[.]” but Dr. Meadors routinely worked longer hours and over the weekend. HT Vol. III at 533, 543-45. Grissette testified:

and I believe during the meeting with SAC Cekada and ASAC Clap, when they first mentioned to me that the TFOs were concerned about me and that they had seen me – and that’s why I didn’t realize it was going to be the surveillance vehicle, but they had seen me and Johnnie out at night and being unsafe, I kind of, internally I kind of chuckled and I said there is just no way in the world because they wouldn’t have been out. There’s no way in the world that they would have [seen] Dr. Meadors and I out late because they just didn’t work those hours, they didn’t work that late. You know, Dr. Meadors and I would be out, you know, sometimes on

a Saturday morning, you know, 2, 3 o'clock in the morning then we'd go back to the office, so they just wouldn't be out.

HT Vol. III at 543-44.

107. White Special Agents ganged up against Dr. Meadors and impugned him and his reputation, performance and character. Cruse testified that it was "[p]retty widely known" that other Special Agents called Dr. Meadors an "idiot" and alleged that he "didn't know what he was doing when it came to work[.]" HT Vol. II at 332-333. Training Agent Kimm openly disparaged Dr. Meadors, falsely accused him of being the cause of Mahanand's departure from the Agency, and subjected Dr. Meadors to "the silent treatment" and refused to assist him in any way. Training Agent Christy failed to involve Dr. Meadors in her cases or provide him with any training and spread false rumors that Dr. Meadors was going to be arrested or indicted and accused him of "not being in the office enough." She subjected her other black trainee, Weaver, to a gamut of harassing behavior. HT Vol. III at 566-573. With respect to the Title III investigation, white Special Agents Kimm, Christy, Azur, and Hayden provided "minimal" support and "had a very condescending tone with Johnnie." HT Vol. III at 575-76.
108. Despite arguing that Group II was a "reactive" group, Group II almost immediately handled a second Title III investigation, led by white Special Agent Plasha, who received more resources and support than Dr. Meadors. In addition, GS Lee testified that Group I was considered to be

the “arson group,” “but the remainder of the agents are usually just dispersed throughout the field division based on how management deems necessary[.]” HT Vol. III at 509. There “are no other special function[s] per group other than for Group I, arson[.]” *Id.*

109. ASAC Matthews conceded that Dr. Meadors “kind of reminded me of myself when I was a new agent, [I] wanted to save the world, to be quite honest.” HT Vol. II at 401. While ASAC Matthews rose through the ranks, ASAC Matthews unexpectedly reassigned Meadors to Group III via email and without prior notice. Following this, Meadors’s career stagnated. Weaver testified that, had Dr. Meadors been white, Dr. Meadors would be much further along than where he is. I believe that he would be one of the star agents. I think that he would probably be considered to be a supervisor. I think that he would probably be – I know that he would have gone on to do advanced undercover school and he probably would somehow be somewhat of a subject matter expert in the matter. I don’t believe that he would have been sat down for two years in the TO shop doing absolutely nothing coming from an agent who was – had so many targets, had such a large volume of work that he created for himself. I believe that he would be much – I think he would have been treated differently. There’s a lot of cliques inside of the Baltimore Field Division and I believe those cliques to some degree have racial overtones or undertones. And I believe that . . . Mr. Meadors would definitely be much, much better off than where he is now. HT Vol. III at 581-82; *see also* Complainant’s Hrg Ex. 7.

110. Grissette described that, “even beginning work in Baltimore Group 3, there’s always been unsolicited kind of, you know, negative commentary about [Complainant] wanting us to work. It’s just kind of been, you know, just, you know, off the cuff derogatory statements about Dr. Meadors.” HT Vol. III at 540. He described the tone within Group III as “belittling”, “dismissive” and not something he had “experienced before in the federal or private sector.” *Id.* at 538-39. On two occasions, Special Agent Jonathan Vaccarelli openly yelled at Dr. Meadors, saying that he had some “fucking nerve,” “didn’t belong” and “[y]ou’re a piece of shit.” On multiple occasions, Senior Special Agent Timothy Moore called Dr. Meadors “a piece of shit[,]” “a liar and a shiny agent” to other agents. ROI 102, 321. Moore’s narrative shifted significantly on multiple occasions and is also disputed by other witnesses, including a wholly objective employee from outside of ATF – AUSA Dellabetta. *Compare* Moore’s testimony that he never said anything derogatory about Turman with his testimony that he did not have any factual bases for the allegations that he spread about Turman. HT Vol. III at 613-14, Turman’s testimony that Moore spewed “vitriol” against him at HT Vol. II at 433-34 and Kelvin Jackson’s corroborating testimony that the derogatory conversation involving Moore and Dannesfelser occurred HT Vol. III at 602-5.
111. Although Special Agent Cooney had never worked with Dr. Meadors, he was aware that Dr. Meadors had a “negative reputation in the Baltimore Field Division.” HT Vol. II at 316-17. Cooney had been “told by more than one person that [Dr.

Meadors] allegedly may have lied on an affidavit for a Title III wire[-]tap investigation and provided information to another ATF agent that caused that agent to provide untruthful testimony in a grand jury.” *Id.* at 317. He heard those statements from “several different individuals throughout the Baltimore Field Division, mainly in the Baltimore Field Division groups[.]” *Id.* at 317-318.

112. ASAC Clop’s testimony is replete with errors and mischaracterizations. He stated Group Supervisor Elof provided him with Dr. Meadors’s “padded” entries. Elof stated he was not involved, and Moore testified he was instructed by ASAC Clop to provide the documentation to him. ROI 423 (Clop); ROI 327-28 (Moore); ROI 478-79 (Elof). With respect to falsely claiming that Dr. Meadors feared undercover work, ASAC Clop stated that he “never made a statement like this to anybody. I am not aware of anybody making this statement.” ROI at 417. However, Lee testified that both ASAC Clop and SAC Cekada made this statement to him, and Grissette also testified to ASAC Clop making the statement on another occasion. ROI at 296; *see also* Agency’s SJ Ex. 15 at 24:12-18; HT Vol. III at 504. ASAC Clop described the falsified email as regarding a complex undercover operation; however, the IAD investigation shows an email regarding a routine prisoner transport that his supervisor had already approved. ROI 419; Agency’s SJ Ex. 16, ATFIAD-000128, ATFIAD-000153-56.
113. Grissette testified that ASAC Clop and SAC Cekada’s expressions of concern for their safety

were not genuine. HT Vol. III at 528-59. Grissette testified that contrary to the Agency's statements, Dr. Meadors was the one who was "always [...] extremely tactically sound, always concerned about, [...] being safe." *Id.* at 527. On the other hand, ASAC Clop and other Group III agents placed Grissette in an abnormally dangerous operation within weeks of chastising Dr. Meadors regarding safety issues. *Id.* at 528-29.

114. Dr. Meadors attempted to resolve the disparate treatment, reprisal, and harassment from Agency employees and supervisors with his superiors. In seeking relief from the hostile work environment, he engaged in protected opposition. But in August 2018, ASAC Clop told Dr. Meadors that he was beginning to think that Dr. Meadors was the problem, as he was the "common denominator." ROI 113. He told Dr. Meadors that he believed the other agents and that SAC Cekada could not imagine Mr. Vaccarelli yelling at another agent. *Id.* at 113-14. ASAC Clop admits that he "stopped trying to motivate him or help him become a better investigator." ROI 414. Group Supervisor Lee observed that "it appeared that [Clop] took more interest in [Meadors's] day-to-day activities." Agency's SJ Ex. 15, p. 20. Clop referred Meadors to Internal Affairs on or around August 21, 2018. However, Lee who supervised Dr. Meadors and whom Dr. Meadors had kept apprised of his operations and daily activities, provided Clop a copy of the email and did not believe Dr. Meadors made any attempt to falsify or lie about his whereabouts. He testified:

Q. Did it appear to you that the SAC and ASAC attempted to understand what had happened to Dr. Meadors' e-mail before they referred it to the Internal Affairs?

A. It didn't appear that way. Again, I was – you know, I looked at, I looked at the e-mail or the, the text that he had sent me with the snapshot on it. It looked like any other e-mail to me, it looked legit, and that's why I pulled it out, to basically inform the ASAC that he did, indeed, send this e-mail out to the acting supervisor at the time.

HT Vol. III at 506-7. ASAC Clonp never asked Dr. Meadors to simply explain the technical error. ROI 119.

115. ASAC Clonp continued to search for negative information from Moore, which he also forwarded to Internal Affairs. ROI 332 (January 7, 2019 email from Moore to Clonp: "Per your request, here's a few of the things I noticed that appear to be disingenuous in SA Meadors' cases"). Moore received help from Christy in identifying duplications in Dr. Meadors's case entries.
116. Duplications within N-Force were so common that there is a term used to describe the process to eliminate duplications, namely deconfliction. Dr. Meadors had already been assigned the administrative task of cleaning up his N-Force entries. All ASAC Clonp, Moore, and/or Christy had to do was to ask Dr. Meadors to clean up the entries that they had noticed. HT Vol. III at 508. However, no Agency employee ever made any attempt to clarify the entries with Dr. Meadors.

117. SAC Cekada relied on ASAC Clop for accurate information regarding the allegations against Dr. Meadors. HT Vol. I at 241-42. The Agency has admitted that the only reason that Dr. Meadors received a “No Rating” for 2019 and the lack of assignments was because of the Internal Affairs investigation that ASAC Clop initiated. HT “Vol. I at 225-26. Under the cat’s paw” theory, an employer may be found liable for the discriminatory animus of an employee or supervisor, even if he or she was not charged with making the ultimate employment decision, and *vice versa*.
118. SAC Cekada personally harbored animosity towards EEO complainants. HT Vol. II at 336-3117. 7 (wherein Cruse described her awareness that SAC Cekada “said people who file EEO complaints, they do that because they don’t want to work.”) Finally, the Agency has not proffered any reasons for why Dr. Meadors has not been placed in any position from January 15, 2020 through the dates of the hearing.
119. The testimonies and statements of Christy, Kimm, Cekada, Moore, and Clop are not credible and forthright and/or relied on factually incorrect circulated hearsay and gossip about Complainant Meadors.
120. The testimonies and statements of Turman, Delabetta, Varicella⁸, Cruse, Mahanand, Kornickey,

⁸ This is not a mistake. Varicella was truthful that he hectored Complainant over the “cigar in the rental” incident, and he was truthful in admitting that Complainant did not raise his voice during the episode. He should have received discipline for the incident. Kimm likewise should have been disciplined for his

Weaver, and Lee were adjudged to be fully credible and forthright. Many of these witnesses could be in danger of reprisal for speaking in support of the Agency discrimination against Complainant, yet they testified on behalf of Complainant fearlessly.

121. The testimony and statements of Complainant Meadors were adjudged fully credible and forthright in every way and aspect.

IV. ANALYSIS

Harassment⁹

The adjudication of this case demonstrated that the Group II SA/TA-side of the Baltimore Division of the ATF supported a generalized culture of favoring White SAs to the detriment of Black SAs, and in particular, Complainant Meadors. Cooney testified that he heard negative gossip before he ever worked with him. Several factual scenarios support this conclusion. TA Kimm, while shouting falsely that Complainant Meadors was “the reason the Ram was kicked out¹⁰” came close to physically assaulting Complainant and

incidents involving Complainant. They were not even referred to counseling or anger management.

⁹ This AJ normally analyzes similar cases by addressing disparate treatment, then reprisal, and lastly harassment analysis. The harassment analysis has been moved to the front because the false narrative cultivated by SAs and TAs, mostly in Group II, had a profound causative and nascent effect on the entire case.

¹⁰ Complainant was not the reason for Mahanand leaving the ATF. It is an established fact that he voluntarily retired.

may have done so but for the intervention of Allen.¹¹ Kimm was widely known for openly and expressly disparaging Complainant during the early phases of Complainant's career after leaving the Academy. SA Vaccarelli shouted for many minutes at Complainant Meadors for accidentally leaving a cigar, which was part of Complainant's undercover disguise, in a rental car which Vaccarelli¹² was returning to the rental company.¹³ Complainant was not permitted to advance his side of the story, a fact that repeatedly occurs in this case again and again, to Complainant's detriment. Vaccarelli also wrongly accused Complainant of working two Title III investigations at the same time. Morningstar, the Executive Assistant to the Special Agent in Charge (SAC) sent a race-based email titled "The Night Before Inauguration" throughout the Baltimore Field Division referencing "Black Lives Matter" and the firing of President Obama. One would have assumed that many days of suspensions would have been

¹¹ Kimm also stopped speaking to Complainant after this incident over the course of the wire and made no effort to provide oversight on Complainant's cases. He also did not assist with the significant amount of documentation required by the ATF for a Title III investigation. Christy was also absent from the wire room, yet she pestered Complainant as to his whereabouts, but she needed to do was to go to the wire room.

¹² Both Complainant's and Vaccarelli's FY 2017 performance appraisals referenced the verbal altercation and depicted them as being equally at fault despite the fact that Complainant was verbally abused. To his credit, Vaccarelli testified that while he was raising his voice during the altercation, Complainant was "not really, no" raising his voice in response.

¹³ The rental company did not surcharge or sanction the ATF.

administered to these three White ATF employees. However, the facts show that Morningstar alone received a one-day suspension. Kimm and Vaccarelli should have received suspensions from two to five days or more if the incidents had been fully investigated and led to unearthing more aggravating circumstances, such as abusive and profane language. Kimm and Vaccarelli should have also been referred for anger-management counseling. More importantly, these three incidents, and others as set forth above in the FOFs, manifest the culture of the Baltimore ATF during the time and events in this matter. Perhaps worst was the gradual false narrative being projected about Complainant being a poor¹⁴ SA among the White personnel in Group II. These incidents demonstrates the license and temerity that White SAs and TAs felt comfortable in assailing and maligning Complainant. It certainly did not help Complainant that two White TAs, Christy and Kimm, opposed him all the way. This false narrative impugning Complainant's character, professionalism and performance would lead to the more troubling employment actions taken against Complainant later. Turman told Complainant "This is how it is. Get used to it." Eventually, Complainant Meadors was reassigned to Group III, purportedly because the SAs in Group II "... didn't like him".

The main question in a claim of harassment is whether the instances of alleged harassment rose to a level of hostility such that they are actionable. In order

¹⁴ "Poor" is a mild characterization of the actual language hurled toward and about Complainant.

to violate Title VII, it must be sufficiently severe or pervasive to alter the conditions of a victim's employment and create an abusive working environment. Complainant has met both these thresholds of severity and pervasiveness. Complainant has also met his burden of proof by showing that the alleged harassment by many White agents and supervisors in this case as set forth in the FOFs was severe or pervasive enough to alter the conditions of Complainant's employment so as to create an abusive work environment. Most, if not all, of the acts, actions, and incidents Complainant complained of represented were not "proper remedial actions" that was reasonable for management to have taken.

The various actions and lack of support by management, supervisors and agents which Complainant alleges led to a hostile work environment and were pervasive and severe enough to create an abusive and hostile work environment. Complainant has established a prima facie case of a hostile work environment. Complainant has proven that the alleged harassment was based on his membership in protected classes based on his race and/or prior EEO activity, affected terms, conditions and/or privileges of employment, and/or had the purpose or effect of unreasonably interfering with his work environment. As aforesaid, assuming *arguendo* a prima facie case of harassment, the Agency has not set forth legitimate, nondiscriminatory reasons which Complainant showed were pretext or unworthy of credence, as set forth in the FOFs.

A statement by Clop to Complainant Meadors captures the fiction, and the etiology, of the harassment created against and about Complainant. Clop told Dr. Meadors that he was beginning to think that Dr. Meadors was the problem, as he was the “common denominator.”

Complainant has prevailed in this matter since the AJ is finding in his favor in each and every of the 25 Claims listed above, with the exception of Claim 5 which has been withdrawn by Complainant. As such, Complainant is entitled to relief based on the established harassment in this matter, said harassment being joined in by peers, TAs, SAs, supervisors and managers.

Disparate Treatment

In order to establish a prima facie case in a disparate treatment claim, Complainant must show that: 1) he is a member of a class or classes protected under Title VII from unlawful discrimination; and 2) a person outside his protected classes was treated more favorably under the same or similar circumstances.

Based on his race, Complainant is a member of a class which is protected from unlawful discrimination under Title VII. Complainant was administered disadvantaging employment actions in the ratings, reassignments, and other actions. Complainant has shown that many similarly situated comparators were more favorably treated under the same or similar circumstances. In order for two or more employees to be

considered similarly situated for the purpose of creating an inference of disparate treatment, the Complainant must show that all of the relevant aspects of the employment situation are identical or nearly identical to those of the nonprotected employee whom he or she alleges was treated differently. *Smith v. Monsanto Chemical Co.*, 770 F.2d 719, 723 (8th Cir. 1985); *Cynthia A. Scott v. US. Postal Service*, EEOC No. 01902344 (Sept. 20, 1990).

The instances of disparate treatment in this matter are numerous and indefensible as set forth in the FOFs above. The developing false narrative about Complainant from the predominantly White personnel in Group II became adopted by ATF Baltimore management. ASAC Matthews admitted that “Basically the truth to the matter is that Johnnie’s being transferred because he wasn’t liked by Group II.” Not being liked by his White coworkers in Group II, without getting Complainant’s side of the story, is biased and not a legitimate, nondiscriminatory reason for his transfer. Complainant has shown pretext for this employment action.

Another instance of disparate treatment, other than the lack of support for Complainant’s work and investigations in Group II, was his performance appraisal of October 10, 2017 in which Complainant received a “4” while Vaccerelli received a “5”, with no difference being recorded or discerned in their ratings based on Vaccerelli’s hectoring of Complainant despite Vaccerelli admitting that Complainant was restrained and composed in response. Complainant has

established a prima facie case of unlawful discrimination in his October 10, 2017 appraisal. Vaccarelli, like Kimm earlier, should have been disciplined for their behavior and language toward Complainant. The fact that neither of them were disciplined or referred to counseling or anger management is glaring and clearly evidence of discrimination and pretext. There was a license these agents enjoyed to disparage Complainant safe from reproach by superiors.

Another glaring example of Complainant's disparate treatment involved was when White SA Plasha became a lead agent in 2017 on a Title III investigation, Plasha received the support of a cold case agent, the support of a senior agent to assist with administrative tasks, and the support of "advanced undercover agents." As noted in the FOFs, Complainant was never afforded such significant support. In fact, both of his White TAs ignored Complainant. Meanwhile, Complainant, since he was not receiving support from within ATF, sought assistance from the Drug Enforcement Administration (DEA), and SA Kornickey fully testified to Complainant's diligence, prowess and extra efforts. ASAC Matthews ended Complainant's Title III investigation in August 2016 because he believed that the targets were not violent enough. The two links in Complainant's counsel's closing arguments in proposed FOF 32 fully refutes this pretext.¹⁵

¹⁵ The targets were part of the violent Bloods gang and associated with the Black Guerilla Family. *Id.* at 301-302. *See, e.g.,* Seth Ferranti, *How the Black Guerrilla Family Turned Maryland's Prison System into Their Personal Playground*, VICE,

The AJ could recite analyses of the other incidents/instances of disparate treatment as set forth in the FOFs; however, the parties can interpolate/extrapolate them based on the multiple FOFs.

Complainant has prevailed in this matter since the AJ is finding in his favor in each and every of the 25 Claims listed above, with the exception of Claim 5 which has been withdrawn by Complainant. As such, Complainant is entitled to relief based on the established and proven race and reprisal-based disparate treatment in this matter.

Reprisal

Prima Facie Case

To establish a prima facie case of reprisal discrimination, Complainant must show that: (1) he previously engaged in statutorily protected activity; (2) the Agency was aware of his protected activity; (3) he was subsequently subjected to adverse treatment by the Agency; and (4) the adverse action followed the protected activity in such a way as to indicate a nexus

https://www.vice.com/en_us/article/exm9q7/the-illicit-ventures-of-the-black-guerrilla-family-in-the-maryland-prison-system-1208 (December 8, 2014) and Robert K. Hurt, *Member of Baltimore's Violent "Murdaland Mafia Piru" Bloods Gang Sentenced to 30 Years in Federal Prison for Racketeering and Drug Conspiracies Attempted to Smuggle Razor Blades Into the Courtroom on the Final Day of Trial, Bureau of Alcohol, Tobacco, Firearms, and Explosives*, <https://www.atf.gov/news/pr/member-baltimores-violent-murdaland-mafia-piru-bloods-gang-sentenced-30-years-federal>, (October 11, 2019).

between the prior EEO activity and the challenged action.

Complainant has established a prima facie case reprisal since all four elements of the above paradigm have been met.

Complainant filed his formal EEO complaint on February 6, 2019. The continuing theme of reprisal and harassment began in 2016.

The Agency has failed to set forth legitimate, non-discriminatory reasons for the challenged actions. Complainant has proven that the alleged reasons advanced by the Agency are pretext and/or unworthy of credence.

The undersigned could have included further analysis of the facts and events set forth in the FOFs; however, the parties have been apprised of the many extrapolations and interpolations of harassment, disparate treatment and reprisal from those express FOFs.

V. DECISION

Complainant's claims of discrimination based on race, reprisal and harassment based on said bases are Sustained, and judgment in Complainant's favor on all Claims set forth above at pp. 2-3 are Granted, with the exception of Claim 5 which was withdrawn by Complainant.

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This matter is not final, or appealable, until after a Decision on Damages, an Award on Attorneys' Fees, and an Order Entering Judgment are issued. The parties and the AJ are to schedule a status teleconference in March 2021 and the undersigned has many dates for the call from March 8 through 30. The parties are noticed that the available legal and equitable relief are to be discussed. For example, the matter of what position and under what supervision and management Complainant is to be placed is paramount. The parties should also be prepared to discuss which Agency employees must submit to EEO training and the type of training.

For the EEOC.

/s/ Laurence Gallagher
LAURENCE GALLAGHER
ADMINISTRATIVE JUDGE

It is So Ordered:

March 4, 2021

Date

APPENDIX Q

McLaughlin, Lori D.

From: Michael Beasley [michaelbeasley@nuttyboyz.com]
Sent: Monday, April 20, 2009 4:37 PM
To: McLaughlin, Lori D.
Subject: FW: McLaughlin v. ATF
Importance: High

Lori,

I don't think they will like this much . . . but it is what it is.

Mike

From: Michael Beasley
Sent: Mon 4/20/2009 4:35 PM
To: Campbell, Rhonda (USADC)
Subject: RE: McLaughlin v. ATF

Memo for Rhonda Campbell, AUSA:

Dear Rhonda,

I am very concerned about this proposed "global resolution" and settlement offer from your client. I am concerned because it is, perhaps, the most glaring example of demonstrable retaliation for prior protected activity that I have seen in many years.

In fact, Ms. McLaughlin's transfer to Dallas Field Office was officially approved by the Agency on Wednesday, April 15, 2009. The proposed effective date is

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7/19/09. Notification was timely made to Ms. McLaughlin on Thursday, April 16, 2009.

Now the Agency would appear to be withdrawing approval of the transfer, after the fact, for the express purpose of coercing my client to drop both her Federal lawsuit and the current EEO Complaint. Moreover, the apparently surreptitious use of your office and good faith communications to obtain a flatly deceptive settlement result reflects extremely poor judgment on the part of the Agency and its representatives.

We will, of course, reject this demonstrably bad faith "global settlement" effort.

Please further note that any attempt by the Agency to reverse this previously communicated transfer decision will be called exactly what it is – retaliation for prior protected EEO activity – and appropriate follow-up actions will be taken on behalf of my client.

Sorry to have to inform you of all of this; I have no doubt that ATF has not done so.

Respectfully,

Mike Beasley

Counsel for Plaintiff Lori McLaughlin

From: Campbell, Rhonda (USADC)
[mailto:Rhonda.Campbell@usdoj.gov]
Sent: Fri 4/17/2009 12:52 PM
To: Michael Beasley
Cc: Campbell, Rhonda (USADC); Meng, Katherine A.
(ATF)

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Subject: McLaughlin v. ATF

Michael:

Per our telephone conversation, the following is the Agency offer:

Ms. McLaughlin's transfer to the Dallas Field Division effective 7/19/09 (Agency will not pay for her move to Dallas). This offer would have to be a global resolution, to include her pending complaint in U.S. District Court, as well as her newly filed complaint regarding her 2008 performance appraisal. At your convenience, please let me know your response. Thanks Rhonda

Rhonda L. Campbell
Assistant United States Attorney
United States Attorney's Office
for the District of Columbia
Direct (202)514-9519
Facsimile (202)514-8780

McLaughlin, Lori D.

From: Golson Sr., Michael A.
Sent: Thursday, April 16, 2009 10:38 AM
To: McLaughlin, Lori D.
Subject: FIN: Voluntary Transfer Request – General
(S/A McLaughlin)

fyi

MICHAEL A. GOLSON, SR.
ASSISTANT SPECIAL AGENT IN CHARGE
DALLAS FIELD DIVISION

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469-227-4301 OFFICE
214-505-8175 CELLPHONE

From: Cooke, Cassandra R.
Sent: Wednesday, April 15, 2009 3:58 PM
To: O'Brien, Virginia T.; Golson Sr., Michael A.
Cc: Torres, Julie M; McMahon, William G.
Subject: Voluntary Transfer Request – General (S/A
McLaughlin)

This serves as the official notification.

S/A Lori McLaughlin, Orlando FO, Tampa FD, has been approved for a transfer to the Dallas II FO, Dallas FD. The proposed effective date for this reassignment will be 7/19/09. Please notify S/A McLaughlin of this approval.

I will initiate the HR-connect action for this re-assignment.

Cassandra R. Cooke
program Analyst
Field Management Staff (FO)
Operations Support Branch
Room# 6S-173 202-648-7228
FAX# 202-648-9611

APPENDIX R

McLaughlin, Lori D.

From: James Fuchs [jfuchs@sniderlaw.com]
Sent: Tuesday, May 01, 2012 4:15 PM
To: Chashawn_White@dcd.uscourts.gov
Cc: McLaughlin, Lori D.;
wyneva.johnson@usdoj.gov
Subject: RE: Hearing

With all due respect, I believe that this was a matter, concerning which it was improper for Ms. Johnson to provide an ex parte verbal communication. This is also, as I understand, not the first time that Ms. Johnson has engaged in ex parte communications with this Court, and I view her conduct as improper. Given the extreme inconvenience that she has caused me, and expense that she has caused my client, I believe that Ms. Johnson should provide a sworn affidavit to the Court.

In any event, I would request that this Court not allow Ms. Johnson to engage in further, improper, ex parte communications with this Court.

Thank you.

Best regards,

James Fuchs

Dr. James L. Fuchs, Esq.
Law Offices of Snider and Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax

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-----Original Message-----

From: Chashawn White@dcd.uscourts.gov
[mailto:Chashawn White@dcd.uscourts.gov]
Sent: Tuesday, May 01, 2012 4:52 PM
To: James Fuchs
Cc: McLaughlin, Lori D.; wyneva.johnson@usdoj.gov
Subject: RE: Hearing

The Court did not require a formal affidavit, only for Ms. Johnson to give notice; which she did via verbal communication.

Best Regards,

Chashawn D. White
Courtroom Deputy for
Judge Rosemary M. Collyer
202-354-3176 (Direct)
202-354-3146 (Fax)

From: James Fuchs <jfuchs@sniderlaw.com>
To: "Chashawn White@dcd.uscourts.gov"
<Chashawn White@dcd.uscourts.gov>
Cc: "McLaughlin, Lori D."
<Lori.D.McLaughlin@usdoj.gov>,
"wyneva.johnson@usdoj.gov"
<wyneva.johnson@usdoj.gov>
Date: 05/01/2012 04:08 PM
Subject: RE: Hearing

Ms. White.

Thank you. I had not realized that Ms. Johnson had filed an affidavit. I will look for it.

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Thanks again,

James Fuchs

Dr. James L. Fuchs, Esq.
Law Offices of Snider and Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax

- - - -Original Message- - - -

From: [Chashawn White@dcd.uscourts.gov](mailto:Chashawn_White@dcd.uscourts.gov) [[mailto:Chashawn White@dcd.uscourts.gov](mailto:Chashawn_White@dcd.uscourts.gov)]
Sent: Tuesday, May 01, 2012 4:02 PM
To: James Fuchs
Cc: McLaughlin, Lori D.; wyneva.johnson@usdoj.gov
Subject: Re: Hearing

Mr. Fuchs,

The Court cancelled the trial date due to the unavailability of witnesses.

Best Regards,

Chashawn D. White
Courtroom Deputy for
Judge Rosemary M. Collyer
202-354-3176 (Direct)
202-354-3146 (Fax)

From: James Fuchs <jfuchs@sniderlaw.com>
To: "[Chashawn White@dcd.uscourts.gov](mailto:Chashawn_White@dcd.uscourts.gov)"
<[Chashawn White@dcd.uscourts.gov](mailto:Chashawn_White@dcd.uscourts.gov)>
Cc: "wyneva.johnson@usdoj.gov"
<wyneva.johnson@usdoj.gov>,

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"McLaughlin, Lori D."

<Lori.D.McLaughlin@usdoj.gov>

Date: 04/30/2012 03:00 PM

Subject: Hearing

Ms. White:

The Judge simply cancelled the trial date, without explanation.

Given that I spent several hours traveling to Washington, D.C., apparently for no purpose, I would like to have some sense of the status of this.

Thank you.

James Fuchs

Dr. James L. Fuchs, Esq.

Law Offices of Snider and Associates, LLC

600 Reisterstown Road

Seventh Floor

Baltimore, MD 21208

410-653-9060 phone

410-653-9061 fax

McLaughlin, Lori D.

From: McLaughlin, Lori D.

Sent: Wednesday, June 06, 2012 9:22 AM

To: 'James Fuchs'

Subject: RE: 08-cv-01256-RMC MCLAUGHLIN v.
MUKASEY

Call me 972-342-0056 thanks

Sent with Good (www.good.com)

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-----Original Message-----

From: James Fuchs [jfuchs@sniderlaw.com]

Sent: Tuesday, June 05, 2012 05:09 PM Eastern
Standard Time

To: McLaughlin, Lori D.

Subject: FW: 08-cv-01256-RMC MCLAUGHLIN v.
MUKASEY

FYI

Dr. James L. Fuchs, Esq.
Law Offices of Snider and Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax

-----Original Message-----

From: James Fuchs

Sent: Tuesday, June 05, 2012 5:09 PM

To: 'Chashawn_White@dcd.uscourts.gov';
wynewa.johnson@usdoj.gov

Subject: RE: 08-cv-01256-RMC MCLAUGHLIN v.
MUKASEY

Ms. White:

As you are surely aware, I have filed a motion to consolidate, which, I would presume, is the impetus for this email.

I do have a 9:30 status conference in D.C. in another case, so perhaps a conference could be coordinated with that. Otherwise, given what happened last time, and

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in all fairness to my client, is there any reason that I cannot appear for this "conference" by telephone?

I again repeat my request that there be no more improper ex parte communications by Ms. Johnson with the Court.

Thank you,

James Fuchs

Dr. James L. Fuchs, Esq.
Law Offices of Snider and Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax

- - - -Original Message- - - -

From: Chashawn_White@dcd.uscourts.gov
[mailto:Chashawn_White@dcd.uscourts.gov]
Sent: Tuesday, June 05, 2012 5:03 PM
To: James Fuchs; wyneva.johnson@usdoj.gov
Subject: 08-cv-01256-RMC MCLAUGHLIN v.
MUKASEY

Counsel,

The Court would like to get a new trial date on her calendar for this case. Please look at the following dates and advise your availability: 11/5/2012 through 11/9/2012, 11/13/2012 through 11/19/2012, and 11/26/2012 through 11/30/2012.

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When responding to this message, please reply to all.

Best Regards,

Chashawn D. White
Courtroom Deputy for
Judge Rosemary M. Collyer
202-354-3176 (Direct)
202-354-3146 (Fax)

APPENDIX S

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LORI D. MCLAUGHLIN)	
)	
Plaintiff,)	Civil Action No.
)	08-CV-1256 (RMC)
v.)	
)	
ERIC H. HOLDER, JR.,)	
Attorney General,)	
DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	

PLAINTIFF'S MOTION IN LIMINE
AND MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
OF PLAINTIFF'S MOTION IN LIMINE

Plaintiff requests that the spread sheets that Defendant plans to introduce into evidence be held inadmissible, or that said spreadsheets be supplemented with the HR-Connect Award Listing for employees in the Tampa Field Division.

Plaintiff's counsel suggested to Defendant's counsel that said spreadsheets may not be the best evidence. (See Email from James Fuchs to Benton Peterson, dated March 17, 2013) (which is attached hereto as Exhibit 1). Defendant's counsel has not responded.

With respect to the integrity of the spreadsheets, Plaintiff notes that Defendant submitted, in Federal discovery in this litigation, a graph showing the case

production for special agents assigned to the Orlando Field Office. The chart reflected that the Plaintiff had “0” general investigations opened during the rating period. In fact, the Plaintiff had opened “3” general investigations (767015-08-0001, Suicide at Shooting Gallery Range, Angelo Organization, Josephine Sunshine Overaker) during the rating period. In addition, no special agent who received an “outstanding” performance evaluation produced more than three (3) general investigations. Coincidentally, Defendant’s former employee, RAC Russell May, testified under oath during a Federal Deposition (Civil Action No. 08-cv-01256, April 16, 2010, Page 410) that he shared the information in the charts with some special agents. However, the Plaintiff was never given the opportunity to review the chart for accuracy. Although Defendant was able to manipulate the graph to deny the Plaintiff an “outstanding” performance evaluation, Defendant could not manipulate the investigative data in the N-Force Database. (See Exhibit 2: Subpart Exhibit #1).

Moreover, Defendant submitted, within the course of an EEOC investigation, a listing of employees who were purportedly evaluated by Defendant’s employee, ASAC John Ryan, in 2009. In fact, Mr. Ryan did not complete the performance evaluations for several employees identified on Defendant’s listing. S/A Reginald Young confirmed that Mr. Ryan did not complete his 2009 Performance Evaluation. Defendant could thus manipulate the listing, but Defendant could not manipulate the performance data in the HR-Connect Database. (See *Id.*, Subpart Exhibit # 2).

In the same vein, Defendant had submitted, in EEOC discovery, a listing of employees that Mr. Ryan had rated "Outstanding," with respect to their 2009 Performance Evaluations. The Agency mis-represented that S/A Bryan Page was a "Black/Male". In fact, S/A Bryan Page is a "White/Male" and is therefore not of the same race as the Plaintiff. The Agency also misrepresented that S/A David Robison was a "GS-14." S/A David Robinson has the same grade as the Plaintiff: to wit, a "GS-13". (*See Id.*, Subpart Exhibit #3).

Defendant additionally stated, during EEOC discovery (Agency's Response to Complainant's Interrogatories, First Request for the Production of Documents and Admissions, EEOC No. 450-2011-0000144X, Agent No. ATF-2010-00184, Dated June 8, 2011, Page 10), that Mr. Ryan had to complete the Plaintiff's 2009 Performance Evaluation, because the Orlando Field Office did not have a supervisor in the office for the required 90 days to complete the evaluations. Contrary to Mr. Ryan's statement, the Plaintiff had two (2) supervisors for the required 90-days timeframe. Again, Defendant could manipulate the information, but Defendant could not manipulate the time/attendance data in the WebTA Database. (*See Id.*, Subpart Exhibit #4).

Defendant also stated, during EEOC discovery (Agency's Response to Complainant's Interrogatories, First Request for the Production of Documents and Admissions, EEOC No. 450-2011-0000144X, Agent No. ATF-2010-00184, Dated June 8, 2011, Page 10), that Mr. Ryan "opted not to include extensive narrative comments for any employee" in the Orlando Office.

This statement was made regarding the Plaintiff's 2009 Performance Evaluation. Yet, Mr. Ryan provided extensive details regarding the investigative activities for S/A Scott Peralá and S/A David Robison. The Agency could manipulate the information, but the Agency could not manipulate the performance data in the HR-Connect Database. (*See Id.*, Subpart Exhibit #5). Thus, in view of the above integrity issues with Agency "generated evidence," the Plaintiff believes that the spreadsheets should be inadmissible or supplemented with the HR-Connect Award Listing for employees in the Tampa Field Division. Plaintiff believes that such measures are necessary to ensure that the jury receive correct factual information, and that the members of the jury not be forced to base their decision on manipulated data. There is no question that Defendant is unable to manipulate the HR-Connect Database. This awards data will accurately reflect the "cash" awards paid to the employees, because this database is connected to the National Finance Center Database used to calculate the salary/benefits for all of Defendant's employees.

Moreover, Mr. May testified under oath, during a Federal Deposition (Civil Action No. 08-cv-01256, February 19, 2010, Page 252), that the Plaintiff did not receive a "cash" award for Operation Frequent Flyers because "at that time to his knowledge there was no cash awards being offered, available". Defendant submitted a Motion in Support of Notice of Intent to Issue a Decision Without Hearing (EEOC No. 510-2006-00272X, Agency No. E-050001, Dated) involving the

WIFLE Conference/DOJ Community Service Award on August 16, 2007. Defendant attached the HR-Connect Award Listings for special agents in the Orlando Field Office. The HR-Connect Award Listings revealed that Plaintiff was told false information in 2006, and that Mr. May had testified falsely in 2010, in that another special agent received a \$500.00 award on the same day (10-1-2006) that the Plaintiff received a “time-off” award. In addition, another special agent received a \$1,187.00 cash award on December 24, 2006. (*See Id.*, Subpart Exhibit #6).

The principles, according to which Plaintiff seeks unadulterated data, are comparable to those of the best evidence rule: the purpose of which is to prevent fraud and evidentiary inaccuracy. (*See 6 Weinstein’s Federal Evidence* § 1002.03 (2006)).

WHEREFOER, Plaintiff requests that the spread sheets that Defendant plans to introduce into evidence be held inadmissible, or that said spreadsheets be supplemented with the HR-Connect Award Listing for employees in the Tampa Field Division.

Respectfully submitted,

/s/

Michael J. Snider, Esq., #24695
James L. Fuchs, Bar #17092
Allan E. Feldman, Esq. #503357
Snider & Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone

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410-653-9061 fax
jfuchs@sniderlaw.com email
ecf@sniderlaw.com email
Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2013, a true and correct copy of the foregoing document was filed electronically. Notice of the filing was sent by operation of the Court's electronic filing system to all counsel of record. Parties may access this filing through the Court's electronic filing system.

Respectfully submitted,

/s/

Michael J. Snider, Esq., #24695
James L. Fuchs, Bar #17092
Allan E. Feldman, Esq. #503357
Snider & Associates, LLC
600 Reisterstown Road
Seventh Floor
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax
jfuchs@sniderlaw.com email
ecf@sniderlaw.com email
Attorneys for the Plaintiff

APPENDIX T

McLaughlin, Lori D.

From: McLaughlin, Lori D.
Sent: Wednesday, July 27, 2022 4:18 PM
To: Hicks, Pamela J.
Cc: Ambuehl, Jennifer E.; Anderson, Melissa A.; Orlow, Barry S.; Weger, Jennifer A.; shanna.devine@mail.house.gov; McLaughlin, Lori D.
Subject: REQUEST FOR UPDATE – RE: Request for Authorization to Purchase EEO Transcript (Johnnie Meadors v. Barr)
Attachments: 7th Circuit CA 2020-10-29 Delgado vs. DOJ.pdf; United States v. Hilliard.pdf; Labno testimony.pdf; Labano Closing Statements.pdf

Hello –

Can you please provide an update regarding the below matter? Again, I would like the agency's authorization to purchase several transcripts containing the EEO deposition testimony recorded in the case of S/A Johnnie Meadors. In my opinion, your office is attempting to "cover-up" misconduct (i.e., Perjury, Lack of Candor, Lying During an Administrative Proceeding, etc.) committed by sworn law enforcement officers. In fact, the ATF Office of Chief Counsel (OCC) has a long history of protecting "white" special agents (i.e., ASAC John Ryan, S/A Paul Johnson, S/A Chris Labno, etc.) from

these types of allegations. Conversely, OCC has routinely abused the DOJ Giglio Policy in order to retaliate against "African American" special agents (i.e., S/A Lori McLaughlin, S/A Johnnie Meadors, S/A Antonio Johnson, S/A Rondell Campbell, etc.). Specifically, "white" special agents are allowed to testify in Federal court with Giglio impairments and "African American" special agents are removed from their testifying positions as field criminal investigators.

Please understand, I will appeal my lawsuit all the way to the U.S. Supreme Court in my efforts to expose the on-going corruption inside our Department of Justice and your office. As evidence, I have attached the publicly available documents surrounding "perjury" allegations against S/A Chris Labno in the Chicago Field Division. Specifically, S/A Chris Labno was accused of committing "perjury" during a criminal trial in Federal court. Most importantly, the allegations were reported by another ATF special agent (S/A Adam Delgado/Mexican American). However, OCC and OPRSO failed to conduct any misconduct investigation or official interview of S/A Adam Delgado regarding the matter. There is no question if the roles were reversed, OCC and OPRSO would have investigated and terminated a "Mexican American" special agent for committing "perjury" in a Federal trial. Based on S/A Adam Delgado's evidence, the Seventh Circuit Court of Appeals cited that S/A Chris Labno's testimony was also contradicted by other special agents. (Page 9, Paragraph 2) Yet, OCC and OPRSO still refused to conduct the necessary misconduct investigation or any interview of

S/A Adam Delgado after the court decision. Most disturbing, DOJ gave the court the impression or misrepresented in *DOJ vs. Hilliard* (Page 8, Section A, Paragraph 2) that the “perjury” allegations were unfounded and unsubstantiated in the appeal of a criminal case alleging Brady violations by DOJ attorneys.

In closing, I have accepted that DOJ/ATF management officials were successful in destroying my professional career, reputation, creditability, and integrity without a single integrity violation or any accountability from AG Merrick Garland. Nevertheless, I will not accept them doing so without the necessary adjustments to the DOJ Giglio Policy to prevent the same miscarriage of justice against other “African American” special agents. Given the betrayal of public trust, there must be consequences for such egregious misconduct committed by top-level government officials inside our “Department of Justice”. Furthermore, it is unacceptable, unconstitutional, and un-American for DOJ attorneys to allow a “white” special agent to imprison a minority citizen (African American) or any American citizen without the legally required Brady notification. While our courts have clearly placed DOJ attorneys above the law in this country, I am still hopeful that the Congressional Oversight Committee will take its oath and responsibility to the American people in a more serious manner. As recently stated by Senator Charles E. Grassley (Letter to AG/FBI – July 25, 2022), “Congress has an obligation to investigate the Executive Branch for fraud, waste, abuse and gross mismanagement – acts which undermine faith in the American people’s

governmental institutions”. Personally, I can’t think of any “institution” greater than the American criminal justice system.

To that end, I will not stand silently and allow DOJ attorneys to continue violating the “due process rights” of the American people. Again, I would like authorization to purchase several EEO transcripts, including the transcript of S/A Timothy Moore. Please advise.

Thanks!

From: McLaughlin, Lori D.

Sent: Monday, July 18, 2022 12:03 PM

To: Hicks, Pamela J. <Pamela.Hicks@atf.gov>

Cc: Ambuehl, Jennifer E. <Jennifer.Ambuehl@atf.gov>; Anderson, Melissa A. <Melissa.Anderson@atf.gov>; Orlow, Barry S. <Barry.Orlow@atf.gov>; Weger, Jennifer A. <Jennifer.Weger@atf.gov>

Subject: FW: Request for Authorization to Purchase EEO Transcript (Johnnie Meadors v. Barr)

Hello –

I would greatly appreciate your assistance with the below matter. In short, I would like authorization to purchase the transcript containing the EEO deposition testimony and not any EEOC hearing. Most importantly, ATF did not “notice” or fund the EEO depositions. Given that these transcripts are not in the possession and control of ATF, they can not be classified as “agency” records. Furthermore, your office can not deny me access to these records in order to cover-up “perjury” and other misconduct committed by ATF

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employees. According to the EEOC Administrative Judge, five (5) ATF witnesses were not credible during the EEOC Hearing. In addition, your office can address any "Privacy Act" concerns with a simple email to S/A Johnnie Meadors and request his authorization to release his EEO deposition transcripts. Coincidentally, I and other EEO complainants have funded many EEO depositions and ATF has never placed a hold on the transcripts in our EEO cases.

Should I not receive a timely response authorizing the release of these transcripts, I will forward my request to the new ATF Director.

Thanks!

From: Anderson, Melissa A. <Melissa.Anderson@atf.gov>
Sent: Thursday, June 30, 2022 2:20 PM
To: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>
Cc: Ambuehl, Jennifer E. <Jennifer.Ambuehl@atf.gov>
Subject: RE: Request for Authorization to Purchase EEO Transcript (Johnnie Meadors v. Barr)

SA McLaughlin, I believe the transcript of an EEOC hearing would in fact be an agency record and thus FOIA remains the appropriate venue. Additionally, I believe that authorizing the release of a transcript in someone else's EEO matter would be a Privacy Act violation.

Melissa

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From: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>
Sent: Wednesday, June 29, 2022 5:31 PM
To: Ambuehl, Jennifer E. <Jennifer.Ambuehl@atf.gov>
Cc: Orlow, Barry S. <Barry.Orlow@atf.gov>;
Anderson, Melissa A. <Melissa.Anderson@atf.gov>;
Weger, Jennifer A. <Jennifer.Weger@atf.gov>
Subject: RE: Request for Authorization to Purchase
EEO Transcript (Johnnie Meadors v. Barr)

Hello –

For the official record, I would greatly appreciate your assistance with the below matter. Thanks!

From: Anderson, Melissa A. <Melissa.Anderson@atf.gov>
Sent: Wednesday, June 29, 2022 5:27 PM
To: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>;
Weger, Jennifer A. <Jennifer.Weger@atf.gov>
Cc: Orlow, Barry S. <Barry.Orlow@atf.gov>
Subject: RE: Request for Authorization to Purchase
EEO Transcript (Johnnie Meadors v. Barr)

You have my response.

From: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>
Sent: Wednesday, June 29, 2022 5:21 PM
To: Anderson, Melissa A. <Melissa.Anderson@atf.gov>;
Weger, Jennifer A. <Jennifer.Weger@atf.gov>
Cc: Orlow, Barry S. <Barry.Orlow@atf.gov>
Subject: RE: Request for Authorization to Purchase
EEO Transcript (Johnnie Meadors v. Barr)

Ms. Anderson –

You must have misunderstood my email. I'm not attempting to obtain any "agency" records. I would like

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to purchase a transcript from a private company that was funded by an EEO Complainant (Johnnie Meadors). Thus, this transcript is not an “agency” record and not covered by FOIA. I would greatly appreciate someone contacting the company and authorizing the release of the transcript, as DOJ attorneys will not cover-up any misconduct associated with this Giglio impairment.

Thanks!

From: Anderson, Melissa A. <Melissa.Anderson@atf.gov>
Sent: Wednesday, June 29, 2022 4:12 PM
To: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>;
Weger, Jennifer A. <Jennifer.Weger@atf.gov>
Cc: Orlow, Barry S. <Barry.Orlow@atf.gov>
Subject: RE: Request for Authorization to Purchase
EEO Transcript (Johnnie Meadors v. Barr)

SA McLaughlin,

The proper way to obtain an agency record is through a Freedom of Information Act request.

Melissa Anderson
Associate Chief Counsel
Litigation

From: McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>
Sent: Wednesday, June 29, 2022 2:19 PM
To: Weger, Jennifer A. <Jennifer.Weger@atf.gov>;
Anderson, Melissa A. <Melissa.Anderson@atf.gov>
Cc: Orlow, Barry S. <Barry.Orlow@atf.gov>;
McLaughlin, Lori D. <Lori.McLaughlin@atf.gov>
Subject: Request for Authorization to Purchase EEO
Transcript (Johnnie Meadors v. Barr)

Hello –

On May 19, 2022, I attempted to purchase an official transcript containing the testimony of S/A Timothy Moore. For some reason, I was told that ATF (Jennifer Weger) denied my request. Under what authority, can ATF deny such a request? If DOJ attorneys are truthfully reporting Giglio impairments to Defense Counsel, ATF does not have any reason to deny access to any EEO transcript. Clearly, ATF can't refuse to settle my lawsuit and withhold evidence of S/A Timothy Moore committing **perjury** during his EEO deposition. Coincidentally, I was removed from my position without any integrity violation and S/A Timothy Moore was given a DOJ award after committing an integrity violation. This transcript will be great evidence for my lawsuit.

Therefore, I would greatly appreciate someone authorizing the immediate release of the transcript.

Thanks!

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APPENDIX U

THE SPOKESMAN-REVIEW

Washington Idaho

NEWS > WASHINGTON

**ATF pays \$450,000 to settle discrimination
lawsuit involving a boss with a Nazi tattoo**

Mon., Nov. 18, 2019



Bureau of Alcohol, Tobacco, Firearms and Explosives Supervisory Special Agent Cheryl Bishop, shown with explosives dog Allegra, filed a lawsuit against the bureau alleging discrimination, retaliation and harassment. (Courtesy / MacDonald Hoague & Bayless)

A senior African American supervisor at the Seattle office of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will receive \$450,000 and get a

private meeting with the agency's director to settle a civil-rights lawsuit alleging the agency retaliated after she complained of racial harassment by another supervisor who has a Nazi tattoo.

In addition to the cash payout, Cheryl Bishop, a senior supervisory agent in Seattle and former bomb-dog handler, will receive a ring commemorating a previous assignment as the first female member of the ATF's Special Response Team (SRT). The ring will be presented to Bishop during a meeting with ATF Acting Director Regina Lombardo.

Bishop filed her lawsuit in 2018, alleging the agency scuttled her prestigious appointment to work at its Washington, D.C., headquarters after she filed an Equal Employment Opportunity Commission (EEOC) complaint against fellow supervisor Bradley Devlin, the bureau's resident agent in charge in Eugene, Oregon.

According to court documents, Devlin has worn a Nazi-themed tattoo – showing what's described as a "German Eagle SS Lightning Bolt" – since the early 2000S. He says he got it while working undercover to infiltrate an Ohio white-supremacist biker gang called The Order of Blood. That operation led to several arrests.

Though his bosses have said they were "appalled," Devlin hasn't had the tattoo removed. The agency has said it would pay for the procedure.

Devlin could not be reached Monday and has not previously commented on the lawsuit.

Devlin's tattoo, along with a series of emails sent from his ATF account mocking black people and then-President Barack Obama, were at the heart of Bishop's lawsuit. Devlin was Bishop's supervisor in Seattle from 2009 to 2011 and she alleges he has continued to disparage her work since. The Seattle Field Division of ATF oversees offices in Washington, Oregon, Idaho, Alaska, Hawaii and Guam.

Bishop's lawsuit got traction in September when U.S. District Judge Thomas Zilly summarily denied a government motion to dismiss her claims and ordered the case to trial this month.

and well, I encourage anyone who encounters them to speak out – that's the only way change happens."

April Langwell, an ATF spokeswoman in Washington, D.C., said the bureau has no additional comment on the settlement. She reiterated that employees who engage in conduct that might adversely affect the public's perception of the agency or impact its integrity or professionalism are subject to discipline, but she would not say whether Devlin was disciplined. She said he remains employed by the ATF.

Bishop joined the ATF in 1989, but left in 2003 to act as personal bodyguard for Amazon.com founder and CEO Jeff Bezos. She returned in 2009, when she was assigned to a gun-crimes task force headed by Devlin, according to court documents. She later went on to be a bomb-dog handler.

In Bishop's lawsuit, she says the agency abruptly decided she could no longer be a K-9 handler if she took a one-year assignment and promotion to work in the ATF Science and Technology division, after previously telling her she could do both.

Bishop has since retired her bomb dog, Allegra, and has been promoted as supervisor of the Seattle division's Crime Gun Intelligence Center.

The government says in court filings a decision was made that Bishop could not do both jobs at the same time.

Bishop says the agency's about-face came just weeks after she had filed an EEOC complaint in May 2016, alleging racial harassment by Devlin, after he purportedly told a federal prosecutor in Oregon that he questioned Bishop's experience as a street agent and said she would be a "train wreck" if assigned to the Eugene office. Bishop claims it was the latest in a series of conflicts between the two, including an incident in 2009 when Bishop says she confronted Devlin after he sent racially offensive emails using an ATF email account to several agents in the Gang Group, including Bishop.

"As the only woman of color in our group. these emails publically humiliated me." she and reindeer superimposed. It states, "Merry Christmas from the Johnsons."

When Bishop confronted Devlin about these and other purportedly offensive emails, she claims he told her to "get the hell out of my office," and came around the desk with his fists balled. In other instances, she

claims Devlin had disparaged her as being “bossy,” “worthless,” “contemptuous,” and a “not-aggressive worker” – all comments the lawsuit alleges “stereotype black women.”

In another instance, after Devlin yelled at her about the use of her agency vehicle, Bishop says “she found a banana placed on the hood of her car in her new parking spot next to Devlin’s spot – a racist symbol of viewing Black people as monkeys,” the lawsuit alleges.

Bishop learned of Devlin’s Nazi-themed tattoo in 2009, when she was assigned to a group he supervised. The large tattoo on his left arm depicts an eagle bearing twin lightning bolts – a stylized “SS,” which Bishop acknowledged in a deposition is a reference to the brutal Schutzstaffel, Hitler’s notorious secret police responsible for murdering millions of Jewish citizens and ethnic minorities during World War II.

She said she complained to another supervisor at the time after a confrontation with Devlin, but nothing was done, although Devlin was transferred to Oregon not long afterward. Bishop says that she saw Devlin show off the tattoo in public, including at a retirement party for an agent in 2011, where she says he rolled up his sleeve and showed other colleagues “while eyeing (Bishop) with a grin.” He has said he views the tattoo as a “war trophy” from his undercover work.

After the agency learned that Devlin still had the tattoo and had sent the emails, the ATF withdrew his pending promotion to the agency’s Internal Affairs division. As a result, Devlin has claimed in a letter to

APPENDIX V



U.S. DEPARTMENT
OF JUSTICE
EQUAL EMPLOYMENT
OPPORTUNITY
POLICY

/s/ William P. Barr
William P. Barr

As the Nation's largest law enforcement agency, the Department of Justice has an especially important duty to uphold the rule of law and to maintain a dedicated and diligent workforce that pursues justice, equality, and fundamental fairness on behalf of all Americans. We differ in many ways, but this diversity helps us better serve our Country. It brings to bear diverse perspectives that enable us to carry out our responsibilities more effectively, protect our vital national interests, keep our country safer, and preserve the rights of all Americans.

Accordingly, the Department embraces equal employment opportunity (EEO) and inclusiveness. We welcome employees from diverse backgrounds to apply their skills and talents toward advancing our mission to serve the country, achieve justice, and promote the rule of law.

We must ensure that no applicant for employment or employee of our Department will be denied equal

opportunity because of race, color, religion, national origin, sex, age, sexual orientation, disability (physical or mental), gender identity, protected genetic information, pregnancy, status as a parent, marital status, political affiliation, or any other nonmerit-based factor. We will take swift and appropriate corrective and/or disciplinary action when employees are found to have engaged in discrimination, retaliation, or harassment, including sexual harassment, which are prohibited by our policies regardless of whether the discrimination, retaliation, or harassment violates federal law.

The Department provides reasonable accommodations to employees and applicants with disabilities and for religious observances or practices in accordance with established law, and supports the use of alternative dispute resolution to resolve EEO complaints and workplace disputes.

All DOJ employees and applicants for employment are afforded legal protections against EEO violations and have the right to raise allegations of discrimination and harassment without fear of reprisal. DOJ employees and applicants for employment who believe they have been subjected to discrimination, or to retaliation for participating in EEO activity, or for opposing discrimination, should contact their DOJ Component EEO office within 45 days of when the alleged harm occurred.

Since its founding in 1870, the Department of Justice has stood for equal justice under the law. The hard-working men and women who serve the Department

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and the Nation have my assurance that equal justice and equal opportunity will continue to flourish across the Department.

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APPENDIX W

[SEAL] **Office of the Attorney General**
Washington, D. C. 20530

October 9, 2015

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM: THE ATTORNEY GENERAL [/s/ [Illegible]]

Subject: Prevention of Harassment in the Workplace

POLICY MEMORANDUM # 2015-04

PURPOSE: Renews policy that the Department will tolerate no form of harassment and ensures that no employee is subjected to retaliation because he or she has alleged unlawful harassment or assisted in any inquiry about such allegations. The policy directs managers and supervisors to take immediate and appropriate corrective action to address all allegations of harassment and retaliation and to be accountable for failure to do so.

SCOPE: All Department components

POLICY: The Department of Justice will maintain a zero tolerance work environment that is free from harassment (including sexual harassment) based on sex, race, color, religion, national origin, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliation, or any other impermissible factor. The Department also will ensure that no

employee is subjected to retaliation because he or she has alleged unlawful harassment or assisted in any inquiry about such allegations. Managers and supervisors must take action quickly to respond to allegations of harassment or retaliation.

I want to take this opportunity to reiterate the Department of Justice policy of maintaining a work environment that is free from harassment (including sexual harassment) based on sex, race, color, religion, national origin, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliation, or any other impermissible factor. It is also the Department's policy to ensure that no employee is subjected to retaliation because he or she has alleged unlawful harassment or assisted in any inquiry about such allegations. The Department will tolerate no form of harassment and will take immediate and appropriate corrective action to address it.

Harassing conduct is defined as any unwelcome verbal or physical conduct that is based on any of the above-referenced characteristics when this conduct explicitly or implicitly affects an individual's employment; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile, or offensive work environment.

To enforce this zero tolerance policy, the Department will treat harassing conduct as misconduct, even if it does not rise to the level of harassment actionable under Title VII of the Civil Rights Act of 1964, as

amended. The Department will not wait for a pattern of offensive conduct to emerge before addressing claims of harassment. Rather, the Department will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. Even where a single utterance of an ethnic, sexual, racial, or other offensive epithet may not be severe enough to constitute unlawful harassment in violation of Title VII, it is the Department's view that such conduct must be prevented whenever possible through awareness, robust policies and effective and appropriate follow-up, investigation, and enforcement of the zero tolerance policy. The Department will not tolerate retaliation against any employee for making a good-faith report of harassing conduct or for participating in any inquiry about such a report.

Any employee who believes that he or she has been subjected to harassment should report such behavior immediately to a supervisor or higher level manager, the personnel officer in their office, or the individuals identified by their office to manage harassment allegations. Employees may also seek assistance from their Equal Employment Opportunity Office, the Office of Professional Responsibility, or the Office of the Inspector General. In addition, employees in a collective bargaining unit may seek assistance through appropriate provisions of their collective bargaining agreement. Employees who want to file a formal complaint of harassment and preserve their legal rights must contact their component's Office of Equal Employment

Opportunity within 45 days of the alleged unlawful harassment. The Department will protect the confidentiality of employees bringing harassment claims to the extent possible.

DOJ managers and supervisors must set the example in their organization by ensuring that the workplace is free of such behavior. Every manager and supervisor must:

- Be mindful of the potential for harassment in his or her work environment;
- Take all necessary steps to prevent harassment from occurring;
- Ensure that, if harassment does occur, it is eliminated in a manner that is prompt and effective but minimizes the effect on the victim to the extent possible;
- Be unbiased and not retaliate against employees who report harassing conduct or participate in any inquiry about such a report; and
- Take appropriate steps to hold those who engage in harassing conduct accountable.

Appropriate corrective action will be swift against any DOJ employee who engages in harassment. Likewise, disciplinary action will be taken against supervisors and managers who either condone or fail to act promptly to report or correct harassing conduct brought to their attention.