

Supreme Court, U.S.  
FILED

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**In The  
SUPREME COURT OF THE UNITED STATES**

**KELLY CONARD,**

**Petitioner,**

**V**

**PENNSYLVANIA STATE POLICE; JOSEPH TRIPP, DENNIS HILE,  
JOHN/JANE DOE ET AL,**

**Respondents,**

**On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Third Circuit**

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**SUPPLEMENTAL BRIEF FOR PETITIONER**

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Pro Se Petitioner

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## SUPPLEMENTAL BRIEF FOR PETITIONER

In support of the out of time motion Petitioner has submitted and Pursuant to this Court's Rule 15.8, Petitioner is respectfully submitting this supplemental brief calling the Court's attention to the letter here to attached from Attorney James L. Best (**APP A-1**) and also a recent finding by United States Equal Employment Opportunity Commission (EEOC); The EEOC Letter of Determination (**APP A-2**). The Department of Justice issued Petitioner a right to sue on April 20<sup>th</sup>, 2022 (**APP A-4**). Petitioner has been working on said complaint and filed it on July 18, 2022 in order to protect her statute in said finding of the EEOC. Case number # **1:CV-22-1121**. Respondents were served on July 28, 2022 by the Dauphin County Sheriff's Office and documents were notarized on August 1, 2022. Petitioner's case was filed on July 18, 2022 # **1:CV-22-1121 (APP A-5)**.

### INTRODUCTION

A favorable ruling from the United States Equal Employment Opportunity Commission proves as more evidence in support of the 1<sup>st</sup> Amendment Retaliation claim Petitioner has ask the United States Supreme Court to review. This court is aware that only a small percentage of EEOC cases receive a favorable finding.

Petitioner while working on this supplemental brief for The Supreme Court has recently now received a response from the Respondents in regards to the EEOC case just filed. The Respondents have filed a "Motion to Dismiss" yet again. Petitioner has advised the Respondents counsel that she does not concur. Reasons given are Petitioner filed incorrectly, failed to state a claim, res judicata and statute of limitations. The Respondents have misled the court on "false pretenses and misrepresentation on Petitioners status from the start". Both cases are based on the same history with added evidence showing the malicious conduct of the

Respondents has continued. Thus, the reason Petitioner has appealed her case to the United States Supreme Court for review of said case.

Petitioner had an Attorney early on; Attorney James Best. Attorney Best is the only Attorney in his practice. He is not an Appellate specialist nor has he gone in front of the Supreme Court in his 20 plus years in practice. Attorney Best was hospitalized for months and nearly died as he had Covid 19. God's blessing he is okay. Back to work and in trying to catch up he has gotten Covid again. At this point Petitioner was advised by Attorney Best that she is well versed in her own case and should proceed to the law's extent. Petitioner is proceeding Pro Se at this time. Attorney Best has advised Petitioner that if The Supreme Court remands the case he will re-enter as Petitioner's Attorney.

In the 1<sup>st</sup> Amendment Retaliation case at the oral argument it was documented that res judicata or collateral estoppel does not preclude in Petitioner's 1st Amendment Retaliation case/claim. Also documented at the oral argument when counsels were being questioned, the one Appellate Judge asks the question to opposing counsel about Petitioners claim and stated "isn't it enough to plead"? The Appellate court had learned the details of the case from Pro bono Attorney Eric Hamilton of Williams and Connolly Law Firm who aided in preparing case law and represented Petitioner at the oral argument. The opposing conceded and agreed with the Judge at the oral argument.

Again during the oral argument and in discussion the question was ask of the Appellate Court. The question asked "she was retired". Petitioner's Counsel had then put everything into perspective and confirmed for the Appellate Court that this had been the case all along. Petitioner had been retired since November 2002.

Petitioner learned a lot from the oral argument as she had counsel to argue on her behalf. The Respondents and their counsel again continued to argue that Petitioner was employed when she had been retired. During the oral argument the Respondents counsel was questioned by the Appellate Court and the Respondents Counsel conceded and stated "sometimes things get smeared". That is exactly what has happened as the Respondents and their counsel have smeared and prepared a false and misleading case about Petitioner to the court(s) at every level to Petitioner's detriment.

As stated in the Petition the District Court stated that Petitioner did not provide the addresses of her witnesses. If Petitioner and her counsel didn't submit said addresses then the question would be is how did the Respondents counsel at the Attorney General's office send Subpoenas to them that were in clear violation of Federal Civil Rule? The Subpoenas included Petitioner's entire Social Security number and date of birth. The witnesses received 2 subpoenas. Where did the Respondents obtain Petitioners social security number from? (**APP A-30**).

It was mentioned in the Appellate court decision that Petitioner didn't follow order's she received after she did a motion and another emergency motion to ask respectfully from the court permission to file an over length brief due to the complex history in order to be able to be clear, concise and complete for the Appellate court again on the second appeal after the remand. The clerk's office advised it was being sent to a merits panel. Petitioner's deadline was approaching as she had been waiting on another order. Petitioner had submitted her case prior to receiving another order in order to meet her deadlines. Petitioner had spent nearly \$700.00 for copying and binding.



Petitioner brings attention to the following: A good example of what has taken place with both cases throughout: Early on in the case history; at one point a seasoned Judge, Judge Malcolm Muir had given an order (deadline) to the Respondents to file a dispositive motion. The Respondents did not comply and did not give a reason why they could not have responded in the time given by the Court. Both Counsels and Pro Se litigants have asked for extensions of time which has been granted. Court proceedings and in meeting deadlines is sometimes difficult due to emergency, personal, and professional legitimate reasons especially for Pro Se Litigants who take much longer as they have to look everything up. Thankfully, the court grants exceptions. However, in this case the Respondents did not respond period and gave "no reason" as to why they could not respond in the time given as documented by Judge Muir in an order dated August 6, 2007 (**APP A-31**). This shows the Respondents Counsel obviously didn't have enough respect for the court to answer and give reason. In this case the Respondents have usually had at least 2 experienced Attorney's assigned to the case. Judge Muir denied their request to file a dispositive motion for summary judgement. This meant that the earlier case would have then proceeded in 2006. This would have given Petitioner a fair chance.

Weeks later it was learned that the seasoned, Judge Muir was friends with Petitioner's ex-husband. Petitioner's ex-husband had retired from PSP (Pennsylvania State Police) and went to work at the local Federal Court House as many PSP members have done.

Petitioner did not know Judge Muir personally despite having a 17 year career with PSP. Petitioner did know and was good friends with many others due to her position with the PSP. Petitioner was also good friends with a District Magistrate and his family. The District Magistrate's Grandson stayed with Petitioner and her family as Petitioner's son was best friends

with his Grandson. Judge Muir after learning of the relationship then did what was necessary and recused himself from said case after making this order.

The case was then assigned to another Judge. The Respondents counsel knowing Judge Muir's order while still presiding over case still went on to ask the newly appointed Judge for "reconsideration" to file their dispositive motion after months had passed (it had already been denied by Judge Muir). The newly assigned/appointed Judge did not follow through with the seasoned, Judge Muir's order and the Respondents were granted to submit their dispositive motion and able to file their motion to dismiss. Subsequently, the court allowed the summary judgment. With the evidence that has been provided proves the earlier case would have succeeded. It would have been a turning point for Petitioner if the new appointed Judge did not overrule the senior Judges order that was already in place. The case proceeding to trial would have been fair for both Respondents and Petitioner.

It has now been proven by counsel Attorney Eric Hamilton of Williams and Connolly Law Firm more recent at the oral argument that the Respondents through their counsel have **continued to argue/mislead the court about Petitioner's status since 2006 to present.** The Respondents clearly lied to the EEOC in 2006 about Petitioner as documented with evidence and the EEOC has now reviewed it. The Respondents also lied to the professional reference company who is hired by companies and their professionals and conducts employment verifications/references for employers (**APP A-33**).

It also has been proven with evidence that the Respondents lied in both depositions; in the previous case and current case. Respondent Tripp has made accusations about Petitioner to the PSP, potential employers, a professional reference company and a private investigator that he

cannot support and in referencing that Petitioner abused sick leave, didn't get along with her coworkers, wasn't dependable, would avoid her Supervisors and only worked midnights so she didn't have to deal with anyone as it wasn't as busy and has referenced the lawsuit(s). The PSP communicated with the local Representatives office in 2015 and 2019 and advised them also that Petitioner had an issue in the past and now the more recent that if Petitioner had any "active cases against them Petitioner would not get an interview. (APP A-36 ). Petitioner had applications on file with the PSP. The retired Lieutenant called PSP Human Resources to inquire himself. While the PSP told him Petitioner was eligible to reapply the PSP told the reference that they could not enthusiastically recommend Petitioner and she was not eligible to reapply. This proves there is a good ole boy section within. PSP Human Resources also told the reference that Ms. Conard never worked for PSP. Sadly, it all depends on who calls and what is being told.

Many PSP supervisors (**APP 38**) and civilians would refute that it wasn't busy on the midnight shift. Since Tripp never worked permanent midnight shifts he would not have known if it was busy or not. He wasn't a member who went out on the road patrolling. Tripp was assigned taking care of the patrol cars running them to the garage and taking care of evidence room which doesn't require much skill level. Tripp was always seen with a wad of chewing tobacco in his mouth and a spit cup in hand in view of the public's eye (this too proves he didn't follow protocol and was in violation along with solicitation in an illegal transfer of a handgun that is outlined in Petitioner's Petition).

During the depositions Respondent Tripp was asked about all these different scenarios. He could not recall and could not give one name of any coworker(s) or supervisor and stated that it was his own opinion regarding sick/sick family leave. Noting statement by Judge Carlson

(Issues Tripp had). The PSP had no issues with Petitioner as noted by the majority; it was personal issues Tripp had with Petitioner that he cannot support. Noting he only saw Petitioner in passing as he did not work directly with Petitioner.

Respondent Tripp did not know Petitioners husband had to have surgery (reason for using sick family). Respondent Tripp had absolutely no control over scheduling. The scheduling was done by a higher ranking supervisor; Sergeant Roy. Sergeant Roy did the schedules for both patrol and staff which included the Respondents schedule too.

Petitioner's husband had surgery and was sent home catheterized. Petitioner, his wife was the care giver and was given a doctor's excuse. Respondent Tripp would have never known this as the supervisor who handles all leave including sick, sick family, annual and personal was Sergeant Roy.

Sergeant Roy was the only supervisor over the scheduling. Sergeant Roy notes he would have had firsthand knowledge if Petitioner was abusing leave as it would have been his position to have it addressed. Sergeant Roy would have signed all requests for leave slips including sick. Since the surgery was planned both Petitioner and her husband at the time would have gone to Sergeant Roy to schedule it as both a staff and patrol person would be off.

Petitioner and Respondents supervisors was one in the same. Respondent Tripp, an entry level corporal who obviously had no contact with scheduling Sergeant and went against the PSP rules of breaking the chain of command and submitted falsified documents to the PSP about Petitioner. Sergeant Roy writes on behalf of Petitioner (**APP A-39**). To add more evidence when Petitioner retired from the PSP they owed her thousands of dollars for unused sick/sick family and annual leave. This too was documented during discovery. Many in the PSP have

anticipated sick leave as this is common and have had to work past their retirement date to pay the state back. This was not the case with Petitioner. Lieutenant McGee, Lieutenant Hunter addresses this (APP A-40 ) This too was backed with correspondence from Petitioners union AFSCME (APP A-45).

The EEOC has found that the PSP is in violation of Title VII of the Civil Rights Act 1964 as amended. Judge Carlson has documented in his report and recommendation that “*Respondent Tripp made comments that do not align with Conard’s performance reviews that he (Respondent Tripp) himself signed. The rejection letters from potential employers also highlight the discrepancies between the performance reviews Conard received and the recommendations later given to potential employers.*

*Additionally, Tripp did, in fact make negative comments to DiPietro (background investigator, retired Trooper) when served with the instant lawsuit. While the defendants argues these comments are de minimus , DiPietro claims he denied Conard employment at JDI Investigations based on Tripp’s comments. Additionally, DiPietro described Tripp’s attitude as “hostile toward Conard”, and that the lawsuit was “personal for Tripp.” Thus, Tripp’s comments, whether de minimus or not, could lead a juror to conclude that Tripp’s comments were part of a larger pattern of retaliatory action, which would be substantial in its cumulative effect in that if these same comments were made to other potential employers, it may have discouraged them from employing Conard as well. Acknowledging that it has been held that Conard can attempt to show retaliation through a ‘patter of antagonism’ in addition to the timing of events” Conard v. Pennsylvania State Police 902 F. 3d 178, 184 (3d Cir. 2018), this evidence of a longstanding hostility toward Conard on Tripp’s part may, standing alone, be sufficient to satisfy this element of Conard’s claim.*

The Judge notes that “Conard (Petitioner) has also offered evidence that a potential employer spoke directly with Tripp” and that this assertion in DiPietro’s letter directly **refutes** the defendant’s claim that he never spoke with any potential employers (APP A-49 ).

*The Judge noted that “The Defendant argues this letter should be dismissed as hearsay. While there may ultimately be force to a hearsay objection, the Supreme Court of the United States has made clear that the nonmoving party’s evidence is not required to be in a form that would be admissible at trial Celotex Corp. V Catrett, 477 U.S. 317, 324 (1986). Rather, “Rule 56(e) permits a proper summary judgment motion to be opposed by any of the kinds of evidentiary materials listed in Rule 56(c), except the mere pleadings themselves.” Id. Accordingly, we may consider DiPietro’s letter, which details his investigation and interview with Ms. O’Connor, while recognizing that this element of Conards’ proof could fail at trial if she is unable to produce Ms. O’Connor as a witness. The Judges entire report was submitted with the original Petition.*

In the entire history of the case(s), the Respondents through their counsel have misled all levels of the court since 2006 by arguing that Petitioner was still employed when she actually had been retired since 2002.

Petitioner had initially filed a complaint with the Pennsylvania Human Relations Commission (PHRC) and they never contacted her witnesses that were in her timeline for filing. Generally, the law requires that Petitioner or anyone should first try to settle a discrimination complaint by going through the administrative complaint process before filing in court. The administration process took years from 2015 to 2022; 7 years and Petitioner has patiently waited for the investigation. Now the Respondents in the EEOC case are claiming “statute of

limitations". This is of no fault of Petitioner furthermore; the Covid 19 pandemic didn't help either.

Thankfully, since Mr. Beyer of the PHRC did dual file with EEOC Petitioner was able to contact them. The EEOC did a substantial weight review. Petitioner was advised that the EEOC was reopening and would take jurisdiction over Petitioner's complaint.

After hearing from said counsel(s) a respected and well known to be a fair seasoned Judge; Judge Carlson that had previously ruled against Petitioner and agreed with the court has now "reversed" his opinion ruling in her favor and made his recommendation to the court. The Judge has documented the case law and pointed out the inconsistent comments made by Respondents namely Respondent Tripp, the ring leader. Respondent Tripp "reversing" what he has been telling potential employers and professionals and in giving negative references, and in mentioning of the lawsuit(s) to what he actually put in writing and signed about Petitioner. Respondents Tripp gave Petitioner the two top ratings that one can receive in the PSP along with a meritorious award at Petitioner's 15 year mark. Respondents aware of award as pictures were taken for the PSP news and one of the Respondents is pictured with Petitioner accepting her award.

Along with the 1<sup>st</sup> Amendment Retaliation claim Respondent Tripp was always gender based discriminative toward Petitioner. A clear example of this is when Petitioner had worked a 10 day stretch. After Petitioner returning home after completing a 10 day work stretch, Petitioner received a call from Patrol the Corporal, Corporal Miller asking if she could work the midnight shift as another Communications Officer called off sick. The Patrol Corporal had gone down list of other Communications Officers and no one wanted to work. Petitioner agreed to

work said shift. At the end of that 11:00 p.m to 7:00 a.m shift another Communications Officer called off sick for the 7:00 a.m to 3:00 p.m shift and at the end of that shift another called off sick for the 3:00 p.m to 11:00 p.m. Petitioner had worked 13 days in a row of which 3 were consecutive with no rest in between. This shows that Petitioner consistently exceeded her work ethics and was relied upon. Working three shifts consecutively with no time off is not common. Petitioner had to ask for assistance in filling out her timesheet. When Petitioner approached Respondent Tripp his reaction was to look at the clock and his wrist watch and advise Petitioner he was not on the clock yet. This was meant for Petitioner only as just minutes earlier he was assisting all the male Troopers in signing in evidence. Petitioner's husband at the time, a Trooper had confirmed this as he worked the same shift and advised Petitioner. Respondent Tripp was on the clock for the "male(s)" Troopers but not the Petitioner, a female civilian employee. Petitioner then had to ask another supervisor as the Respondent Tripp had no intentions to help Petitioner.

Respondent Tripp was transferred to PSP Montoursville, as a newly promoted entry level corporal. The few times he saw Petitioner he continually harassed Petitioner showing his gender based discrimination toward Petitioner making derogatory comments and telling Petitioner what she should she wear to work and what "he" didn't want her to wear to work. Meanwhile Petitioner has a photo of the "male" communications officer dressed in the same manner.

Petitioner had been in view of many supervisors and Commanders and even the Area Commander over her entire 17 plus year career with PSP and was never once counseled for any of the accusations Respondent Tripp has made toward Petitioner. After reviewing documents, United States Senator Arlen Specter and State Legislator Steven Cappelli also wrote letters to the PSP to assist Petitioner in getting her job back (**APP A-60**).



Many letters from Commanders, supervisors, co-workers, other departments and professionals were written on behalf of Petitioner (**APP 62**).

Petitioner worked permanent midnight shift with Corporal R. Scott Hunter now a retired Lieutenant. He too submitted a notarized letter on behalf of Petitioner advising that she was one of the best police communications officer PSP Montoursville ever had (**APP 85**).

Petitioner was also gender based discriminated against when she and her husband finished the military assignment and Petitioner's husband with only 7 years on the job went right back to work with no investigation. Meanwhile Petitioner with 17 ½ years under her belt and had also worked at the Sheriff's Department was denied reinstatement as noted in Petition.

Respondent Tripp also showing his gender based discrimination against Petitioner as to the documentation he made to the private investigator in that "did you ever meet her"? The private investigator, a retired Pennsylvania State Trooper noted the hostility and all comments made by Respondent Tripp. Respondent Tripp has continually showed his hostile conduct and gender based discrimination toward Petitioner. Tripp also advised an outside contractor and indicated "that he didn't really like Petitioner". The contractor advised Petitioner of this upon her return.

As noted in Petition Petitioner advised PSP Human Resources, Jason Wiley and Linda Bonney at that time that she would file a lawsuit in order to get her job back. After her first denial Petitioner responded with a letter that indicated counsel had been contacted. This was the start of the timeline as indicated. As soon as the PSP was aware of such Petitioner had been transferred and referred to many other administrative personnel in the PSP. Petitioner was advised by Maxine Johnson that all Petitioner had was hearsay and Petitioner politely explained that yes she did "directly from the department itself". Ms. Johnson then advised Petitioner

“don’t do anything until we get back to you”. The PSP drug Petitioner along and responded 8 months later with another denial.

All police departments conduct background investigations (**APP 87**). This was noted by Commanders from other departments who had explained the hiring process and what is conducted during the hiring process. The PSP did not give a negative reference to the Ambulance Company or the Sheriff’s department in Texas or Petitioner would have never been hired. Furthermore, Petitioner’s supervisor at the Sheriff’s Department writes on behalf of Petitioner (**APP 90**).

Since all government type agencies conduct background investigations Petitioner has contacted local police departments advising of her embarrassing, humiliating situation when she inquired about employment. Petitioner is darned if she does and darned if she doesn’t disclose the law suit(s). While they did not deny her to apply and be interviewed they advised it would be best to wait as if the cases came up in the investigation it would take longer. Meaning, they wanted to see what the outcome would be and if Petitioner can prove her innocence. Thus, the reason Petitioner is respectfully asking the court to allow a trial so that Petitioner can prove her innocence and to have her name and reputation restored to truth that was actually her official records on file at the time of her retirement.

Commander, Lieutenant Scott intended to place Petitioner in a supervisory position to re-engage Petitioner’s career. Commander Scott emailed Petitioner the supervisor position vacancy (**APP 91**). It is only when Petitioner upon her return, ran into Respondent Tripp at that interview that everything went sour. Petitioner was contacted by Dianna Davis, PSP Human Resources advising of her pay rate and start date. The Sergeant at the consolidated dispatch

center had to contact Human Resources about Petitioners pay and request it. PSP Human Resources confirmed the pay, start date and benefits with Petitioner. This proves that what is actually on file at PSP was acceptable for Petitioner to be rehired/reinstated or the Human Resources would have never called Petitioner and the Sergeant and confirmed pay or start date.

The history is clear and not susceptible to interpretation as the time line (evidence) and investigation proves the claim. Petitioner has tried to get her job back and has reapplied and contacted her local Representatives offices. The PSP responded that if Petitioner had any "active cases" against them she would not get an interview. The PSP advised that they could not enthusiastically recommend Petitioner and that she was not eligible to reapply. The PSP picks and chooses what they want to say and to whom. This shows the breakdown and inconsistency within the PSP. Clearly shows the 1st Amendment retaliation. Many PSP members had filed cases against the PSP while they were employed and they remained on the job until their retirement. Some have even committed serious crimes.

## **CONCLUSION**

With all the evidence that has been provided by Petitioner, Petitioner's counsel(s) that included the hours/days spent on researching case law to answer the questions that were ask by the court. The admittance of the opposing counsel conceding at one point at the oral argument proves what has happened in this case. The Court was supplied with more than 298 pages of evidence alone along with all case and research history by Petitioner's counsel(s) during discovery and then also supplied again to the Appellate Court again on appeal.

The reversed opinion of Judge Carlson stating case law from the Supreme Court and now a favorable response from the EEOC in favor of Petitioner showing the Respondents are in violation.

Petitioner had also filed a motion early on to reconsider and reopen her 2006 case but the motion was denied. In the courts memorandum it did not include Judge Muir's order (**APP A-31**) where he had denied Respondents to file their dispositive motion as they gave no reason why they hadn't filed. This would have given Petitioner the opportunity to present her case in court back then. Since having counsel to produce and show case law at the oral argument just recent and the Respondents conceding stating that "sometimes things get smeared"; the 2006 case should have never been dismissed. Sadly, the Respondents were obviously not honest with their counsel about Petitioner and her status and the Respondents continued their course of malicious conduct at the detriment of Petitioner. Petitioner would respectfully ask that the 2006 case be reopened since the Respondents with their counsel falsely misrepresented the status of Petitioner at the time.

It has been a long standing case and Petitioner has been respectful of all the courts. Petitioner has suffered in every way due to the conduct of the Respondents. Petitioner needs her reputation restored to reflect what was on the original file (commendable and outstanding) at the PSP. Petitioner is respectfully asking the United States Supreme Court that if said case is remanded to respectfully assign it to the Magistrate Judge, Judge Carlson as he is of understanding of said case.

Wherefore, Petitioner is respectfully asking The United States Supreme Court to review her case and based on the evidence allow a fair trial for Petitioner.

Respectfully Submitted,



Kelly Conard

September 16, 2022

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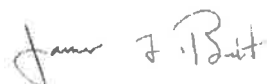
September 14, 2022

Ms. Kelly Conard  
via email

This is to acknowledge that I represent you in the matter your dispute with the City of Williamsport and Lycoming College over the threatened taking of your home by eminent domain as part of the redevelopment of the "Old Towne" part of Williamsport. I am very aware of the considerable amount of time you have had to spend on the threatened taking of your home which includes many meetings, phone calls, and research as well as the tremendous stress and anxiety that this situation has placed on you and your family. This dispute has placed a huge burden on your ability to deal with other issues.

Thank you for your consideration.

Very truly yours,



James L. Best, Esquire





A-2

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Philadelphia District Office**

801 Market Street, Suite 1000  
Philadelphia, PA 19107-3127  
Philadelphia Direct Dial: (267) 589-9700  
TTY (215) 440-2610

Charge Number: 17F-2016-60514

Kelly Conard  
338 Duke Street  
Williamsport, PA 17701

Charging Party

v.

PENNSYLVANIA STATE POLICE  
1800 Elmerton Avenue  
Harrisburg, PA 17110

Respondent

**DETERMINATION**

Under the authority vested in me by the Procedural Regulations of the Equal Employment Opportunity Commission (EEOC), I issue on behalf of the EEOC the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964 (Title VII), as amended. All jurisdictional requirements for coverage have been met.

Charging Party alleges she was subjected to discrimination because of her sex (female) and retaliated against when Respondent provided unfavorable references to Charging Party's potential employers in response to discrimination lawsuits Charging Party filed against Respondent.

Respondent denies Charging Party's allegations, and contends that unfavorable references are not an adverse employment action. Additionally, Respondent denies giving unfavorable references to the potential employers Charging Party listed on her Charge of Discrimination.

The record shows that Charging Party was hired by Respondent in or around 1985, as a Police Communications Operator, which is the position she held until she retired in 2002. It is undisputed that Respondent was aware that Charging Party filed two separate lawsuits alleging discrimination against Respondent, first in 2006 and most recently in 2015. The record of evidence gathered during the investigation shows that shortly after Charging Party filed her second lawsuit in 2015, Respondent began providing unfavorable references to Charging Party's potential employers. Accordingly, there is sufficient evidence to support that Respondent retaliated against Charging Party after she engaged in protected activity.

Based on the foregoing, I have determined that there is reasonable cause to believe that Respondent violated Title VII, when it provided unfavorable references for Charging Party to potential employers.

With respect to Charging Party's remaining allegations, the Commission makes no finding.

Upon finding that there is reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful practices by informal methods of conciliation (i.e., settlement). Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. If you wish to participate in conciliation, please email Investigator Kyle Carberry at [kyle.carberry@eeoc.gov](mailto:kyle.carberry@eeoc.gov), within 10 days from the date of this Letter of Determination.

When the Respondent declines to enter into conciliation discussions, or when the Commission's representative for any reason is unable to secure a settlement acceptable to the Commission, the Commission shall so inform the parties in writing and advise them of the court enforcement alternative available to the Charging Party, aggrieved persons and the Commission. The confidentiality provisions of the statute and Commission Regulations apply to information discussed or given during conciliation.

On behalf of the Commission:



June 8, 2021  
Date

Dana R. Hutter  
Deputy Director

Enclosure:

cc: James Best, Esq. via email (for Charging Party)  
Nolan Meeks, Esq. via email (for Respondent)