

No. 24-

IN THE
Supreme Court of the United States

PATRICIA FRITZ,

Petitioner,

v.

COUNTY OF WESTMORELAND; SHERIFFS
DEPARTMENT OF WESTMORELAND COUNTY;
SHERIFF JONATHAN HELD, IN HIS INDIVIDUAL
AND REPRESENTATIVE CAPACITY;
CHARLES ANDERSON, IN HIS INDIVIDUAL AND
REPRESENTATIVE CAPACITY; GINA CERILLI,
IN HER INDIVIDUAL AND REPRESENTATIVE
CAPACITY; TED KOPAS, IN HIS INDIVIDUAL
AND REPRESENTATIVE CAPACITY;
DAVID REGOLI, IN HIS INDIVIDUAL
AND REPRESENTATIVE CAPACITY,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

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U.S. COURT OF APPEALS FOR THE CLERK
THE UNITED STATES COURT, U.S.

QUESTIONS PRESENTED

Question 1

Petitioner, Patricia G. Fritz was terminated from her employment as first female Chief Deputy in the Westmoreland County Sheriff's Office on October 25, 2018, via media/television coverage for the charge of Harassment-subject other to physical contact.

Petitioner filed appeal and Summary Appeal Order of Court entered by the Honorable Richard E. McCormick, Jr., Westmoreland County Court of Common Pleas on August 22, 2019, found Chief Deputy Sheriff Fritz "not guilty" of the charge of harassment-subject other to physical contact.

When Petitioner was found not guilty, Attorney Vicki K. Horne, requested immediate reinstatement on at least three separate letters to the Westmoreland County Commissioners. That correspondence was completely ignored. The Charge of harassment-subject to physical contact of NOT GUILTY was expunged from the records.

Sworn testimony and documentation prove that Chief Fritz did not engage in the additional charges that the Commissioners placed in her last paragraph of her termination letter that was received after the fact of termination. Chief Fritz did not even have hiring/termination authority under her position as Chief Deputy. This was under Sheriff Held's authority. Sworn testimony proves that Chief Fritz did not even know the African Americans that she was accused of not hiring/discriminatory treatment.

Why was the Petitioner not given her position back when she was exonerated and has sworn testimony that has proved that there was no racial discrimination on her part? She was fired wholly on charges of workplace violence and made whole, then she should have been given her position back. How can elected officials ignore a President Judge Richard McCormick, Court of Common Pleas, findings in this case?

Question 2

Under Title VII of the Civil Rights Act of 1964, petitioner was not only harassed but it was a “Severe or pervasive” standard Under Title VII. Supreme Court determines if there is a severe or persuasive standard Under Title VII.

Westmoreland County Commissioners notified Tribune Review Newspaper and Media outlets, of Channel, 2, 4, 6 and 11, of issues against Petitioner, Chief Patricia Fritz.

Petitioner, Chief Fritz was in over seventy (70) articles in the newspaper and mostly front-page coverage disparaging her which constitutes a severe or pervasive standard of discrimination under Article VII. After all the media/television exposure, public humiliation to Petitioner, Chief Patricia Fritz was not able to seek employment elsewhere.

Petitioner has the newspaper articles if the Honorable Court would like to see to collaborate the issue of “severe and pervasive” standard of treatment. During Sworn testimony, Commissioner Kopas was asked why he

contacted the media each time due to it being a personnel issue and he didn't have a response. Media knowledge and discrimination was solely at the discretion of the Commissioner's contact. For ten months this went on and it was a "severe or pervasive" standard of harassment under Title VII. It was not only severe and pervasive, but it was harassment at its highest caliber. They set out to harm Petitioner personally and should be held accountable under Section 1983 as a matter of law.

Question 3

Chief Patricia Fritz was hired by Sheriff Jonathan Held, as the first female Chief Deputy in the Westmoreland County Sheriff's Office on May 5, 2014. Sheriff Held guidelines fall under Pennsylvania General Assembly Title 16, Chapter 137, Act 1620 of the County Code. Sheriff Held is responsible for hiring and termination of his employees under the County Code. Chief Patricia Fritz was sworn into Office as the first Female Chief Deputy on May 4, 2014.

After the meeting with Chief Fritz and between Union President, August 8, 2018, Steve Felder, was suspended by Sheriff Held for insubordination. Sheriff Held did not suspend Chief Fritz as he was privy to the meeting, and he knew that Chief Fritz did not break any guidelines regarding the Union President. It took the Union President a couple days but then he decided to file a harassment / poking charge. Her supervisor, elected official Jonathan Held, did not suspend Chief Fritz. The Commissioners suspended Chief Fritz on workplace violence.

Sheriff Held returned Chief Fritz and Union President Steve Felder to work the following week. Sgt. Steve Felder returned to work but the Westmoreland County Commissioners, via television/radio, banned Chief Fritz from all county property, including parks, community college, etc. Union President, Steve Felder, was returned to work. Chief Fritz's work vehicle was stolen out of her driveway, work passes, security passes, computer access all cut off and denied, even when her Supervisor, Sheriff Held did not know about the actions against his Chief Deputy. Sworn testimony all to this fact. Again, all notification via Tribune Review Newspaper and radio. Letter came after the fact and then termination on October 25, 2018, from the Commissioners.

How can the Westmoreland County Commissioner's prohibit the Petitioner from doing her position, performing her work duties under the jurisdiction of the Westmoreland County Sheriff, Under Act 1620? Also, the same punishment was not given to the male employee. How can the Commissioners enforce discipline on an Oath of Office Person who works directly to a Row Officer, Sheriff, and she isn't under their jurisdiction?

Referring to 16 P.S. 1203-A and P.S. 1620 (collectively referred to as Section 1620 Rights). 16 P.S. 1203-A grants sole authority to the Sheriff to appoint a Chief Deputy. 16 P.S. 1620 provides that the County in no way is extended authority as to the hiring, discharging or supervision of employees vested with other county elected officials/officers. The only individual with the authority to demand Petitioner/Chief Fritz's termination should have been Sheriff Held pursuant to 16 P.S. 1203.

Question 4

In the context of the Equal Employment Protection clause of the Fourteenth Amendment, Section 1983 allows victims of discrimination to be made whole by recovering damages against state and local officials who cause the constitutional deprivation, and to achieve equal employment opportunity in the future. U.S. Const. amend XIV AND Title 42 U.S.C. 1983. Chief Fritz was targeted and discriminated against due to her being a registered Republican with majority of Democratic Commissioners.

PARTIES TO THE PROCEEDING:

All parties appear in the caption of the case on the cover page.

1. Patricia Fritz

- a. Ms. Fritz was the plaintiff in a civil action before the United States District Court for the Western District of Pennsylvania, Civil Section No. 2-19-cv-01517.
- b. Ms. Fritz was the Appellant before the United States Court of Appeals for the Third Circuit in Docket No 22-2999.

1. COUNTY OF WESTMORELAND; SHERIFF'S DEPARTMENT OF WESTMORELAND COUNTY; SHERIFF JONATHAN HELD, in his individual and representative capacity; CHARLES ANDERSON, in his individual and representative capacity; GINA CERILLI, in her individual and representative capacity; TED KOPAS, in his individual and representative capacity; DAVID REGOLI, in his individual and representative capacity.

- a. These parties were the defendants in a civil action before the United States District Court for the Western District of Pennsylvania, Civil Action No. 2-19-cv-01517.
- b. These parties were the Appellees before the United States Court of Appeals for the Third Circuit Docket NO. 22-2999.

RELATED CASES

- United States Court of Appeal for the Third Circuit, No. 22-2999, (D.C.Civil No. 2-19- cv- 01517) Sur Petition for Rehearing dated March 28, 2024.
 - Pro Se Petitioner, Patricia Fritz requesting both panel and Enbanc rehearing Third District Court of Appeal, Case No. 22-2999 dated March 9, 2024.
 - United States Court of Appeals for the Third Circuit No. 22-2999 Patricia Fritz, Appellant verse Westmoreland County, Et. Al. Opinion filed February 27, 2024.
 - Patricia Fritz verse United States Court of Appeals for the Third Circuit Reply Brief of Appellant dated July 27, 2023. No. 22-2999.
 - Civil Action No. 19-1517 Honorable William S. Stickman, IV, Motion for stay Of Execution of Judgement and bill of costs dated 15th of October, 2022.
 - Patricia Fritz V Westmoreland County, et al, Defendants, Memorandum Opinion of William S. Stickman, IV, District Judge, dated September 26, 2022, Civil Action No. 2-19-cv-1517.
 - Patricia Fritz verse Westmoreland County, Et al. Civil Action Complaint filed in the Western District of Pennsylvania Civil Action No.2-19-1517, filed electronically Feb. 7, 2020 and judgment entered on Sep. 26, 2022.

- Westmoreland County Clerk of Courts Expungement Notice Receipt Number 65-2021-R000062677 Dated October 14, 2021.
- Summary Appeal Order of Court, Westmoreland County of Common Pleas, 10th Judicial District of Pennsylvania Commonwealth of Pennsylvania, v. Patricia G. Fritz,- Actor Found Not Guilty dated August 22, 2019.
- Commonwealth of Pennsylvania verse Patricia G. Fritz MDJ-10-2-10 Order Imposing Sentence dated October 2, 2018 Docket No. MJ-10210-NT-0000636-2018.

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PETITION FOR WRIT OF CERTIORARI

The Petitioner, Patricia Fritz, respectfully requests that this Court issue a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Third Circuit, for the reasons stated herein.

CITATIONS OF OPINIONS AND ORDERS

The United States Court of Appeals for the Third Circuit issued a non-precedential Opinion resolving the matter below. *Fritz v. Cnty. of Westmoreland*, 22-2999 (3rd Cir. Feb 27, 2024). The United States District Court for the Western District of Pennsylvania issued a memorandum opinion disposing of the case in trial court. *Fritz v. Westmoreland Cnty.*, Civil Action 2:19-cv-1517 (W.D. Pa. Sep 26, 2022). The opinions and orders below are not reported, but they are reproduced in the appendix.

STATEMENT OF JURISDICTION

The judgment of the court of appeals for the Third Circuit was entered on February 27, 2024. The order denying rehearing and rehearing en banc was entered on March 28, 2024. The Petitioner was granted until July 29, 2024 to submit a compliant petition. This timely Petition is being submitted to the court for its consideration. This court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED IN THIS CASE

United States Constitution, Amendment 1

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

42 U.S. Code § 1983:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S. Code §2000e-2(a): Employer practices

It shall be an unlawful employment practice for an employer -

- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
- (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

STATEMENT OF THE CASE

Petitioner, Patricia G. Fritz, a Republican, became the first female Chief Deputy of the Westmoreland County Sheriffs Office in 2014. Sheriff Jonathan Held, Republican, appointed her to facilitate change in his office which included updating and enforcing policies, managing the budget, training Deputies, and budgetary items within the Sheriff's Office.

Various actions were taken by the County Commissioners, Democratic majority, to remove her as Chief Deputy, including fabricating complaints of racial discrimination and criminal allegations arising from a "poking" charge. The County Commissioners attempted to bully Petitioner into resignation. Instead the Petitioner filed formal administrative and EEOC complaints.

Petitioner, Chief Fritz was caught in the middle of the dispute between her Supervisor, Republican Sheriff Jonathan Held and the Westmoreland County

Commissioners, majority Democratic. The core ethical issue of this case is Petitioner, Chief Patricia Fritz was not guilty of workplace violence or breaking any working rules of the Commonwealth. She was found not guilty by Common Pleas President Judge Richard McCormick and not reinstated to her position.

Petitioner was terminated from her employment via media and news sensationalism.

Petitioner was not guilty of any racial discrimination in the hiring/termination practices of the Sheriff's office as Sheriff Held had the only authority in that area.

Petitioner should have received her position reinstated but she was discriminated under Title VII under severe and pervasive standard as well as Petitioner only reported to Sheriff Held under 16 P.S. 1203-A 1620. The Westmoreland County Commissioners had no authority to ban her from any County premises, facilities, parks, to effectuate her termination.

REASONS FOR GRANTNG OF THE WRIT

PETITONER, Patricia G. Fritz requests the Honorable Court to grant the Writ of Certiorari due to the courts dismissing Chief Fritz's First Amendment claim and in granting summary judgment as to the sex discrimination and retaliation claims, the District Court erred in its application of the law and in making findings of fact, which should have been reserved for determination by a jury. Petitioner has raised strong legal bases for remand; discrimination based on political patronage in violation of the First Amendment, discrimination based

on sex under Title VII, Section 1983, and the Pennsylvania Human Relations Act (PHRA), and retaliation under Title VII and the PHRA.

In considering evidence of pretext, the court necessarily made several findings of fact in a light most favorable to the moving parties, rather than the non-moving party, Petitioner, Chief Fritz and made its own choices between conflicting evidence. The court chose to disregard testimony based on its determination of the credibility of the testimony. If this case is remanded back, it will be ripe for trial and the truth will prevail.

Petitioner Patricia G. Fritz has suffered very public harm and harassment because of Appellee's conduct as well as extraordinary action in banning her from all County property. The losses in addition to public harm, embarrassment and harassment as well as loss of Salary, reduction in social security and inability to find other gainful employment, due to nature of the public media coverage.

Fritz was promoted to the first female Chief Deputy in the Westmoreland County Sheriff's Office on May 5, 2014 until August 2018. As testimony proves, Fritz was retaliated for complaining and filing EEOC charges against Westmoreland County. Title VII protects all employees from retaliation when they reasonably believe that behavior at their work violates the statute and they make a good faith complaint.

As relevant here, harassment against Chief Fritz started when she filed claims for a hostile work

environment. Sworn Testimony has proven that there was NOT a legitimate basis for her termination.

Background:

In early 2018, there were three different people that threatened to sue the County and Sheriff's Office for Fritz engaging in racial discrimination. Sworn testimony has proved that the Westmoreland County Commissioners held back the African American applications for Deputy positions from the Sheriff's Office so they could not receive them. Testimony proved that Fritz was not in charge of the hiring or firing practices within Westmoreland County Sheriff's Office. Testimony also proved that Fritz did not say "they were nothing but trouble". In fact testimony proves that Sheriff Held and Chief Fritz were only able to hire African American applicants/Deputies when they brought their applications directly to the Sheriff's Office and bypassed the Commissioner's HR Office. Further sworn testimony also proves that the three individuals were contacted directly by individuals and told to file charges against the Sheriff and Chief Deputy and would be financially rewarded. Documentation proved they each received \$80,000 with no sworn testimony. Further testimony also indicated that Mr. Simeon McClain, an African American, testified that he was interviewed by the Westmoreland County Park Police, not the Sheriff's Office. Another young lady, Anna Gerald (also by sworn testimony) indicated that she never met or even spoke to Chief Fritz or Sheriff Held but received a telephone call a year later and was told to get in touch with a particular attorney and she would get compensated. All with the same Attorney.

In August 2018, Fritz while conducting a meeting with Union President, Steve Felder, Fritz DID NOT have a physical altercation with a subordinate. The Attorney that conducted the independent investigation never met with Fritz and testimony proves that very same day the Commissioner's had on the front page of the Pittsburgh Press an article to impeach Chief Fritz and Sheriff Held due to being Republicans.

Separately the District Attorney's Office criminally charged Fritz with summary harassment and she was convicted. Fritz's conviction was overturned by President Judge Richard McCormick on August 22, 2019. Fritz was NOT offered her position back OR back pay. It was proven with sworn testimony that Chief Fritz did not commit the accusations. Sworn testimony proved that the reason that Held had a conflict of interest regarding the alleged altercation was he was in the room at the time this so called work place incident against Fritz occurred. He knew Fritz did not do it and he suspended Union President for his insubordination to Sheriff Held.

The only reason that Held designated his authority to the Commissioners was the Commissioner's had forbade Fritz on any County premises or any county property. Fritz was the only employee EVER banned from County premises. Sheriff Held had Chief Fritz continue to do Computer work but the Commissioner's cut off computer access to Chief Fritz. Her work car was removed from her home premises without even notification. Sheriff Held requested Chief Fritz return to work same day as Union President Steve Felder and Steve Felder did return to work the next week but Commissioner's forbade Chief

Fritz publicly on any county property even though Chief Fritz's supervisor, Sheriff Held, returned her to work.

Sworn testimony to this fact. Chief Fritz not even offered a "LAST CHANCE AGREEMENT." There was no previous discipline, counseling, anything that would even point that Chief Fritz was not an exceptional employee. This was a smear campaign, just look at the newspaper articles.

Termination Letter to Fritz: Bullet Point 1, Bullet Point 2, and Bullet Point 3 – Chief Fritz was found NOT GUILTY of the charge and it was expunged from the record. Sworn testimony proves that those charges were inaccuracies. Each one of the five bullet points was for the same date in question, August 7, 2018 Bullet Point 4 – Testimony proves that there were NO other violation of the Westmoreland Workplace Violence and the Westmoreland County Code of Ethics. Sworn testimony does not support any other evidence of Chief Fritz not adhering to the guidelines of the Office. In fact, under sworn testimony, Bullet Point 5 Testimony proved that there were no racial discrimination complaints founded against Chief Fritz. In fact sworn testimony proved that a Commissioner told Sheriff Held that we were hiring "too many Black Deputy Sheriffs". It was plead and confirmed in depositions that with Chief Fritz removed from office and the African -American Captain Travis Day, (who was third in command) who the County also terminated the same week) that they could align their political objectives.

Testimony proves that the African American applications were not given to the Sheriff's Office. Once applications from African American candidates were

given directly to the Sheriff's Office they were able to bring them on board. Sworn testimony to that fact.

Fritz's First Amendment Claim:

The Plaintiff's did know that Fritz was a Republican and tried to impeach her and Sheriff Held. Fritz was terminated solely due to her being a Republican and it caused her adverse action and Harm. Chief Fritz was in the Tribune Review newspaper in Greensburg, PA (mostly front cover) over seventy (70) articles. It was a fact and proven testimony that Commissioners, did want Chief Fritz and Sheriff Held impeached. If Sheriff Held was impeached, sworn testimony proves Chief Deputy Fritz and Captain Travis Day, the first African American Captain, in the Westmoreland County Sheriff's Office, third in command would be eligible to be Acting Sheriff. Captain Travis Day and Chief Fritz would both be in line for the position of Sheriff until an upcoming election. A little ironic they were both suspended two days apart and Captain Travis Day – charges unfounded.

Sex Discrimination and Retaliation Claims:

Sworn testimony proves that every time Chief Fritz filed an EEOC claim, there was "hell" to pay. Regarding the two so called legitimate justifications for terminating Chief Fritz (1) August 7, 2018, altercation with a Union President, was overturned by President Judge Richard McCormick on August 22, 2019 and expunged from the records. (2) Allegations against Chief Fritz for racial discrimination in hiring decisions. It was sworn testimony that Chief Fritz was not in charge of hiring and termination of any employees; that responsibility was

strictly Sheriff Held. It was further documented in sworn testimony that Chief Fritz had not even met the three candidates that were encouraged to file charges against Chief Fritz and Sheriff Held to receive \$80,000 each. Sworn testimony proves they were each given \$80,000 without having sworn testimony. It also in testimony that Chief Fritz did not know or have any knowledge of the three African American applicants. Sworn testimony proves the three applicants were notified to file charges and they would be compensated. Those justifications were pretext for discrimination against Chief Fritz. Fritz in sworn testimony, most certainly disputes, there was a meeting with the Union President and as all meetings with this particular Union President was a discussion but there was no altercations, no workplace violence, no violation of workplace codes of conduct pertaining to Chief Fritz. Sheriff Held suspended the Union President for all those mentioned items due to his insubordination to Sheriff Held. Sworn testimony comes in that Union President decided to allege that Chief Fritz had poked him, etc. days after the incident after he had been suspended. The truth came out in the criminal case with President Judge Richard McCormick and he overturned the conviction. Sworn testimony proved that Fritz did not violate these rules and regulations. Regarding the Male Union President, he was not banned from County Property. Union President Steve Felder was suspended, NOT BANNED. His suspension was lifted the next week whereas Chief Fritz's remained in effect until her termination via media/newspaper on October 18, 2018. Sworn testimony proved that Chief Fritz was in fact the **only** employee banned from all County premises, including county parks, etc.

Held's deposition testimony states that "Regoli told Sheriff Held that if he fired Fritz, the lawsuits (alleging racial discrimination) would not be filed. Fritz was out on medical leave and then the three lawsuits were now filed against Held, not Fritz. Again, sworn testimony that Chief Fritz was not in charge of hiring or firing, solely Sheriff Held. Sworn testimony to this fact. Chief Patricia Fritz, first female Chief Deputy in Westmoreland County, was caught in the middle of the Dispute between her Supervisor, Sheriff Jonathan Held, and the three Westmoreland County Commissioners. This was a political controversy. Sworn testimony and conviction overturned on Chief Fritz on appeal with President Judge Richard McCormick, proved that Fritz was not guilty of workplace violence or breaking any working rules of the Sheriff's Office.

The core ethical issue of this case is Chief Fritz was not guilty of the accusations and lies. Sworn testimony proves that fact. **This is evident from the Commissioner's contradictory testimony about the reasons for her termination.** The Commissioner's themselves could not identify the factors considered in her termination. Sworn testimony.

Another bone of contention for the Commissioners, sworn testimony, that Sheriff Held in fact tried to get Chief Fritz a raise(twice) in her capacity as Chief Deputy, but Commissioners would not approve it. Fact is Chief Fritz was in the Greensburg Tribune Review, Pittsburgh Post Gazette, at least 70 articles. (lost count) discrediting her with lies. Chief Fritz was not just terminated, she was crucified. Chief Fritz did not nor would she do the atrocities that were bestowed upon her. In consequence,

Chief Fritz has not been able to obtain employment due to all these actions by the Westmoreland County Commissioners ; therefore not even able financially to incur court costs. Testimony proves that other employees at the Courthouse, for grievous issues, were able to retire and not be terminated. Sworn testimony that she was not even offered a retirement as she had eight years in the Sheriff's office. Chief Fritz only needed two more years for tenure. Also, Chief Fritz was forced to take her social security at a huge deduction as she lost her position from the Sheriff's Office.

To the Honorable Court, I am pleading with the Honorable Court to review the sworn documents and testimony. Again, the actions of the Appellate have caused a huge emotional and financial hardship. Eight months Chief Fritz was in the media, newspaper articles, 70 articles discrediting her. It was not a normal termination, it was a crucifixion. You can google Patricia Fritz and see all the articles.

Chief Fritz would like the honorable Court to realize (1) she did not engage in Workplace violence or break the Westmoreland County Code of Ethics (President Judge Richard McCormick overturned the verdict on August 22, 2019, and (2) Chief Fritz was not reinstated to her Position with back pay and (3) in her professional career as the first Female Chief Deputy in the Sheriff's Office in Westmoreland County, that she was NOT GUILTY and would not do the atrocities that were made so public to destroy her character and deprive her of her livelihood.

CONCLUSION

Respectfully, the Honorable Court should grant the petition for writ of certiorari.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — OPINION OF THE UNITED
STATES COURT OF APPEALS FOR THE THIRD
CIRCUIT, FILED FEBRUARY 27, 2024**

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 22-2999

PATRICIA FRITZ,

Appellant,

v.

COUNTY OF WESTMORELAND; SHERIFFS
DEPARTMENT OF WESTMORELAND
COUNTY; SHERIFF JONATHAN HELD, IN
HIS INDIVIDUAL AND REPRESENTATIVE
CAPACITY; CHARLES ANDERSON, IN HIS
INDIVIDUAL AND REPRESENTATIVE
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AND REPRESENTATIVE CAPACITY; TED KOPAS,
IN HIS INDIVIDUAL AND REPRESENTATIVE
CAPACITY; DAVID REGOLI, IN HIS INDIVIDUAL
AND REPRESENTATIVE CAPACITY.

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil No. 2-19-cv-01517)

District Judge: Honorable William S. Stickman, IV

Submitted Under Third Circuit
L.A.R. 34.1(a) on October 27, 2023
(Opinion filed: February 27, 2024)

Appendix A

Before: HARDIMAN, FREEMAN, and MONTGOMERY-REEVES, *Circuit Judges*.

NOT PRECEDENTIAL

OPINION*

MONTGOMERY-REEVES, *Circuit Judge*.

In May 2014, Sheriff Jonathan Held appointed Patricia Fritz to serve as chief deputy sheriff for Westmoreland County (the “County”). After several issues in the Sheriff’s Office and with Fritz specifically, the County Commissioners fired Fritz.

After her termination, Fritz sued the County, Held, the Sheriff’s Office, County Commissioner Charles Anderson, County Commissioner Ted Kopas, County Commissioner Gina Cerilli, and Westmoreland County Assistant Solicitor David Regoli (collectively, “Appellees”). Fritz alleged, among other things, that Appellees discriminated against her based on her political beliefs, in violation of the First Amendment; discriminated against her on the basis of her sex, in violation of state and federal law; and retaliated against her for complaining about illegal discrimination, in violation of state and federal law.

The District Court ruled against Fritz on each of these claims. Because we agree with the District Court

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Appendix A

that Fritz failed to allege causation and that she failed to show that reconsideration was warranted, we will affirm the District Court’s dismissal of Fritz’s First Amendment claim and denial of her motion for reconsideration on that claim. We also will affirm the District Court’s disposition of the remaining claims because, even assuming Fritz established a *prima facie* case, Appellees provided a legitimate reason for her termination, which Fritz has not shown was pretextual.

I. BACKGROUND¹

From 2014 to 2018, Fritz served as the County’s chief deputy sheriff. There was friction throughout Fritz’s tenure, but tensions reached a boiling point in 2018. First, in early 2018, three different people threatened to sue the County and the Sheriff’s Office for engaging in racial discrimination, including specific allegations against Fritz. Among other things, they alleged that Fritz did not want a Black woman hired because she had worked with Black individuals previously and found that they “were nothing but trouble.” J.A. 1204. Then, in August 2018, Fritz had a physical altercation with a subordinate deputy sheriff. After the altercation, Held suspended Fritz with pay. The County hired an attorney to perform an independent investigation. The attorney concluded that Fritz’s conduct during the altercation was unacceptable and recommended that the County terminate Fritz. Separately, the district

1. We write for the benefit of the parties and recite only essential facts.

Appendix A

attorney's office criminally charged Fritz with summary harassment, for which she was convicted.²

Held was the only person with the statutory authority to terminate Fritz. But Held believed that he had a conflict of interest in deciding whether to terminate Fritz because he "was a witness . . . in the criminal case." J.A. 805-06. Thus, Held delegated his authority to the County Commissioners, who terminated Fritz on October 25, 2018. In a letter, the County stated that it decided to terminate Fritz for several reasons, including that:

- "On August 7, 2018, it is alleged that you yelled at, pushed, and poked an employee following a meeting[. . . that you blocked the employee from leaving the room[, and] that you then yelled at and followed the employee through public areas." J.A. 1083.
- "On August 22, 2018, you were charged with a citation for harassment." *Id.*
- "On October 2, 2018, you were found guilty of a summary harassment charge stemming from this incident." *Id.*
- "Our investigation concluded that your behavior constituted a violation of the Westmoreland

2. Ultimately, Fritz's conviction was overturned on appeal on August 22, 2019. During this time, Fritz also filed or amended several EEOC complaints against Appellees.

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County Workplace Violence Policy and the Westmoreland County Code of Ethics.” *Id.*

- “[T]he behavior and charge of harassment is a violation of the Westmoreland County Sheriffs Policy Manual in regards to Article V, Section 2 and Section 4.” *Id.*
- “[T]he County is aware of allegations of racial discrimination made by several former County employees. These concerns relate to a pattern of racial discrimination in hiring.” *Id.*

Fritz sued Appellees. Relevant to this appeal, Fritz alleged violations of her First Amendment right to political affiliation against the County, Cerilli, Kopas, and Regoli in violation of 42 U.S.C. § 1983 (Count VII), and she alleged sex discrimination and retaliation in violation of Pennsylvania and federal law against Appellees (Counts I, II, VI, VIII).³

The District Court dismissed Fritz’s First Amendment claim and allowed the other claims to proceed to discovery.

3. Fritz did not appeal the District Court’s dismissal of the individual or official capacity § 1983 claims (Counts VI and VII) or the dismissal of the claims that she brought under the Pennsylvania Human Relations Act against appellees Anderson, Cerilli, Kopas, and Regoli. Likewise, Fritz does not appeal the District Court’s summary judgment in favor of Appellees on her age discrimination claims (Count III, Count VIII, in part) and Equal Pay Act claims (Counts IV and V). Thus, we do not discuss those claims further.

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Fritz filed a motion for reconsideration based on deposition testimony that she claimed constituted newly discovered evidence. The District Court denied her motion.

At the close of discovery, Appellees moved for summary judgment on each of Fritz's remaining claims, including her sex-discrimination and retaliation claims. The District Court granted Appellees' motion for summary judgment. Fritz appealed.

II. DISCUSSION⁴

On appeal, Fritz challenges three rulings: (1) the District Court's order dismissing her First Amendment claim (Count VII); (2) the District Court's order denying her motion for reconsideration on her First Amendment claim; and (3) the District Court's order granting summary judgment on her sex-discrimination and retaliation claims (Counts I, II, VI, VIII). We address each challenge below.

4. The District Court had jurisdiction over this case under 28 U.S.C. § 1331. We have jurisdiction over this appeal under 28 U.S.C. § 1291. We exercise plenary review of the District Court's rulings on Appellees' motion to dismiss and motion for summary judgment. *Wilson v. USI Ins. Serv. LLC*, 57 F.4th 131, 139-40 (3d Cir. 2023); *Nitkin v. Main Line Health*, 67 F.4th 565, 570 n.2 (3d Cir. 2023). We review the District Court's denial of Fritz's motion for reconsideration under the abuse-of-discretion standard. *United States v. Shoemaker Constr. Co.*, 55 F.4th 188, 193 (3d Cir. 2022) (citing *B.C. v. Att'y Gen.*, 12 F.4th 306, 313 (3d Cir. 2021)).

*Appendix A***A. Fritz's First Amendment Claim**

Fritz asserts that the District Court erred in dismissing her First Amendment claim because she plausibly alleged that Appellees terminated her for her political affiliation. To state a *prima facie* First Amendment discrimination claim, “[a plaintiff] must [allege] that (1) she was employed at a public agency in a position that does not require political affiliation, (2) she was engaged in constitutionally protected conduct, and (3) this conduct was a substantial or motivating factor in the government’s employment decision.” *Galli v. N.J. Meadowlands Comm’n*, 490 F.3d 265, 271 (3d Cir. 2007) (citing *Stephens v. Kerrigan*, 122 F.3d 171, 176 (3d Cir. 1997)). For the third element, a plaintiff must allege that her employer knew of her political affiliation and that she was fired as a result. *Id.* at 275 (citing *Stephens*, 122 F.3d at 177). That is, to establish that protected conduct was a substantial or motivating factor in an adverse employment decision, a plaintiff must allege sufficient facts to demonstrate that the employer knew of the plaintiff’s political affiliation and that this knowledge caused the adverse employment decision. *See id.* at 271.

When ruling on a motion to dismiss, a court must accept as true all well-pleaded facts and allegations and must draw all reasonable inferences in favor of the plaintiff. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Factual allegations must be enough to raise a right to relief above the speculative level. . . .” *Bell Atl. Corp v. Twombly*, 550 U.S. 544, 555 (2007). But a court need not credit bald assertions, legal conclusions, or unreasonable

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inferences. *See Curay-Cramer v. Ursuline Acad. of Wilmington, Del., Inc.*, 450 F.3d 130, 133 (3d Cir. 2006); *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3d Cir. 1997). Likewise, “[a] complaint that pleads facts merely consistent with a defendant’s liability stops short of the line between possibility and plausibility of entitlement to relief.” *Connelly v. Lane Const. Corp.*, 809 F.3d 780, 786 (3d Cir. 2016) (cleaned up). Allegations that “paraphrase in one way or another” the third element of Fritz’s First Amendment claim are not enough. *Connelly*, 809 F.3d at 790. Instead, Fritz must plausibly “plead[] factual content that allows the court to draw the reasonable inference that [Appellees]” fired Fritz because of her political affiliation with the Republican Party. *Iqbal*, 556 U.S. at 678 (emphasis added); *see Galli*, 490 F.3d at 271.⁵

Fritz has failed to plausibly allege a First Amendment retaliation claim because her allegations as to the third element—causation—are conclusory and speculative. For example, Fritz pleaded that “it is believed” appellees Kopas, Cerilli, and Regoli, “who were of the political opposition, sought her removal so that she could not assume the role of Sheriff even on an interim basis.” App. 189. But Fritz offers no factual averments or information to support her “belief” that the County Commissioners were acting based on their or Fritz’s political affiliation. And Fritz pleaded that Appellees “abused their positions of authority in the County to advance their own political agenda to the detriment of Chief Fritz creating a deprivation of

5. Because we resolve this claim on causation, we express no view on whether Fritz plausibly alleged that she participated in constitutionally protected conduct by registering as a Republican.

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her rights under the First Amendment.” App. 190. In the complaint, however, Fritz does not explain how, when, or who abused their position of authority to deprive Fritz of her First Amendment rights. Likewise, Fritz alleges that Appellees’ “politically-motivated actions are evidenced by their conduct toward her throughout her employment and direct actions evidencing both intent and conduct aimed at undermining and removing political opponents, including Chief Fritz.” App. 191. Here, again, Fritz does not explain what these politically-motivated and direct actions are or any other details supporting her claim.

Allegations based on nothing more than Fritz’s belief, without factual details showing that Fritz was fired because of her political affiliation “resemble[] a formulaic recitation of the [third] element[]” of her First Amendment claim and are “so threadbare or speculative that they fail to cross the line between the conclusory and the factual.” *Connelly*, 809 F.3d at 789-90 (cleaned up). These allegations are the sort of “conclusory or ‘bare-bones’ allegations [that] will no[t] [] survive a motion to dismiss.” *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009).

B. Fritz’s Motion for Reconsideration

Fritz also argues that the District Court abused its discretion by denying her motion, under Federal Rule of Civil Procedure 54(b), to reconsider the dismissal of her First Amendment claim. While “[a] court has the power to revisit prior decisions of its own or of a coordinate court in any circumstance . . . as a rule courts should be loath[] to

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do so in the absence of extraordinary circumstances such as where the initial decision was clearly erroneous and would make a manifest injustice.” *In re Pharmacy Benefit Managers Antitrust Litig.*, 582 F.3d 432, 439 (3d Cir. 2009) (quoting *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 816 (1988)); *see also Howard Hess Dental Lab’ys Inc. v. Dentsply Int’l, Inc.*, 602 F.3d 237, 251 (3d Cir. 2010) (“The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence.” (cleaned up)).

In her motion for reconsideration, Fritz challenges the dismissal of her First Amendment claim. Fritz relies on new evidence to show that she stated a First Amendment claim and her allegations that she was fired because of her political affiliation are plausible. Specifically, to demonstrate that Appellees fired Fritz because she was a Republican, Fritz points to the Commissioners’ deposition testimony. This testimony plausibly shows that the Commissioners were frustrated with the Sheriff’s Office. But it does not plausibly demonstrate that the frustration was political. Moreover, the testimony does not support Fritz’s theory that the Commissioners sought her removal so that they could remove Held and replace him with a Democrat. To the contrary, the deposition testimony Fritz cites shows that at least one defendant believed that Held would have to be replaced with another Republican, like Fritz. Thus, Fritz failed to show that the dismissal of her First Amendment claim was clearly erroneous or would result in manifest injustice. Accordingly, the District Court did not abuse its discretion by denying Fritz’s motion for reconsideration.

*Appendix A***C. The Sex-Discrimination and Retaliation Claims**

Fritz argues that the District Court erred by granting Appellees' summary judgment on her discrimination and retaliation claims because the record reveals genuine disputes of material fact about whether Appellees terminated Fritz because she was a woman who objected to sexual discrimination. The *McDonnell Douglas* three-step burden-shifting framework applies to sex discrimination and retaliation claims, like Fritz's, that are brought under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17 ("Title VII"), the Pennsylvania Human Relations Act, 43 PA. CONS. STAT. §§ 951-63 ("PHRA"), and 42 U.S.C. § 1983 ("§ 1983"). *See Atkinson v. Lafayette Coll.*, 460 F.3d 447, 454 n.6 (3d Cir. 2006) (applying the *McDonnell Douglas* framework to Title VII and PHRA sex discrimination claims); *Starnes v. Butler Cnty. Ct. of Common Pleas*, 50th Jud. Dist., 971 F.3d 416, 426 (3d Cir. 2020) (explaining that § 1983 sex-based discrimination claims are analyzed under the *McDonnell Douglas* framework applicable in Title VII cases); *Carvalho-Grevious v. Del. State Univ.*, 851 F.3d 249, 257 (3d Cir. 2017) (applying the *McDonnell Douglas* framework to retaliation claims).

Under this framework, the plaintiff bears the initial burden to establish a prima facie claim of discrimination or retaliation. *Burton v. Teleflex Inc.*, 707 F.3d 417, 426 (3d Cir. 2013) (citing *Scheidemantle v. Slippery Rock Univ. Stat. Sys. of Higher Educ.*, 470 F.3d 535, 539 (3d Cir. 2006)). If the plaintiff states a prima facie claim, the

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burden of production shifts to the employer to supply a legitimate, nondiscriminatory reason for its action. *Id.* If the employer provides a legitimate, nondiscriminatory reason for its action, the burden of production then shifts back to the plaintiff to show that the employer's proffered justification is merely a pretext for discrimination. *Id.* (citing *Fuentes v. Perskie*, 32 F.3d 759, 764-65 (3d Cir. 1994)).

The parties dispute whether Fritz has established a prima facie claim of discrimination or retaliation. We need not resolve this dispute, however, because assuming, without deciding, that Fritz has established a prima facie claim, Appellees have carried their burden to offer at least two legitimate justifications for terminating Fritz: (1) Fritz's August 7, 2018, altercation with a subordinate sheriff's deputy, which violated official workplace policies and resulted in the district attorney's office bringing criminal charges against Fritz; and (2) the allegations against Fritz of racial discrimination in hiring decisions. Thus, the burden shifts back to Fritz to show that those justifications are pretext for discrimination.

To show pretext absent direct evidence of discrimination, “[Fritz] must point to some evidence, direct or circumstantial, from which a factfinder could reasonably either (1) disbelieve [Appellees’] articulated legitimate reasons; or (2) believe that an invidious discriminatory reason was more likely than not a motivating or determinative cause of [Appellees’] action.” *Id.* at 427 (quoting *Fuentes*, 32 F.3d at 764). Fritz cannot carry this burden by “simply show[ing] that [Appellees’]

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decision was wrong or mistaken[.]” *Fuentes*, 32 F.3d at 765. Instead, Fritz must point to “weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in [Appellees’] proffered legitimate reasons for [their] action such that a reasonable factfinder could rationally find them ‘unworthy of credence,’” leading to the inference that the proffered reason was not the actual motivation for Appellees’ action. *Id.* at 764-65 (cleaned up); *see also Kautz v. Met-Pro Corp.*, 412 F.3d 463, 467 (3d Cir. 2005) (explaining that a plaintiff must point to evidence that “allow[s] a factfinder reasonably to infer that . . . [Appellees’] proffered [legitimate] reasons . . . w[ere] either a *post hoc* fabrication or otherwise did not actually motivate the employment action.” (quoting *Fuentes*, 32 F.3d at 764)).

To show pretext, Fritz first points to purportedly inconsistent deposition testimony about the reasons for her termination. The deposition testimony largely provides that the individuals could not recall specifically all the reasons for Fritz’s termination. But even four years later, Appellees consistently recalled one of the same reasons given in the termination letter, the August 2018 altercation, undercutting her asserting of pretext. Likewise, the County Commissioners consistently relied on the allegations of her racism when deciding to terminate her. Finally, and most importantly, Fritz does not appear to dispute many of the assertions stated in the termination letter—such as that she was involved in an altercation with a subordinate deputy sheriff, that the

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altercation resulted in a criminal charge, and that she violated relevant workplace codes of conduct.⁶

Second, Fritz argues that the Commissioners' decision to ban her from the property shows pretext because a male corporal was not banned from the property during his suspension and because her ban was issued months after

6. It is not determinative that Appellees' assessment of the altercation may have been incorrect because the issue is not whether Appellees were "wrong or mistaken" but whether the reason was pretext for illegal discrimination or retaliation. *Fuentes*, 32 F.3d at 765. Absent direct evidence of discrimination, Fritz must point to facts in the record such that "a reasonable factfinder could rationally find [Appellees' proffered legitimate] reason [is] 'unworthy of credence.'" *Id.*; see also *Brewer v. Quaker State Oil Refin. Co.*, 72 F.3d 326, 331 (3d Cir. 1995) ("To discredit the employer's proffered reason, the plaintiff cannot simply show that the employer's decision was wrong or mistaken, since the factual dispute at issue is whether a discriminatory animus motivated the employer." (cleaned up)). Fritz has failed to meet this burden, especially when considering that two independent sources—the internal investigation by an outside attorney and the district attorney's office by virtue of bringing charges—also determined that Fritz's conduct during the altercation was, at the very least, unacceptable.

Similarly, Fritz's eventual acquittal does not undermine Appellees' reliance on the incident in deciding to terminate her for three reasons. First, Fritz does not appear to contest that the altercation happened or that it violated County policy. Second, and similarly, as Commissioner Kopas explained Fritz did not "need to be convicted for actions to be inappropriate and in violation of County policy." J.A. 974. And third, at the time the County relied on the conviction, it was valid, and Fritz does not argue that Appellees were not permitted to rely on it.

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she was the subject of certain discrimination complaints. These arguments fail because there is unrebutted evidence that the male corporal was banned from County property during his suspension, and that the County bans employees from its property when they are suspended (not merely when they are the subject of complaints).

Third and finally, Fritz contends that Held's deposition testimony demonstrates pretext because "Regoli told Sheriff Held that if he fired [Fritz], the lawsuits [alleging racial discrimination] would not be filed." Opening Br. 50 (citing J.A. 775-76). But the cited deposition testimony does not mention Regoli, the word lawsuit, or discuss Fritz's possible termination. Instead, the entire cited testimony discusses Sheriff Held's attempts to secure a raise for Fritz. This appears to relate to Fritz's Equal Pay Act claim, which is not before us. *See supra* n.2. Thus, it is unclear how this testimony supports any argument of pretext. *See Sarullo v. U.S. Postal Serv.*, 352 F.3d 789, 800 (3d Cir. 2003) (explaining that "[a]bsent countervailing proof, . . . [a plaintiff's] personal view of [her] employer's explanation . . . falls far short of establishing pretext." (citing *Jones v. Sch. Dist. of Phila.*, 198 F.3d 403, 414 (3d Cir. 1999))).

Accordingly, the District Court did not err by granting summary judgment for Appellees on the sex-discrimination and retaliation claims, because Fritz has failed to show that she carried her burden, under step three of the *McDonnell Douglas* burden-shifting framework, to adduce evidence of pretext.

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III. CONCLUSION

For the reasons discussed above, we will affirm the District Court's judgment.

**APPENDIX B — MEMORANDUM OPINION OF
THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA,
FILED SEPTEMBER 26, 2022**

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

Civil Action No. 2:19-cv-1517

PATRICIA FRITZ,

Plaintiff,

v.

WESTMORELAND COUNTY, *et al.*,

Defendants.

Filed September 26, 2022

MEMORANDUM OPINION

William S. Stickman IV, United States District Judge

Plaintiff Patricia Fritz (“Fritz”), who worked in the Westmoreland County Sheriff’s Office (“Sheriff’s Office”), has brought claims against Westmoreland County (“County”) for: Count I—sex discrimination under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § 1981; Count II—retaliation under Title VII; Count III—age discrimination under the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 634 *et seq.*; Count

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IV—sex discrimination under the Equal Pay Act (“EPA”), 29 U.S.C. § 206(d); Count V—retaliation under the EPA, 29 U.S.C. § 215(a)(3); Count VI—sex discrimination under 42 U.S.C. § 1983; and, Count VIII—sex and age discrimination and retaliation under the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.* (“PHRA”). The County filed a Motion for Summary Judgment. (ECF No. 92). For the reasons explained below, the Court will grant the motion.

I. FACTUAL BACKGROUND

On November 6, 2010, Fritz was hired by Westmoreland County as a part-time deputy in the Sheriff’s Office.¹ She was in charge of the gun permit and license to carry sections. Jonathan Held (“Held”), who was elected Sheriff in Westmoreland County, took office in January 2012. From 2012 to 2014, Paul McCommons (“McCommons”) served as Chief Deputy Sheriff. McCommons resisted most of Held’s proposed changes to the Sheriff’s Office, and McCommons had a “if it ain’t broke, don’t fix it” mindset. McCommons left the Sheriff’s Office in 2014, and Fritz was appointed by Held to the position of Chief Deputy Sheriff on May 5, 2014. During her interview, Held conveyed that he needed a Chief Deputy Sheriff who would be strict and enforce the rules. The Sheriff’s Office had between forty-five and fifty-six employees. Fritz’s appointment was pursuant to Held’s statutory authority

1. Fritz retired from the Military and Veteran’s Affairs in 2010 having served seven years as an Administrative Officer and Real Property Specialist. She previously held a position with PennDot for twenty-three years. (ECF No. 105, p. 19); (ECF No. 112, p. 1).

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as Sheriff under 16 P.S. § 1203,² and she served at his pleasure. Her annual salary, \$41,675.87, was about the same as that of McCommons. Fritz did not get overtime, and she was an exempt employee. Fritz's duties and responsibilities included managing the Sheriff's Office's budget, implementing and updating department policies in accordance with law and county guidelines, training new deputy units, and general managerial and supervisory duties. (ECF No. 96, pp. 18, 23); (ECF No. 108, pp. 27, 36, 41-44); (ECF No. 115, pp. 2-4, 6).

According to Fritz, immediately after her appointment, many of the male deputies were hostile towards her and refused to follow changes she attempted to implement. (ECF No. 96, p. 19) (ECF No. 108, pp. 29, 43); (ECF No. 115, p. 5). Corporal Felder ("Felder"), expressed his contempt of Fritz to Held, stating on one occasion, "I

2. 16 P.S. § 1203 states in pertinent part:

(a) **Appointment**—The sheriff of each county shall appoint, by commission duly recorded in the office for recording deeds, a chief deputy whose appointment shall be revocable by the sheriff on recording in the office for recording deeds a signed revocation. The chief deputy, during continuance in office, shall have full power and authority to perform any duty incumbent upon the sheriff, with like effect in law as if such official act had been done by the sheriff in person, regardless of the ability or temporary disability of the sheriff to act, while the sheriff continues in office.

16 P.S. § 1203(a).

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can't believe you put a fucking woman in charge of us." (ECF No. 108, p. 43); (ECF No. 115, p. 5). Other men in the Sheriff's Office were allegedly insubordinate to Fritz because they believed a woman should not be in charge of them. Also, they allegedly believed her budgetary savings were to their financial detriment. (ECF No. 108, p. 43); (ECF No. 115, pp. 5-6). Held witnessed instances of hostility against Fritz and she reported other instances of male hostility to him.³ (ECF No. 108, p. 43); (ECF No. 115, p. 6).

Fritz received the Westmoreland County policies prohibiting Workplace Violence, Sexual Harassment, and Non-Discrimination as well as its Code of Ethics. (ECF No. 96, p. 18-21); (ECF No. 108, pp. 28, 30-32). The Westmoreland County Workplace Rules applied to Fritz, and, as to "Definition of Major Rule Violations," it stated in pertinent part:

Major offenses are any violations of Office safety rules of such a degree that continued employment of the individual may not be desirable. Major rule violations including the following, are examples of some offenses which may subject an employee to immediate suspension or discharge without warning:

* * *

3. Held was the subject of multiple sex discrimination complaints/lawsuits by women in the Sheriff's Office prior to 2018. (ECF No. 61); (ECF No. 115, pp. 38-39).

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10. Verbal altercations or physical altercations are strictly prohibited.

* * *

18. Investigation, arrest and/or conviction of criminal charges.

If a violation of the Workplace Rules occurs, the matter is investigated before an employee is terminated. (ECF No. 96, p. 18) (ECF No. 108, pp. 27-28); (ECF No. 95-30). As to the Sheriff's Office, Article V(5) of its Policy Manual, which addresses "General Rules and Regulations," states that:

§ 2 OBEDIENCE TO ORDERS—LAWS

A. Personnel of the Sheriff's Office must obey and enforce all:

- 1) Federal, State, and Local laws and Ordinances when directed or practical
- 2) Rules, regulations, policies, memorandums, and procedures of the Sheriff's Office.
- 3) Lawful orders issued by a superior officer or supervisor whether they are written or oral.

* * *

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§ 4 CONDUCT UNBECOMING

- A. Any conduct by personnel on or off duty that may reflect negatively upon the department. All personnel must at all times conduct themselves in a manner which does not bring discredit to themselves or the reputation of the Sheriff's Department.
- B. These written rules, regulations, or policies are not to be construed as the only guidelines for unacceptable behavior.

(ECF No. 96, p. 20); (ECF No 108, p. 30); (ECF No. 95-34).

Pursuant to 16 P.S. § 1620,⁴ Fritz's salary was set by the Westmoreland County Salary Board ("Salary

- 4. 16 P.S. § 1620 provides in pertinent part:

Provided, however, that with respect to representation proceedings before the Pennsylvania Labor Relations Board or collective bargaining negotiations involving any or all employees paid from the county treasury, the board of county commissioners shall have the sole power and responsibility to represent judges of the court of common pleas, the county and all elected or appointed county officers having any employment powers over the affected employees. The exercise of such responsibilities by the county commissioners shall in no way affect the hiring, discharging and supervising rights and obligations with respect to such employees as may be vested in the judges or other county officers.

16 P.S. § 1620.

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Board"). It does not set salaries based upon performance or merit. Held sent a March 6, 2017, letter to the Salary Board requesting a \$10,000.00 raise for Fritz because he believed she was not fairly compensated. The attached documentation was gathered by Fritz, and she sought to make her salary consistent with the Chiefs of Staff for the Commissioners, the Prison Deputy Warden of Security, the Prison Deputy Warden of Treatment, and the Park Police Chief Deputy.⁵ Held could facilitate compensation changes in his office by making a request to the Salary Board, which consists of three Commissioners⁶ and the Controller. Thereafter, Held would meet in an executive session with the Salary Board to discuss his compensation request. Following the executive session, at a public meeting, Held would make a motion to call the compensation request to a vote. When a request for an employee of the Sheriff's Office is before the Board, the

5. Men held the positions in the other County departments she referenced, and they made approximately \$10,000 to \$27,734 more per year. (ECF No. 96, p. 22); (ECF No. 108, p. 33-34). All row offices similar to the Sheriff's Office—i.e., the Treasurer, the Recorder of Deeds, the Register of Wills, the Coroner, the Prothonotary, and the Clerk of Courts—had Chief Deputy positions and those positions fell under the same pay step, or pay grade, as the Chief Deputy of the Sheriff's Office. (ECF No. 95-10, pp. 10, 28-29); (ECF No. 95-39). Steps differed if different work rules applied, if a Chief Deputy was promoted from another County position with a higher salary, or if the Salary Board gave an annual increase. (ECF No. 96, p. 22); (ECF No. 108, p. 34).

6. At the time of the events at issue here, the Commissioners were Ted Kopas, Gina Cerilli and Charles W. Anderson (collectively referred to as "Commissioners").

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Sheriff also receives a vote, for a total of five votes. The Salary Board denied Held's request for Fritz's salary increase in its executive session. Held did bring it to a public vote. (ECF No. 96, pp. 21-22, 24-24); (ECF No. 108, pp. 32-33, 44-45); (ECF No. 115, pp. 7-9).

On January 24, 2018, Held submitted a second request to the Salary Board seeking to increase Fritz's compensation by \$10,000.00. In addition to a pay raise for Fritz, Held's request included a restructuring of the Sheriff's Office, elimination of the Captain position, and a raise for other employees. Held spoke with each of the Salary Board members regarding his request, and he determined that he did not have support. Because of the lack of support, he withdrew his request prior to the executive session. Held eventually hired a new Captain, and Fritz's salary was not increased. (ECF No. 96, p. 24); (ECF No. 108, pp. 37, 45-46); (ECF No. 115, pp. 9-10).

On February 7, 2018, Assistant Solicitor David Regoli ("Regoli") came to the Sheriff's Office and requested a private meeting with Fritz. Regoli presented Fritz with two letters, dated February 6, 2018, from an attorney representing two individuals setting forth allegations of discrimination against Fritz for her employment and/or supervisory decisions, and threatening lawsuits if she was not fired. According to Fritz, Regoli accused her of discrimination and threatened her employment status. She also claimed that he physically assaulted her, and that all of his conduct was a violation of the County's Workplace Violence Policy. Due to Fritz's allegations about Regoli's conduct, Held requested the County investigate the

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incident, which he classified as a complaint of workplace harassment. The next day, on February 8, 2018, Regoli received a third letter from the attorney setting forth similar allegations of discrimination by Fritz as those contained in the first two letters. Regoli launched an investigation into the discrimination allegations lodged against Fritz. Ultimately, his investigation was never completed as the individuals filed federal lawsuits that the County settled. (ECF No. 96, pp. 11-17); (ECF No. 108, pp. 18-26); (ECF No. 115, pp. 10-14, 17).

On February 9, 2018, Fritz sent an email to Solicitor Guiddy about her February 7, 2018, interaction with Regoli stating his questions were “threatening and interrogating,” she was uncomfortable, she “felt threatened and intimidated,” and she was “harassed and maligned for no reason.” (ECF No. 95-27). In a February 9, 2018 letter, the Commissioners requested that Held suspend Fritz due to the discrimination complaints on the basis that the County’s Non-Discrimination Policy stated that employees who allegedly conducted themselves in a discriminatory manner were to be “indefinitely suspended pending the outcome of the investigation.” The Commissioners also released a statement to the media requesting Fritz’s suspension. Held refused to suspend Fritz. (ECF No. 95-28); (ECF No. 96, pp. 15-16); (ECF No. 108, pp. 23-24, 49); (ECF No. 115, pp. 14, 16).

The County began investigating and monitoring Fritz’s whereabouts, and it pulled surveillance video footage to track her movements. (ECF No. 108, p. 48); (ECF No. 115, p. 15). It hired Attorney Tom McGinnis

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(“Attorney McGinnis”) to investigate Fritz’s allegations against Regoli. When he attempted to interview Fritz, she referred him to her attorney. Attorney McGinnis was never able to conduct an interview of Fritz. He issued a June 28, 2018, report detailing his investigation and conclusion that Regoli had not violated the County’s Sexual Harassment or Violence in the Workplace policies. He noted that Fritz’s refusal to be interviewed was a potential violation of the County’s Sexual Harassment Policy, and she violated the Violence in the Workplace Policy by failing to immediately report to Human Resources (“HR”) or the Park Police the alleged physical contact with Regoli. (ECF No. 95-29); (ECF No. 96, pp. 16-17); (ECF No. 108, pp. 24-26).

In February 2018, Fritz requested medical leave, and approval was granted by Held and the County. During her leave, Fritz filed a complaint with the Equal Employment Opportunity Commission (“EEOC”) on February 21, 2018, against the Commissioners and Regoli as well as a complaint with the Pennsylvania Office of Disciplinary Counsel against Regoli. Her complaints were based on the February 7, 2018, incident with Regoli. On February 21, 2018, she filed a complaint with PHRC against the Commissioners and Regoli. On March 3, 2018, she amended her EEOC complaint to include a claim of unequal pay based on gender discrimination.⁷ (ECF No.

7. In June, she amended her EEOC charge to include claims for sex discrimination and equal pay. In August, Fritz again amended it to include claims of sex and age-based discrimination, and retaliation. In October, she amended and supplemented her claim to include retaliation. On April 12, 2019, Fritz filed three additional EEOC complaints. One was against the Sheriff’s Office,

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96, pp. 11, 16); (ECF No. 108, pp. 18, 24, 49); (ECF No. 115, p. 16-17, 39-41). On March 27, 2018, the Commissioners wrote to Pennsylvania senators and requested Fritz's removal from office based on the discrimination complaints against her. No senators investigated or took action on the Commissioners' request. (ECF No. 108, p. 50); (ECF No. 115, pp. 17, 39-42). On June 6, 2018, Fritz supplemented her EEOC complaint to include claims of sex discrimination and unequal pay. (ECF No. 108, p. 61); (ECF No. 115, p. 40).

On August 7, 2018, Fritz met with Felder, Deputy Orbin ("Orbin"), and Denise Appleby ("Appleby") about Orbin taking a work vehicle home. After that issue was resolved, Corporal Felder wanted to discuss the sick leave policy with Fritz. He told Fritz that he disagreed with the policy and he was going to instruct his deputies not to listen to the guidelines. At some point, Felder, who was approximately six feet tall and weighed between 250 and 300 pounds, allegedly began yelling at Fritz. According to Fritz, when Felder began to exit the room, she met him at the door and demanded, as his superior,⁸ that he sit down. Felder allegedly swung open the metal door and pinned Fritz behind the door. Held heard Felder

one was against the County Commissioners, and one was against the County. (ECF No. 108, pp. 61-62); (ECF No. 115, pp. 39-41).

8. In actuality, Fritz did not have any hiring or disciplinary authority over Felder, or any of the deputy sheriffs. (ECF No. 96, p. 4); (ECF No. 108, p. 6). Felder was the Union President for the Sheriff's Office, and he had a supervisory role in the office. (ECF No. 108, pp. 59-60); (ECF No. 115, p. 36).

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yelling and entered the room and had an exchange with Felder. The men then proceeded to the HR Office where Held turned the matter between Fritz and Felder over to HR to investigate. Held suspended. Felder and directed the Park Police to take Felder's firearm and escort him off the premises. Felder's behavior caused Held to fear for his safety and the safety of others. (ECF No. 96, pp. 3-4); (ECF No. 108, pp. 4-5, 50-51); (ECF No. 115, pp. 18-20). Later that day, Held, Fritz, and Appleby provided statements to HR about the incident. (ECF No. 108, p. 52); (ECF No. 115, p. 21).

In the ensuing days, Felder alleged that Fritz poked him in the chest during the August 7, 2018, meeting. Fritz denied Felder's allegations. Held was called by the Commissioners to a meeting to discuss Felder's allegations against Fritz wherein he learned that the Commissioners viewed Felder, and not Fritz, as the victim. The Commissioners stated that Fritz was going to be banned from County property for violating workplace policy. Held denied the accuracy of Felder's allegations against Fritz. (ECF No. 108, p. 52); (ECF No. 115, pp. 21-23). After the meeting, Held received a hand-delivered letter from the Commissioners dated August 10, 2018, stating in pertinent part,

This week the Westmoreland County Human Resources office received a number of complaints against Chief Deputy Patricia Fritz. These allegations concern possible physical violence on her part, as well as conduct unbecoming of any County employee, let alone

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a management employee, in front of members of the general public. Human Resources has begun an internal investigation into these accusations.

The Commissioners join together in their concern over the gravity of the seriousness of these allegations and are calling upon you to indefinitely suspend Chief Deputy Patricia Fritz with pay immediately pending the outcome of the investigation. An employee suspension would require Chief Deputy Fritz not to be on County premises and to return County property, including her swipe card, vehicle, gun, uniforms and badge, etc.

* * *

In light of these policies and the allegations, the Board of Commissioners urge you to cooperate with us in our request to suspend Chief Deputy Fritz pending the outcome of the investigation. Otherwise, the County will take all appropriate steps consistent with County policies and practices to ensure that these standards are upheld and to ensure the safety of County employees and visitors while on County property.

(ECF No. 109-74). Held, pursuant to his authority under 16 P.S. § 1203, issued an indefinite paid suspension to Fritz on August 10, 2018. (ECF No. 108, p. 53); (ECF No. 115,

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p. 24). Also that same day, the County's Director of HR, Amanda Bernard ("Bernard"), sent Fritz a letter stating in pertinent part:

This week the Westmoreland County Human Resources office received a number of complaints concerning possible physical violence on your part, as well as conduct unbecoming of any County employee, let alone a management employee, in front of members of the general public. Human Resources has begun an internal investigation into these accusations.

Due to the gravity of the seriousness of these allegations you are not permitted to be on County premises or attend County functions pending the investigation. You are required to return County property, including your swipe card, vehicle, gun, uniforms and badge, etc. During this time, you will continue to be paid.

(ECF No. 109-43). Prior to Fritz, the Commissioners had never banned a County employee from County property. (ECF No. 108, p. 61); (ECF No. 115, p. 39). Fritz's County vehicle was confiscated by the Park Police on August 11, 2018. (ECF No. 96, p. 4); (ECF No. 108, pp. 7-8, 54); (ECF No. 115, p. 26). Also, on August 11, 2018, Held informed Fritz that Felder had filed a complaint against her, the County wanted to suspend her, and he was waiting for additional information from his solicitor. On August 12, 2018, Fritz called Held to ascertain her employment status, and Held told her to take a sick day on Monday.

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(ECF No. 96, p. 5); (ECF No. 108, p. 8). Then, on Monday, August 13, 2018, Fritz claims she learned from news reports that she had been suspended. (ECF No. 96, p. 5); (ECF No. 108, pp. 9, 54); (ECF No. 115, p. 26).

By letter dated August 13, 2018, Bernard further instructed Fritz:

An action form was signed by Sheriff Held, suspending you with pay, effective August 10, 2018. Due to the gravity of the seriousness of these allegations you are not permitted to be on County premises or attend County functions pending the investigation. It is my understanding that you have already returned your badge and swipe card (County identification) to the Sheriff and that the County vehicle has been obtained. I would ask that you make arrangements to return any additional County property that you may have in your possession.

(ECF No. 109-44). Thus, the County banned Fritz indefinitely from all County property until its investigation into the August 7, 2018, incident was complete. (ECF No. 115, pp. 25-26); (ECF No. 108, pp. 53-54).

On August 16, 2018, Fritz amended and supplemented her EEOC complaint to include claims of sex and age discrimination, and retaliation. (ECF No. 105, p. 36); (ECF No. 112, p. 9).

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A non-traffic citation was issued by Officer Gardner on August 22, 2018, against Fritz for a violation of 18 Pa. C.S.A. § 2709(a)(1), harassment, for the August 7, 2018, incident with Fritz after Felder filed a private criminal complaint. (ECF No. 109-65); (ECF No. 108, p. 55); (ECF No. 115, p. 27). Fritz filed a private criminal complaint against Felder on August 24, 2018, alleging he assaulted and harassed her on August 7, 2018, but it was never adopted for prosecution by the Commonwealth of Pennsylvania. (ECF No. 109-27); (ECF No. 96, pp. 5-6); (ECF No. 108, pp. 9-10, 55); (ECF No. 115, p. 27).

HR wanted to meet with Fritz in late August, and Held encouraged her to go to the meeting. Fritz, however, believed that her perspective was covered when she was interviewed by County detectives regarding the incident with Felder, and she did not want to answer any further questions. (ECF No. 96, p. 6); (ECF No. 108, pp. 10-11). HR then sent Fritz an August 31, 2018, letter stating in pertinent part:

This letter is in follow up to the letter sent to you on August 13, 2018. As you are aware, the Westmoreland County Human Resources office received a number of complaints concerning possible physical violence on your part, as well as conduct unbecoming of any County employee, let alone a management employee, in front of members of the general public. Human Resources has begun an internal investigation into these accusations.

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On August 7, 2018, it is alleged that you yelled at, pushed and poked an employee following a meeting. It's also alleged that you blocked the employee from leaving the room. It is alleged that you then yelled at and followed the employee through public areas. On August 22, 2018, you were charged with a citation for harassment. As you are aware, this alleged behavior would constitute a violation of the Westmoreland County Workplace Violence Policy and the Westmoreland County Code of Ethics. In addition, the behavior and charge of harassment is a violation of the Westmoreland County Sheriffs Policy Manual in regards to Article V, Section 2 and Section 4.

The County has a responsibility to take all reasonable steps to ensure that County security and workplace standards are upheld and to ensure the safety of County employees and visitors while on County property.

On August 27, 2018, you were scheduled to meet with Human Resources in regards to these allegations. When you did not show for the meeting, I contacted you to find out if you were coming to the meeting. You stated that the Sheriff told you not to attend and that you do not answer to Human Resources. You told me to "take it up with your boss." I informed the Sheriff of our conversation and he stated that he encouraged you to attend with the

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approval of your attorney. He further stated that you informed him that your perspective was covered when you interviewed with the County Detectives. Please be advised that our investigation is separate from the County Detectives and Human Resources must pursue its own independent investigation into these allegations.

I am providing you with an additional opportunity to meet on Tuesday, September 4, 2018 at 1pm at the Westmoreland County Human Resources Office. At this meeting, you may respond verbally and/or in writing to the above allegations. Please report to Park Police prior to reporting to Human Resources.

(ECF No. 95-11). On September 10, 2018, Fritz met with HR and provided her version of August 7, 2018's events. (ECF No. 108, p. 55); (ECF No. 115, p. 28).

The attorney investigator hired by the County concluded her investigation on September 19, 2018, and submitted her recommendation to the County on October 1, 2018. (ECF No. 96, pp. 7-8); (ECF No. 108, pp. 13-14). She advised:

I recommend that Fritz be invited to a Loudermill hearing to respond to concerns about her conduct. Specifically, the investigation revealed credible and corroborated evidence/testimony that Fritz blocked Felder from leaving

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the meeting room and that she pushed and poked him during the exchange. Fritz's conduct, provided she does not provide exculpatory information during the Loudermill hearing, should result in her termination.

My recommendation as to Fritz is based on my understanding that Fritz is not part of a collective bargaining unit and has no "property interest" in her employment. She is an at-will employee who serves at the pleasure of Sheriff Held. I am aware, however, that Fritz has a pending EEOC claim and likely her termination will result in an additional charge or modification of her existing claims (adding a retaliation claim). To that end, there is a legitimate basis for the County to take action against Fritz (which is not retaliatory). When we met, we discussed whether there were other circumstances, that were similar in nature, but resulted in less of a disciplinary penalty. There are no similar comparable situations.

(ECF No. 95-15); (ECF No. 109-64).

On October 2, 2018, Fritz was found guilty of summary harassment relating to the August 7, 2018 incident with Felder.⁹ (ECF No. 108, p. 56); (ECF No. 115, p. 29). During

9. Fritz appealed the conviction and was found not guilty on August 22, 2019. (ECF No. 108, p. 56); (ECF No. 115, p. 29). On September 25, 2019, she sought reinstatement to her position as Chief Deputy. (ECF No. 96, p. 10); (ECF No. 108, p. 18).

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her suspension, other employees lodged complaints with HR about alleged incidents they had with Fritz. (ECF No. 96, p. 9); (ECF No. 108, pp. 14-15). HR sent Held a letter dated October 15, 2018, noting that independent counsel recommended terminating Fritz, Held delegated the authority on Fritz's job status to HR, and that it was the County's intention to terminate Fritz. HR requested Held sign the personnel action form terminating Fritz. (ECF No. 109-67). Held, through an October 16, 2018, letter from his solicitor, asked the County whether Fritz had been provided an opportunity to resign. (ECF No. 108, p. 56); (ECF No. 115, p. 30). Fritz, however, never told anyone she wanted to resign. In fact, she wanted to continue her tenure. (ECF No. 96, p. 25); (ECF No. 108, p. 38).

HR, by October 22, 2018 letter, notified Fritz that a *Loudermill*¹⁰ hearing was scheduled for October 25, 2018, at which time she would "be given the opportunity to respond to the allegations that have been made against you." (ECF No. 95-2); (ECF No. 109-21). Through counsel, Fritz responded by October 24, 2018, letter stating that she did not understand why she would be subject to *Loudermill* proceedings conducted by the County since she served the Sheriff pursuant to his statutory rights. (ECF No. 95-3, p. 2); (ECF No. 109-22, p. 2). Counsel for Fritz went on to state in the letter:

Chief Deputy Fritz challenges any from
of adverse action by the County based upon a
summary proceeding or the underlying facts.

10. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985).

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She believes it to be clearly retaliatory and done for improper political purpose. The conduct of the County is consistent with a pattern of retaliation and unlawful discrimination directed at Chief Deputy Fritz.

Chief Deputy Fritz reiterates her request that the County imposed prohibition on her access to County property that directly interferes with her ability to complete the functions of Chief Deputy be removed.

(ECF No. 95-3, pp. 2-3); (ECF No. 109-22, pp. 2-3). Neither Fritz nor her attorney appeared for the October 25, 2018, *Loudermill* hearing. Since Held delegated his Section 1620 rights, the Commissioners made the decision to terminate Fritz's employment. This was the first time an elected official ceded his rights, and the Commissioners had to terminate an employee. (ECF No. 108, pp. 56-57); (ECF No. 115, pp. 30-33).

By letter dated October 25, 2018, the County terminated Fritz's employment effective that day. (ECF No. 95-1); (ECF No. 109-23). In so doing, the County referenced the August 7, 2018, incident and its investigation, her criminal conviction, and "allegations of racial discrimination made by several former County employees." (ECF No. 95-1, p. 1); (ECF No. 109-23, p. 1). The letter stated:

We scheduled a hearing for today, October 25, 2018, to provide you with the opportunity

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to respond to the County's concerns about your employment. Neither you or your attorney appeared. As you are aware, the Westmoreland County Human Resources office received a number of complaints concerning possible physical violence on your part, as well as conduct unbecoming of a County employee. Human Resources immediately began an internal investigation into these accusations.

On August 7, 2018, it is alleged that you yelled at, pushed and poked an employee following a meeting. It is also alleged that you blocked the employee from leaving the room. It is alleged that you then yelled at and followed the employee through public areas. On August 22, 2018, you were charged with a citation for harassment. On October 2, 2018, you were found guilty of a summary harassment charge stemming from this incident.

Our investigation concluded that your behavior constituted a violation of the Westmoreland County Workplace Violence Policy and the Westmoreland County Code of Ethics. In addition, the behavior and charge of harassment is a violation of the Westmoreland County Sheriffs Policy Manual in regards to Article V, Section 2 and Section 4.

The County has a responsibility to take all reasonable steps to ensure that County security and workplace standards are upheld

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and to ensure the safety of County employees and visitors while on County property.

In addition to the concerns regarding the August 7, 2018 incident, the County is aware of allegations of racial discrimination made by several former County employees. These concerns relate to a pattern of racial discrimination in hiring. Today's meeting would have afforded you the opportunity to respond to these allegations.

While the County believes that you are an at-will employee, the County was willing to provide you with the opportunity to share information that you deemed to be relevant regarding these matters. You deprived yourself of this opportunity by failing to attend our meeting.

Please be advised that Sheriff Held has delegated his Section 1620 rights to the County Commissioners for purposes of your employment due to a conflict of interest arising from the fact that Sheriff Held is a material witness to the August 7, 2018 incident. Accordingly, this letter is to advise you that you are being terminated from your position effective immediately.

(ECF No. 95-1); (ECF No. 109-23). On October 26, 2018, Held filed a Revocation of Deputation of Chief Deputy

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Patricia Fritz with the Prothonotary of Westmoreland County. (ECF No. 95-19); (ECF No. 109-46).

Fritz was 63-years-old at the time of her termination. On October 26, 2018, Held appointed a 51-year-old woman, Appleby, to the Chief Deputy Sheriff position vacated by Fritz. (ECF No. 108, pp. 62-63).

II. STANDARD OF REVIEW

Summary judgment is warranted if the Court is satisfied that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A fact is material if it must be decided to resolve the substantive claim or defense to which the motion is directed. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). And there is a genuine dispute of material fact “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.* The Court must view the evidence presented in the light most favorable to the nonmoving party. *Id.* at 255. It refrains from making credibility determinations or weighing the evidence. *Id.* “[R]eal questions about credibility, gaps in the evidence, and doubts as to the sufficiency of the movant’s proof” will defeat a motion for summary judgment. *El v. Se. Pa. Transp. Auth.*, 479 F.3d 232, 238 (3d Cir. 2007).

“As a general proposition, conclusory, self-serving affidavits are insufficient to withstand a motion for summary judgment.” *Gonzalez*, 678 F.3d at 263 (internal

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quotation marks and citation omitted). *See also MD Mall Assocs., LLC v. CSX Transp., Inc.*, 715 F.3d 479, 485 n.6 (3d Cir. 2013) (“Summary judgment is proper only where the pleadings, discovery, and nonconclusory affidavits show that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.”). “When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.” *Scott v. Harris*, 550 U.S. 372, 380 (2007).

III. ANALYSIS

The County seeks the entry of summary judgment in its favor as to all counts. For the following reasons, the Court will grant the County’s motion in its entirety.

A. Summary judgment will be entered in favor of the County as to Fritz’s claims of sex discrimination (Counts I, VI and VIII).

Fritz contends that she had a statutory right to be free from sex discrimination in the terms and conditions of her employment, particularly with regard to the termination of her employment. According to Fritz, her complaints of mistreatment were not investigated and she contends that the County did not preserve complaints from women. Furthermore, Fritz argues that she was not offered an opportunity to resign, a last chance agreement, counseling or other opportunities that male employees were provided.

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She takes umbrage with Felder never being banned from County property, and not suffering adverse employment consequences as a result of the August 7, 2018, incident. In ~~csscncc~~, Fritz argues that male employees were treated more favorably than she was in regards to disciplinary and personnel actions. Fritz brings her claims under Title VII, the PHRA, and § 1983 (the equal protection clause).¹¹

Where a plaintiff brings parallel claims of employment discrimination under Title VII, the PHRA, and § 1983 those claims are governed by the *McDonnell Douglas*¹² burden-shifting framework and, therefore, the Court will address them all together. *Jones v. Sch. Dist. of Phila.*, 198 F.3d 403, 410 (3d Cir. 1999) (explaining that the framework generally applies to claims under Title VII and the PHRA); *Atkinson v. LaFayette Coll.*, 460 F.3d 447, 454 n.6 (3d Cir. 2006) (“Claims under the PHRA are interpreted coextensively with Title VII claims.”); *Lewis v. Univ. of Pittsburgh*, 725 F.2d 910, 915 n.5 (3d Cir. 1983) (§ 1983 claims “require the same elements of proof as a Title VII action”). To establish a *prima facie* case of sex discrimination, a plaintiff must show (1) she is a member of a protected class, (2) she is qualified for her position, (3) she suffered an adverse employment action, and (4) the adverse employment action gave rise to an inference of unlawful

11. Title VII and the PHRA prohibit an employer from discriminating on the basis of race. 42 U.S.C. § 2000e-2(a)(1); 43 P.S. § 955(a). The Equal Protection Clause proscribes sex-based discrimination. *Keenan v. City of Phila.*, 983 F.2d 459, 465 (3d Cir. 1992).

12. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

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discrimination, such as where the employer treated a similarly situated employee who was not a member of the plaintiff's protected class more favorably. *Jones*, 198 F.3d at 410-11. Then, the burden shifts to the defendant "to articulate some legitimate, nondiscriminatory reason" for the plaintiff's termination. *McDonnell Douglas*, 411 U.S. at 802. If the defendant produces a response, the burden shifts back to the plaintiff to show that the defendant's answer is merely a pretext for discrimination. *Id.* at 804-05. "To discredit the employer's proffered reason, . . . the plaintiff cannot simply show that the employer's decision was wrong or mistaken[.]" *Fuentes v. Perskie*, 32 F.3d 759, 765 (3d Cir. 1994). "Rather, the non-moving plaintiff must demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action" that a reasonable jury could infer that the employer did not act because of the legitimate, non-discriminatory reason. *Id.* A plaintiff can defeat summary judgment by demonstrating pretext in one of two ways: 1) by "point[ing] to evidence in the record that would cause a reasonable juror to disbelieve the employer's articulated legitimate non-discriminatory reason, thereby creating a genuine dispute of material fact as to the credibility of that reason[.]" *Burton v. Teleflex Inc.*, 707 F.3d 417, 430-31 (3d Cir. 2013) (citing *Fuentes*, 32 F.3d at 762), or 2) "pointing to evidence that indicates that the employer acted with discriminatory animus[.]" *id.* If proceeding by the first method, a plaintiff need not provide evidence that the employer acted with animus, but rather only that the employer's rationale is "unworthy of credence[.]" *Id.* (quoting *Lichtenstein v. Univ. of Pittsburgh Med. Ctr.*, 691 F.3d 294, 302 (3d Cir. 2012)).

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The County seemingly concedes that Fritz has met the first three elements of the test for a *prima facie* case of sex discrimination. (ECF No. 97, pp. 10-12). The Court agrees. It would note that the only actual adverse employment action Fritz was subjected to was her suspension after the August 7, 2018, incident with Felder, and her October 25, 2018, termination. As to the fourth element of the test for a *prima facie* case of sex discrimination, the County argues that the adverse employment actions do not give rise to an inference of unlawful discrimination. Fritz responds that she has come forth with evidence that she was treated less favorably than male employees.

There are two ways to satisfy the fourth element: “(1) introduce evidence of comparators (i.e., similarly situated employees who (a) were not members of the same protected class and (b) were treated more favorably under similar circumstances); or (2) rely on circumstantial evidence that otherwise shows a causal nexus between [her] membership in a protected class and the adverse employment action.” *Drummer v. Hosp. of Univ. of Pa.*, 455 F. Supp. 3d 160, 168 (E.D. Pa. 2020) (quoting *Green v. V.I. Water & Power Auth.*, 557 F. App’x 189, 195 (3d Cir. 2014)); see *Anderson v. Wachovia Mortg. Corp.*, 621 F.3d 261, 268-69 (3d Cir. 2010) (stating “comparative evidence is often highly probative of discrimination, [but] it is not an essential element of a plaintiff’s case”). In essence, the question is whether Fritz can “point to evidence with sufficient probative force that a factfinder could conclude by a preponderance of the evidence that [discrimination] was a motivating or determinative factor in the employment decision.” *Simpson v. Kay Jewelers*, 142 F.3d 639, 644-45 (3d Cir. 1998).

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Although the Court of Appeals for the Third Circuit has not explicitly stated what constitutes a similarly situated employee, a panel of that court has stated that it “accept[s] the standard used by other circuits that to be considered similarly situated, comparator employees must be similarly situated in all relevant respects.” *Wilcher v. Postmaster Gen.*, 441 F. App’x 879, 881-82 (3d Cir. 2011) (citations omitted). The panel further stated that “[a] determination of whether employees are similarly situated takes into account factors such as the employees’ job responsibilities, the supervisors and decision-makers, and the nature of the misconduct engaged in.” *Id.* at 882 (citations omitted). This is consistent with a recent panel’s statement in *Durst v. City of Phila.*, 798 F. App’x 710 (3d Cir. 2020) that “[a]lthough ‘similarly situated’ does not mean identically situated, the comparator must be similar in all relevant respects.” *Id.* at 713 (citing *Johnson v. Kroger Co.*, 319 F.3d 858, 867 (6th Cir. 2003)). In *Durst*, the Third Circuit identified relevant factors to “include whether the comparators had the same supervisor, were subject to the same standards, and had engaged in similar conduct.” *Id.* “In the discipline context, a plaintiff must show that the alleged comparator’s acts were of comparable seriousness to his own infraction, and that the [comparator] engaged in the same conduct without such differentiating or mitigating circumstances as would distinguish the [comparator’s] conduct or the employer’s resulting treatment of [him].” *Johnson v. City of Phila.*, No. 14-1123, 2015 WL 1475277, at *12 (E.D. Pa. Apr. 1, 2015) (internal quotation marks and citation omitted); *see also Wright v. Providence Care Ctr., LLC*, 822 F. App’x 85, 93 (3d Cir. 2020) (“Comparable seriousness may be shown

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by pointing to a violation of the same company rule, or to conduct of a similar nature.” (internal quotation marks and citation omitted)).

The examination of comparator evidence is a case specific fact-intensive inquiry. *Monaco v. Am. Gen. Assur. Co.*, 359 F.3d 296, 305 (3d Cir. 2004). “Whether comparators are similarly situated is generally a question of fact for the jury,” but summary judgment is nevertheless appropriate “where there is no evidence from which a jury could conclude the parties were similarly situated.” *Abdul-Latif v. Cnty. of Lancaster*, 990 F. Supp. 2d 517, 526 (E.D. Pa. 2014) (citations omitted); *see also Opsatnik, v. Norfolk S. Corp.*, 335 F. App’x. 220, 223-24 (affirming a grant of summary judgment because there was no evidence that comparators were similarly situated). Here, the Court finds that Fritz has not met her burden using comparative evidence because she has not identified a comparator similarly situated to her in all respects. *See In re Tribune Media Co.*, 902 F.3d 384, 403 (3d Cir. 2018) (employee failed to satisfy burden of showing that employer’s stated reason for discharging him, for violating the company’s anti-fighting policy, was pretext for discrimination); *see also Simpson*, 142 F.3d at 645 (explaining “[t]he plaintiff has the burden of demonstrating that similarly situated persons were treated differently”).

Fritz argues that her suspension (and prohibition from entering County property) and termination was inconsistent with discipline directed at men in the Sheriff’s Office. A deputy, E.F., was suspended for three days after being accused of sexual harassment. Another

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deputy, D.G., who admitted to receiving sexual favors from inmates, was permitted to resign. A third deputy, R.N., who was facing charges of sexting with a minor, giving alcohol to minors, and engaging in sexual favors with inmates, was permitted to resign. A fourth deputy, J.D., pled guilty to DUI-general impairment, and was issued a ten-day suspension (reduced to 5 days), and then put on a performance improvement plan for a probationary period. A warrant deputy, A.H., tested positive for cocaine and was permitted to resign in lieu of termination. Another deputy, B.M., who tested positive for alcohol, received a suspension. Lastly, S.E., a deputy, revealed confidential information and was permitted to resign in lieu of termination. (ECF No. 96, pp. 25-27); (ECF No. 108, pp. 38-40; 58-60); (ECF No. 115, pp. 33-36).

While some of these allegations are disputed by the County (ECF No. 115, pp. 33-42), including the fact that anyone who received a suspension (like Felder) was automatically prohibited from being on County property (*Id.* at 39) (ECF No. 114, pp. 2-3), the real problem with regard to these comparators is that they all held different positions than Fritz. She was second-in-command of the Sheriff's Office and the proffered comparators were merely deputies, and union employees at that. *See Mandel v. M & Q Packaging Corp.*, 706 F.3d 157, 170 (3d Cir. 2013) ("[A]n employee who holds a different job in a different department is not similarly situated." (citation omitted)); *Wilcher*, 441 F. App'x at 882 (finding that proposed comparators were inappropriate because "none of them held the same position" as plaintiff). Also distinguishing her from her comparators, is that

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Fritz never requested to resign, or retire, prior to her termination. In fact, she wanted to continue her tenure. (ECF No. 96, p. 25); (ECF No. 108, p. 38). As to the nature of the misconduct, Fritz has failed to identify who imposed the discipline on all the deputies. She cannot establish an inference of discrimination where proposed comparators were disciplined by different supervisors. And, most importantly, Fritz engaged in misconduct much different than the individuals she attempts to compare herself with. She was convicted of criminal harassment against a subordinate on-site during work hours. In this sense, she is not similarly situated to any of the individuals she references as comparators. The County notes, “no other Chief Deputy and no one else in a similar position was retained after having been convicted of a summary offense of harassing another employee.” (ECF No. 114, p. 3). Fritz has proffered nothing to refute this statement.

The Court holds that Fritz has failed to demonstrate that other similarly situated individuals were treated any differently, regardless of sex. She has come forth with no relevant comparator evidence giving rise to an inference of discriminatory intent. Additionally, a reasonable factfinder also could not conclude there was a causal nexus between membership in a protected class (sex) and the adverse employment action. As already noted, the County terminated her because (1) her behavior on August 7, 2018, violated the Workplace Violence Policy and the Code of Ethics and violated Article V, Sections 2 and 4 of the Sheriff’s Policy Manual, (2) she was convicted of summary harassment, and (3) “allegations of racial discrimination made by several former County employees.” (ECF No. 109-

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23). This termination decision was made after the County commissioned an independent investigation, and after Fritz was criminally convicted. Although unnecessary, the County afforded Fritz a *Loudermill* hearing before terminating her, and she chose not to attend. There is nothing in the record before the Court to suggest that the County's decision to terminate Fritz was gender based. Fritz's bare allegations that her conditions of employment and termination were based on her sex are insufficient to withstand summary judgment; she has not set forth a *prima facie* case of sex discrimination. *See Williams v. Borough of West Chester Pa.*, 891 F.2d 458, 460-61 (3d Cir. 1989) (a "plaintiff must present affirmative evidence in order to defeat a properly supported motion for summary judgment" and it "must amount of more than a scintilla.").

Even if Fritz had established a *prima facie* case of sex discrimination by the County, summary judgment in favor of the County would still be appropriate because Fritz has failed to meet the shifting burden under *McDonnell Douglas* of adducing evidence sufficient for a fact-finder to conclude that the employment action against her was pretextual. *McDonnell Douglas*, 411 U.S. at 802-04. The County has asserted several nondiscriminatory reasons for the adverse employment action against Fritz. The Court finds that Fritz has failed to offer sufficient evidence that the County's reasoning was actually a pretext for discrimination. The record is clear that Fritz was aware of pending disciplinary action and she chose not to attend the *Loudermill* hearing. Fritz's denial to the Court that she engaged in the conduct with Felder that led to her criminal conviction and termination, and her reliance on

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deposition testimony of the Commissioners as to their spotty recollection of the exact reason for her termination, is insufficient to create a genuine issue of material fact, particularly in light of the series of letters sent to her by HR documenting its investigation and reasons for termination. The issue of pretext addresses whether an employer honestly believes the reasons it offered for an employee's termination, not the correctness or desirability of its reasons.

Fritz failed to adduce evidence from which a reasonable factfinder could conclude "that the employer's proffered reasons were merely a pretext for discrimination," *Sarullo*, 352 F.3d at 797, or that there were "weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions from which a reasonable juror could conclude that the Defendants' explanation is unworthy of credence, and hence infer that the employer did not act for the asserted" nonretaliatory reason, *Carvalho-Grevious v. Del. State Univ.*, 851 F.3d 249, 262 (3d Cir. 2017) (quotation marks and citations omitted). It is abundantly evident that Fritz disbelieves the County's reasons for terminating her employment, and she even goes so far as to posit that the discrimination complaints lodged against her were fabricated by disgruntled members of the Sheriff's Office. But, she has come forth with nothing to demonstrate pretext. Notably, after her termination, Fritz's position was filled by Held with another woman over the age of fifty. There is no evidence in the record before the Court that justifies disbelieving the County's articulated legitimate reasons. *Fuentes*, 32 F.3d at 764 (3d Cir. 1994). In other words, Fritz has presented no actual

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evidence to discredit the legitimate nondiscriminatory reasons for her suspension and then termination, and she has presented no evidence from which a fact finder could infer that the County's actions were motivated by discriminatory animus.

The Court holds that the County is entitled to summary judgment as a matter of law as to Counts I, VI and VIII.

B. Summary judgment will be entered in favor of the County as to Fritz's claims of age discrimination (Counts III and VIII).

In Count III of her Amended Complaint, Fritz alleges age discrimination relative to her termination in violation of the ADEA. In Count VIII, she alleges age discrimination relative to her termination in violation of the PHRA.¹³ Fritz, who was 63-years-old at the time of

13. The ADEA prohibits an employer from discharging an individual, or otherwise discriminating against an individual with respect to compensation, terms, conditions, or privileges of employment, because of that individual's age. *See* 29 U.S.C. § 623(a)(1). Similarly, the PHRA provides: "It shall be an unlawful discriminatory practice . . . [f]or any employer because of the . . . age . . . of any individual . . . to discharge from employment . . . or to otherwise discriminate against such individual . . . with respect to compensation, hire, tenure . . . if the individual . . . is the best able and most competent to perform the services required." 43 Pa. Stat. Aim. § 955(a). The Court need not differentiate between Fritz's age discrimination claims under the ADEA and the PHRA because the same analysis is used for each claim. *See Simpson*, 142 F.3d at 643 n.4; *see also Martinez v. UPMC Susquehanna*, 986 F.3d 261, 265 (3d Cir. 2021). Fritz's claims will be addressed together.

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her termination, claims she was discriminated against when her position was filled by a 51-year-old woman with limited experience. Summary judgment will be entered in favor of the County as the record is devoid of any evidence of age discrimination.

In cases like this one, where the plaintiff does not possess direct evidence of age discrimination, the Court must apply the three-part burden-shifting framework set forth in *McDonnell Douglas*, discussed above. *See Willis v. UPMC Children's Hosp. of Pittsburgh*, 808 F.3d 638, 644 (3d Cir. 2015). Under this test, Fritz bore the initial burden of establishing a *prima facie* case of discrimination. *See Sarullo v. U.S. Postal Serv.*, 352 F.3d 789, 797 (3d Cir. 2003). Generally, to establish a *prima facie* case of age discrimination, a plaintiff must prove the following elements: (1) she is 40 years of age or older; (2) she suffered an adverse employment action; (3) she was qualified for the position at issue; and (4) she was treated less favorably than a sufficiently younger person under circumstances that give rise to an inference of age discrimination. *See Keller v. Orix Credit Alliance, Inc.*, 130 F.3d 1101, 1108 (3d Cir. 1997) (citing *Sempier v. Johnson & Higgins*, 45 F.3d 724, 728 (3d Cir. 1995)).

The County seemingly concedes for purposes of their motion that Fritz satisfied the first, second and third elements of the *prima facie* test in that Fritz was 63-years-old at the time of her termination and she was qualified for her position as Chief Deputy Sheriff. (ECF No. 97, p. 18). As to the fourth element, the Court finds that Fritz has met her burden. She was replaced by a

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51-year-old woman. Although they are both members of the ADEA protected age group, 29 U.S.C § 631(a), their shared protected status does not immunize the County against an inference of age discrimination. “[T]o satisfy the sufficiently younger standard, ‘there is no particular age difference that must be shown, but . . . courts have held . . . that a five year difference can be sufficient [while] . . . a one year difference cannot.’” *Monaco*, 359 F.3d at 307 (citing *Showalter v. Univ. of Pittsburgh Med. Ctr.*, 190 F.3d 231, 236 (3d Cir. 1999)). The age difference here, twelve years, is sufficient for establishing a *prima facie* case. *See O’Connor v. Consol. Coin Caterers Corp.*, 517 U.S. 308, 312 (1996) (holding that when a 56-year old employee was replaced by a 40-year old employee, this qualified as someone “substantially younger” for the purposes of establishing a *prima facie* case); *Sempier v.*, 45 F.3d at 730 (holding when an employee was temporarily replaced by a person who was 10 years younger and permanently replaced by a person four years younger, this was sufficient for the *prima facie* case).

Because Fritz carried the burden of establishing a *prima facie* case of age discrimination, the burden shifts to the County to “articulate some legitimate, nondiscriminatory reason” for its conduct. *Id.* (quoting *McDonnell Douglas*, 411 U.S. at 802). The County, as discussed in the previous section herein, easily carried that burden, submitting ample evidence that Fritz was terminated because (1) her behavior on August 7, 2018, violated the Workplace Violence Policy and the Code of Ethics, and violated Article V, Sections 2 and 4 of the Sheriff’s Policy Manual, (2) she was convicted of summary

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harassment, and (3) “allegations of racial discrimination made by several former County employees.” (ECF No. 109-23). Therefore, the burden shifted back to Fritz to show that the County’s explanation was pretextual, which she could do by providing evidence that would allow a factfinder to either (a) “disbelieve the employer’s reason for the adverse employment action”; or (b) “believe that an invidious discriminatory reason was ‘more likely than not a motivating or determinative cause’ of the employer’s action.” *Fuentes*, 32 F.3d at 764. Fritz presented no evidence to make either showing. Her personal view that the County and Defendants were unfair to her and that Held should not have delegated his Section 1620 rights to the County does not suffice to show pretext. *See Sarullo*, 352 F.3d at 800; *see also Uhl v. Zalk Josephs Fabricators, Inc.*, 121 F.3d 1133, 1137 (7th Cir. 1997) (“Facts, not an employee’s perceptions and feelings, are required to support a discrimination claim.”). Fritz has produced no evidence of pretext other than the fact that she was replaced by a younger female employee. No reasonable factfinder could find that the County’s offered reasons for terminating her were a pretext to discriminate against her on the basis of her age.

The Court holds that the County is entitled to summary judgment as a matter of law as to Counts III and VIII.

*Appendix B***C. Summary judgment will be entered in favor of the County as to Fritz's claim under the EPA (Count IV).**

In Count IV, Fritz alleges that the County violated the EPA in that it did not equalize her compensation with other male County employees. To establish a *prima facie* case under the EPA, she must show that the County paid different wages to employees of the opposite sex for equal work on jobs which required equal skill, effort, and responsibility, and all of which are performed under similar working conditions. *Stanziale v. Jargowsky*, 200 F.3d 101, 107 (3d Cir. 2000). In other words, Fritz must show that she was paid unequally for “substantially equal” work. *E.E.O.C. v. Delaware Dep’t of Health & Soc. Servs.*, 865 F.2d 1408, 1413 (3d Cir. 1989). If a plaintiff, like Fritz, is able to make a *prima facie* case, the burden shifts to the employer to raise one of the four affirmative defenses stated in the EPA. The four affirmative defenses include three that are “specific and one general catchall.” *Corning Glass Works v. Brennan*, 417 U.S. 188, 196-97 (1974). A difference in payment between opposite sexes is permissible if it is made pursuant to: (1) a seniority system, (2) a merit system, (3) a system which measures earnings by quantity or quality of production, or (4) a system based upon any other factor other than sex (the “catchall defense”). *Id.*

The Court finds that Fritz has failed to establish a *prima facie* case. She has not come forth with adequate evidence demonstrating that “employees of the opposite sex were paid differently for performing ‘equal work’—

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work of substantially equal skill, effort and responsibility, under similar working conditions.” *Stanziale*, 200 F.3d at 107. To determine whether two jobs involve equal work, a court must determine whether “a significant portion of the two jobs is identical.” *Brobst v. Columbus Servs. Int’l*, 761 F.2d 148, 155, 156 (3d Cir. 1985).

The Sheriff’s Department had between forty-five and fifty-six employees. Fritz’s appointment was pursuant to Held’s statutory authority as Sheriff under 16 P.S. § 1203, and she served at his pleasure. Her annual salary, \$41,675.87, was about the same as that of her predecessor. She did not get overtime. Her duties and responsibilities included managing the Sheriff’s Office’s budget, implementing and updating department policies in accordance with law and county guidelines, training new deputy units, and general managerial and supervisory duties. (ECF No. 96, pp. 18, 23); (ECF No. 108, pp. 27, 36, 41-44); (ECF No. 115, pp. 2-4, 6). The Chief Deputy Position was described as follows in March of 2017:

Oversees the supervision of deputies; assigns and directs work including courtroom security, prisoner transportation, service of legal papers, sheriff sales, mental health cases, hospital security, warrant duty, prisoner medical visits and radio detail; reviews work and evaluates performance; reviews employee attendance and leave records.

Dockets all writs, complaints and executions; notarizes foreign writs from other counties and states; distributes writs and complaints to deputies for service.

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Oversees the coordination of prisoner transfers from Courthouse to jail; oversees arrangements made for deputies to escort prisoners involved in extraditions.

Oversees the transportation of prisoners; locates prisoners in the penal system, transfers to court hearings, hospital facilities, family funerals and any other court ordered appearances; reviews log of such transfers.

Oversees and coordinates satellite gun permits, licenses to sell firearms and precious metals vendors to be sure all are compliant with guidelines.

Oversees the maintenance program including car repairs, car radio repairs, etc. on all County Sheriff Department vehicles.

Oversees confiscated weapons & areas where weapons are secured, stored and catalogued, such as the Sheriff's Department Gun Room.

Responsible for all office functions and personnel; Chief Deputy acts as liaison in Sheriff's absence.

Oversees budget requirements and guidelines regarding Sheriff's budget each fiscal year.

Make recommendations for spending in regard to budgetary requirement.

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(ECF No. 95-41). The position required Act 2 Certifications through Deputy Training School or “an equivalent combination of training and experience which provides equivalent skills, knowledge and abilities,” annual firearms certification, and five years of experience as a supervisor overseeing a staff. (*Id.*). Within one year of hire, the Chief Deputy must complete the Deputy Sheriff Academy. (ECF No. 95-10, p. 8). The position also has physical and mental requirements, but it does not require Act 120 certification.¹⁴ (ECF No. 95-10, p. 42); (ECF No. 95-41). Because the Chief Deputy Sheriff position reported to a row officer, the Sheriff, only the Sheriff had the authority to mandate whether or not the Chief Deputy Sheriff was available twenty-four hours a day, seven days a week. (*Id.*).

With the exception of the Chief of Staff for each of the three Commissioners, all row offices similar to the Sheriff’s Office-i.e., the Treasurer, the Recorder of Deeds, the Register of Wills, the Coroner, the Prothonotary, and the Clerk of Courts-had Chief Deputy positions and those positions fell under the same pay step, or pay grade, as the Chief Deputy of the Sheriff’s Office. (ECF No. 95-10, pp. 10, 28-29); (ECF No. 95-39). The County determined that these positions were equal and, thus, they all came in at a step 1 on the same grade, and the starting salary was approximately \$42,000. (ECF No. 95-10, pp. 10-13). The only way to alter a Chief Deputy’s step was if different

14. To become a police officer in the Commonwealth of Pennsylvania, a candidate must successfully pass the Act 120 certification course as well as the Pennsylvania Municipal Police Officers’ Education and Training Commission (MPOETC) state certified exam. *See generally* mpoetc.psp.pa.gov.

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work rules applied, if they were promoted to the Chief Deputy position from another County position that had a higher salary, or if the Salary Board gave an annual increase for all employees and it moved everyone over a step, which equated to a one percent salary increase. (ECF No. 95-10, pp. 12-14). The Chiefs of Staff for the Commissioners were entitled to a pay grade above the Chief Deputy positions in the other row offices because of their expansive duties and responsibilities. (*Id.* at pp. 13, 28).

Despite all of this, Fritz argues that her position was more comparable to the men that held the positions of Chiefs of Staff for the Commissioners, the Prison Deputy Warden of Security, the Prison Deputy Warden of Treatment, and the Park Police Chief Deputy. (ECF No. 107, pp. 26-28). She claims that the Chief Deputies in the other row offices were positions not having a law enforcement aspect that were traditionally held by women. (ECF No. 107, p. 28). She believes the Chiefs of Staff for the Commissioners, the two prison wardens, and the Park Police Chief Deputy are comparable positions because they are supervisory/managerial positions. The Commissioners' Chiefs of Staff and the Deputy Prison Wardens had to be permanently on call like Fritz. As to the Park Police Chief Deputy, he, like Fritz, had to carry a firearm. Fritz argues that the positions are further comparable to her in that none required a bachelor's degree, and only the Prison Deputy Warden of Treatment required an associate degree. (*Id.*). For these reasons, Fritz posits that they are appropriate comparators, and they all earned approximately \$10,000 to \$27,734 more per year than she did.

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The Court finds Fritz's comparator evidence to be deficient. Insufficient facts were adduced that the other positions she utilizes as comparators were actually equivalent to hers. The positions Fritz refers to-i.e., the Park Police Chief of Staff, the Deputy Wardens of the prison, and the three Chiefs of Staff to the Commissioners-are in different County departments, and they have vastly different job responsibilities and supervisors. Notably, there is no "Police Chief Deputy" position in the Park Police as the Police Chief is the top official for the Park Police and he oversees under fifty Park Police employees. The Park Police Chief requires Act 120 certification, at least five years of law enforcement experience, and other certifications. It is a position that is more comparable to that of the Sheriff, Held. (ECF No. 95-10, pp. 5-7). Additionally, there is no "Chief Deputy" position at the Westmoreland County Prison. Instead, there are two Deputy Wardens that specialize in two different areas, one in security and one in treatment, and they are responsible for six hundred inmates and three hundred employees. They do not carry firearms, and they have to be permanently on-call. The Deputy Warden of Treatment is required to have a bachelor's degree, and the Deputy Warden of Security must have an associate degree, although a bachelor's degree is preferred. For all of the Deputy Warden positions, several years of corrections or law enforcement experience is required as well as prior management and/or supervisory authority. (*Id.* at pp. 6-7). As to the three Chiefs of Staff for each of the Commissioners, they each are responsible for oversight and guidance of five to six departments (there are a total of thirty-one County departments). Their jobs are expansive and include such things as:

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1. Assists the Board of Commissioners in establishing policies, goals, program planning, and fiscal initiative; insures that Department Heads implement the Board of Commissioners' decisions.
2. Interacts with all Row Officers and the Courts, to coordinate program planning, fiscal matters and other issues affecting these offices and courts.
3. Interacts and participates in planning with State and Federal agencies, legislators, lobbyists and constituents for County growth, development and funding opportunities.
4. Provides information and answers questions from constituents.
5. Assists Financial Administration in leading the development and preparation of the County budget.
6. Assists with researching and developing policies and procedures to better serve the Board of Commissioners.
7. Meets with Department Heads to discuss, debate, trouble-shoot, and brainstorm personnel, program and operational problems to identify potential solutions. Oversees and assigns tasks to Department Heads with the approval of two commissioners.

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8. Participates and provides assistance in developing answers to lawsuit filed against the County.
9. Interacts and communicates with their County Commissioner and interacts with other Commissioners to gain approval and consensus on policies, initiatives and projects.
10. Attends Salary Board, Prison Board, Pension Board and other public meetings.

(ECF No. 95-40). They have the authority to recommend personnel action, discipline, and termination in consultation with the department head. (ECF No. 95-10, p. 10). A bachelor's degree is required, three to five years' experience in public policy and administration is required, and supervisory experience is preferred.

Not only has Fritz failed to adduce evidence that the qualifications for these positions was similar to that of the Chief Deputy Sheriff, but she has failed to present concrete evidence that the work done by any of these men was of a "substantially equal skill, effort and responsibility, under similar working conditions." *Stanziale*, 200 F.3d at 107. She has not set forth a *prima facie* case that the County paid her differently from male coworkers in other County departments for performing equal work. As the evidence currently stands, she was paid the same as her predecessor and her salary was set the same as the Chief Deputies in other row offices.

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For these reasons, summary judgment will be entered in favor of the Sheriff’s Office as to Count IV.

D. Summary judgment will be entered in favor of the County as to Fritz’s claims of retaliation (Counts II, V and VIII).

In Count II, Fritz brings a retaliation claim against the County under Title VII for engaging in protected conduct by filing an EEOC complaint (which was later amended) as well as a complaint with the County Solicitor regarding her February 7, 2018, incident with Regoli. She also claims she “engaged in protected activity by addressing the disparity in pay with her male peers.” (ECF No. 26, p. 19). As a result of engaging in this allegedly protected activity, Fritz contends she was subjected to retaliatory behavior by the Sheriff’s Office including, but not limited to, discipline and termination. (*Id.* at p. 20). In Count V, she brings a retaliation claim against the County under the EPA because, after voicing her concerns regarding her disparity in pay with other Chief Deputies in the County, “Defendants not only denied the equal compensation but undertook a pattern and practice aimed at compelling her discharge from employment.” (*Id.* at p. 25). Lastly, in Count VIII, she brings a retaliation claim under the PHRA against the County alleging that it engaged in “employment decisions” “that were discriminatory in intent and practice by treating her differently in the terms and conditions of her employment compared to male employees,” and retaliated against her internal complaints and filing of a PHRA complaint through “compensation, threats of physical violence, unfounded

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and disparate disciplinary conduct, and termination of employment.” (*Id.* at p. 35). In her pleadings to the Court, she clarifies that her claims under these provisions are for the County’s retaliation in response to complaints of discrimination as to compensation, personnel action, and disciplinary action.¹⁵ (ECF No. 107, pp. 29-35). She made complaints of discrimination both internally with Held and HR and externally with the EEOC and PHRC. Fritz argues that the adverse employment action was her suspension (including banishment from County property) and termination. (*Id.*).

In order to establish a *prima facie* case of retaliation,¹⁶ Fritz must show that (1) she was engaged in protected

15. Section 704(a) of Title VII forbids an employer from discriminating against an employee “because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation . . . under this subchapter.” 42 U.S.C. § 2000e-3(a). It is similarly unlawful under § 5(d) of the PHRA for an employer “to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act, or because such individual has made a charge . . . under this act.” 43 Pa.S. § 955(d). Under the FLSA, it is prohibited to retaliate against any employee who files a complaint, commences a proceeding, or testifies in a proceeding under the FLSA, including the EPA. 29 U.S.C. § 215(a)(3).

16. Retaliation claims under Title VII, the PHRA, and the EPA are all analyzed using the same framework. *Fogelman v. Mercy Hosp. Inc.*, 283 F.3d 561, 567 (3d Cir. 2002); *see also Preobrazhenskaya v. Mercy Hall Infirmary*, 71 F. App’x 936, 939 (3d Cir. 2003) (citing *Kachmar v. Sungard Data Sys., Inc.*, 109 F.3d 173, 177 (3d Cir. 1997)).

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activity; (2) the County took adverse employment action against her; and (3) a causal nexus exists between the protected activity and the adverse employment action. *Quiroga v. Hasbro, Inc.*, 934 F.2d 497, 501 (3d Cir. 1991); *Jalil v. Avdel Corp.*, 873 F.2d 701, 708 (3d Cir. 1989). If Fritz is able to show these elements, the burden shifts to the County to articulate a legitimate, non-discriminatory reason for its action. See *Shellenberger v. Summit Bancorp, Inc.*, 318 F.3d 183, 187 (3d Cir. 2003). If the County satisfies this burden, Fritz may defeat summary judgment by discrediting the proffered reason or adducing evidence to demonstrate that retaliatory animus was a motivating factor in the County's decision. *Fuentes*, 32 F.3d at 765.

The County argues that Fritz has failed to satisfy the third prong of the test for a *prima facie* case of retaliation. (ECF No. 97, pp. 15-16). The Court concurs. Fritz has failed to adduce sufficient evidence to demonstrate the element of causation. A plaintiff may show causation in any of the following three manners: (1) by the timing of the adverse action in relation to the protected activity;¹⁷

17. “[I]t is causation, not temporal proximity itself, that is an element of [a] plaintiff’s *prima facie* case, and temporal proximity merely provides an evidentiary basis from which an inference can be drawn. The element of causation, which necessarily involves an inquiry into the motives of an employer, is highly context-specific.” *Kachmar*, 109 F.3d at 178. Determining whether temporal proximity alone may create an inference of retaliation is “essentially fact-based . . . depending . . . on how proximate the events actually were, and the context in which the issue came before us.” *Farrell*, 206 F.3d at 279.

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(2) by a *pattern of animus* during the interval between the protected activity and the adverse action; or (3) through other circumstantial evidence concerning the employer's motivation, including inconsistent reasons given by the employer for terminating the employee or the employer's treatment of other employees. *Theriault v. Dollar Gen.*, 336 F. App'x 172, 175 (3d Cir. 2009). Thus, in proving a causal link between protected activity and adverse action, plaintiff's may rely on "a broad array of evidence." *Farrell v. Planters Lifesavers Co.*, 206 F.3d 271, 284 (3d Cir. 2000).

Held unsuccessfully sought salary increases for Fritz on March 6, 2017 and January 24, 2018. Fritz made an internal complaint on February 7, 2018, after an incident with Regoli wherein she alleged he physically assaulted her and his conduct violated the County's Workplace Violence Policy. That same month, she filed external complaints—an EEOC complaint on February 21, 2018, against the three Commissioners and Regoli as well as a complaint with the Pennsylvania Office of Disciplinary Counsel against Regoli. Her complaints were based on the February 7, 2018 meeting/incident with Regoli. On February 21, 2018, she filed a complaint with PHRC against all three commissioners and Regoli. In March 2018, she amended her EEOC complaint to include a claim of unequal pay based on gender discrimination. In June 2018, Fritz supplemented her EEOC charge to include claims of sex discrimination and equal pay. Then, almost six months later, Fritz was suspended with pay on August 10, 2018, after the August 7, 2018, incident with Felder while the County conducted its independent

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investigation of the incident.¹⁸ On October 25, 2018, the County terminated Fritz's employment after concluding its investigation into the events of August 7, 2019, and learning of her October 2, 2018, criminal conviction.

The Court finds that this timing is not in and of itself unduly suggestive of retaliation in the particular factual circumstances of this case. *See McLaughlin v. Fisher*, 277 F. App'x 207, 218 (3d Cir. 2008) (timing alone "ordinarily is insufficient to demonstrate a causal link unless the timing is 'unusually suggestive' of retaliatory motive."). Since the temporal proximity is not so close as to be unduly suggestive, the Court must look to other types of circumstantial evidence that may give rise to the inference of causation.

The record is devoid of any evidence of a pattern of animus by the County during the interval between Fritz filing her February 2018 complaints (and subsequent amendments) and being terminated. The only evidence she has adduced is that the Commissioners, in a February 9, 2018 letter, prior to Fritz filing her external complaints, requested Held suspend Fritz due to the

18. The Court agrees with the County that any complaints of discrimination and/or retaliation by Fritz made after the August 7, 2018, incident are not protected activity. (See ECF No. 97, pp. 14-15). Fritz seems to acknowledge this point as her argument regarding her protected activity relates solely to her request for equal compensation and then filing complaints of discrimination, both internally with HR and externally with the EEOC and PHRC, as to what occurred with Regoli on February 7, 2018, as well as her allegedly unequal pay. (ECF No. 107, p. 30).

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discrimination complaints on the basis that the County's Non-Discrimination Policy stated that employees who allegedly conducted themselves in a discriminatory manner were to be "indefinitely suspended pending the outcome of the investigation." The Commissioners also released a statement to the media requesting Fritz's suspension. Held refused to suspend Fritz. (ECF No. 95-28); (ECF No. 96, pp. 15-16); (ECF No. 108, pp. 23-24, 49); (ECF No. 115, pp. 14, 16). Then, on March 27, 2018, the Commissioners wrote to Pennsylvania senators and requested Fritz's removal from office based on the discrimination complaints pending against her. No senators investigated or took action on the Commissioners' request. (ECF No. 108, p. 50); (ECF No. 115, pp. 17, 39-42). These events do not demonstrate any animus on the part of Held or the Sheriff's Office for Fritz filing EEOC and PHRC complaints the prior month. Notably, the County never completed its investigation into the discrimination complaints against Fritz because the complaining individuals filed federal lawsuits that the County ultimately settled. (ECF No. 96, pp. 11-17); (ECF No. 108, pp. 18-26); (ECF No. 115, pp. 10-14, 17). There is absolutely no evidence in the record that the County displayed any animus towards Fritz as a result of having to settle lawsuits involving her workplace conduct.

To the extent Fritz believes there was "a clear pattern of antagonism" directed at her and that the County was trying to push "its retaliatory agenda" of terminating her, there are insufficient facts in the record to support her theory. Other than the aforementioned events in March 2018, the record reveals that the County conducted an

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investigation into Fritz's allegations against Regoli, which Held classified as a complaint of workplace harassment. The County pulled surveillance video footage as to Fritz's movements on February 7, 9 and 11, 2018. (ECF No. 108, p. 48); (ECF No. 115, p. 15). The County also hired Attorney McGinnis to investigate. When he attempted to interview Fritz, she referred him to her attorney, and Attorney McGinnis was never able to interview Fritz. Attorney McGinnis issued a June 28, 2018, report detailing his investigation and conclusion that Regoli had not violated the County's Sexual Harassment or Violence in the Workplace policies. He noted that Fritz's refusal to be interviewed was a potential violation of the County's Sexual Harassment Policy, and she violated the Violence in the Workplace Policy by failing to immediately report to HR or the Park Police the alleged physical contact with Solicitor Regoli. (ECF No. 95-29); (ECF No. 96, pp. 16-17); (ECF No. 108, pp. 24-26). Yet, the County took no action against Fritz for violations of County policy; in fact, it appears that the County never addressed Attorney McGinnis's report or conclusions with her.

Fritz has not come forth with evidence that connects the dots between her complaints, her suspension for the August 7, 2018 incident with Felder, and her termination. *See Christman v. Cigas Mach. Shop, Inc.*, 293 F. Supp. 2d 538, 544 (E.D. Pa. 2003) ("A plaintiff must produce at least some evidence that connects the dots between her claim for workers' compensation and her termination, such as adverse personnel action promptly after her workers' compensation claim was made, statements by supervisors referencing her claim, documents from the employer

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discussing her claim with respect to her termination, etc.” (quoting *Landmesser v. United Air Lines*, 102 F. Supp. 2d 272, 278 (E.D. Pa. 2000)). While she makes broad sweeping statements like, “the Commissioners sought guidance on how to remove [Fritz] while Sheriff Held retained his Section 1620 rights,” and the “evidence shows a sustained effort over several months to have her removed from her office through a myriad of means,” there is no supporting evidence in the record for her theories. She casts shade upon the County’s investigation into her August 7, 2018, interaction with Felder, and argues that Held’s relinquishment of Section 1620 rights allowed the County “to advance their discriminatory and retaliatory mission,” but the facts in the record show no such thing. What the County was faced with were three separate events involving Fritz-i.e., (1) discrimination complaints in early 2018 leading to lawsuits; (2) a February 7, 2018, interaction with Regoli; and (3) an August 7, 2018 incident with Felder that resulted in a criminal conviction for Fritz-but, nothing in the record connects all of this together and evinces a pattern of animus. There is no circumstantial evidence in the record concerning any other motivation for the County’s termination of Fritz other than the reasons provided to her, that 1) her behavior on August 7, 2018 violated the Workplace Violence Policy and the Code of Ethics and violated Article V, Sections 2 and 4 of the Sheriffs Policy Manual, (2) she was convicted of summary harassment, and (3) “allegations of racial discrimination made by several former County employees.” (ECF No. 109-23, p. 3).

Even if Fritz had put forth sufficient evidence of a causal connection between her complaints and

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her termination, the County is entitled to summary judgment because it has come forth with legitimate, non-discriminatory reasons for why it terminated Fritz that she has not shown are pretextual. As outlined in the previous sections and incorporated herein, there is no genuine dispute of material fact as to whether the County's reasons for suspending Fritz and then terminating her employment were pretextual. Fritz has failed to present evidence from which a reasonable fact finder could conclude that the County's legitimate, nondiscriminatory reasons for her termination were a pretext for retaliation by the County.

The Court holds that the County is entitled to summary judgment as a matter of law as to Fritz's retaliation claims.

IV. CONCLUSION

For the foregoing reasons of law and fact, the Court will grant the County's motion and enter summary judgment in their favor. Orders of Court will follow.

BY THE COURT:

William S. Stickman IV
WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE

September 26, 2022
Date

APPENDIX C — DENIAL OF REHEARING OF
THE UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT, FILED MARCH 28, 2024

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2999
(D.C. Civil No. 2-19-cv-01517)

PATRICIA FRITZ,

Appellant,

v.

COUNTY OF WESTMORELAND; SHERIFFS
DEPARTMENT OF WESTMORELAND
COUNTY; SHERIFF JONATHAN HELD, IN
HIS INDIVIDUAL AND REPRESENTATIVE
CAPACITY; CHARLES ANDERSON, IN HIS
INDIVIDUAL AND REPRESENTATIVE
CAPACITY; GINA CERILLI, IN HER INDIVIDUAL
AND REPRESENTATIVE CAPACITY; TED KOPAS,
IN HIS INDIVIDUAL AND REPRESENTATIVE
CAPACITY; DAVID REGOLI, IN HIS INDIVIDUAL
AND REPRESENTATIVE CAPACITY.

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN,
HARDIMAN, SHWARTZ, KRAUSE, RESTREPO,
BIBAS, PORTER, MATEY, PHIPPS, FREEMAN,
MONTGOMERYREEVES, and CHUNG, Circuit Judges

Appendix C

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Tamika R. Montgomery-Reeves
Circuit Judge

Dated: March 28, 2024

**APPENDIX D — LETTER FROM THE LAW
OFFICE OF VICKI KUFTIC HORNE,
DATED SEPTEMBER 25, 2019**

**LAW OFFICE OF
VICKI KUFTIC HORNE**

Vicki Kuftic Horne, Esquire Nicole Daller, Esquire
vkhorne@vkhorne.com ndaller@vkhorne.com

September 25, 2019

Via E-mail Only (solicitor@co.westmoreland.pa.us)
Melissa Guiddy
Westmoreland County Chief Solicitor
2 North Main Street, Ste. 103
Greensburg, PA 15601

Re: Patricia Fritz/Westmoreland County

Confidential Personnel Communication

Dear Ms. Guiddy,

This letter follows a Summary Appeal Order of Court entered by the Honorable Richard E. McCormick, Jr. on August 22, 2019, finding Sheriff Chief Deputy Patricia Fritz not guilty of the charge of Harassment – Subject Other to Physical Contact (18 § 2709 §§ A1).

On October 25, 2018, Chief Deputy Fritz's employment was terminated as a result of the alleged conduct which formed the basis of the criminal proceedings. Chief Deputy Fritz was exonerated as a result of those

Appendix D

proceedings and seeks immediate reinstatement to her original former position as Chief Deputy. As a consequence of Westmoreland County's termination of employment prior to a final adjudication of the criminal charges, Chief Deputy Fritz was deprived of wages and benefits incident to employment that remain unpaid through the present. In addition to reinstatement to her former position, Chief Deputy Fritz seeks the entirety of her back wages and benefits to date.

Sincerely,

/s/ Vicki Kuftic Horne
Vicki Kuftic Horne

cc: Jonathan Held, Sheriff, Westmoreland County (via e-mail only) Teresa Sirianni, Esq.(via e-mail only)

**APPENDIX E — LETTER FROM LEE R.
DEMOSKY, DATED OCTOBER 16, 2018**

MEYER • DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.
Attorneys-at-Law
40 North Pennsylvania Avenue, Suite 410,
Greensburg, PA 15601
Phone: (724) 836-4840, Fax: (724) 836-0532

October 16, 2018

Via E-Mail only
Westmoreland County
Department of Human Resources
ATTN: Amanda Bernard
2 North Main Street
Greeneburg, PA 15601

Re: Patricia Fritz/Westmoreland County

Dear Ms. Bernard:

May this correspondence confirm that I have reviewed your October 15, 2018 correspondence with Sheriff Held. After the September, 19, 2018 meeting at your office, the County was to decide whether to approach Ms. Fritz's Attorney with an offer of early retirement. Sheriff Held nor I have been informed as to whether an offer was ever made and I ask that you confirm whether an offer was made and the terms of the same.

Appendix E

In regard to the action form, I am writing to advise that Sheriff Held was instructed by his criminal defense Attorney not to take any action against Patricia Fritz, including signing the action form. Sheriff Held will not sign the action form.

Sheriff Held and I look forward to receiving the information concerning the communications your office has had with Ms. Fritz's Attorney. Thank you

Very truly yours,

/s/ Lee R. Demosky
Lee R. Demosky

cc.: Sheriff, Jonathan Held (Via E-mail)

**APPENDIX F — LETTER FROM THE LAW
OFFICE OF VICKI KUFTIC HORNE,
DATED OCTOBER 12, 2018**

**LAW OFFICE OF
VICKI KUFTIC HORNE**

Vicki Kuftic Horne, Esquire Nicole Daller, Esquire
vkhorne@vkhorne.com ndaller@vkhorne.com

October 12, 2018

Via E-mail Only (solicitor@co.westmoreland.pa.us)
Melissa Guiddy
Westmoreland County Chief Solicitor
2 North Main Street, Ste. 103
Greensburg, PA 15601

Re: Patricia Fritz/Westmoreland County

Confidential Personnel Communication

Dear Ms. Guiddy,

This office represents Patricia Fritz. Ms. Fritz understands that she is not under suspension by her employer, Westmoreland County Sheriff's Office. Ms. Fritz, however, has been precluded from returning to the physical location of her employment at the Westmoreland County Courthouse at the direction of the Commissioners of Westmoreland County. That notice was provided to her by letter dated August 13, 2018 and signed by Amanda Bernard, Director of Human Resources.

Appendix F

You represented to this office that this action is because of the matter for which her subordinate employee, Steven Felder, filed a complaint arising out of an employment meeting held by Chief Fritz on August 7, 2018.

In addition to directing that Chief Fritz is not permitted on County premises and may not attend County functions, on and after August 10, 2018 Westmoreland County also confiscated the vehicle and cell phone issued to her by the Sheriff's Office, terminated email access and deactivated her computer all of which interferes with her ability to conduct county business.

To further personally humiliate Chief Fritz and to undermine her authority within the Sheriff's Department, the County has required Chief Fritz to be accompanied by Park Police whenever she is on county property except in the limited circumstance when she is accompanied by her legal counsel. Because her badge and access have been confiscated, she cannot enter the building offices or garage. Chief Fritz has repeatedly requested the ability to perform all the functions of her employment the successful completion of which requires access to County facilities, including her office, return of the accoutrements of her employment and access to necessary communications sources.

We believe that the conduct of Westmoreland County evinces a pattern of discriminatory conduct and retaliation directed against Chief Fritz and is additionally undertaken for political purposes. There is opposition to Chief Patricia Fritz in a substantial position of authority

Appendix F

within Westmoreland County Sheriff's Office. Action is purposefully directed at interfering to insure she cannot and will not be in that role.

Chief Fritz requests that impediments to the performance of her job functions be removed, that all equipment be returned and reactivated and that she be permitted to return to her office so that she can fully perform her essential role. Please note that Chief Fritz is registered to attend the Governor's Conference on Law Enforcement during the period of October 17 – 19, 2018. Please also confirm that she may attend that conference and is permitted to return to her job site.

Sincerely,

/s/ Vicki Kuftic Horne
Vicki Kuftic Horne

cc: Jonathan Held, Sheriff, Westmoreland County (*via e-mail only*)

**APPENDIX G — ORDER OF THE
WESTMORELAND COUNTY COURT OF
COMMON PLEAS, DATED AUGUST 22, 2019**

**SUMMARY APPEAL ORDER
OF COURT/SENTENCE**

COMMONWEALTH VS. PATRICIA FRITZ

CO# 478-SA-2018

NOW August 22, 2019, IT IS ORDERED THAT:

- The actor is found not guilty. Posted Security is returned.
- A continuance is granted until _____ by Motion of _____.
- Charges are withdrawn and the case is dismissed.
- The appeal is withdrawn, the Magisterial District Judge Decision is upheld. Judgment is entered on the Magisterial District Judge's Judgment. The actor is directed to make payment to the Clerk of Courts within _____ days.
- The actor failed to appear and,
 - The appeal is dismissed. The Magisterial District Judge Decision is upheld. Judgment is entered on the District Judge's Judgment.

Appendix G

The actor is directed to make payment to the clerk of courts within _____.

A bench warrant is issued to order commencement of sentence.

The actor: is found guilty Pleads guilty, and is sentenced on summary counts as follows:

Count ___ Fine \$ ___ EMSA \$ ___ MCARE \$ ___

Count ___ Fine \$ ___ EMSA \$ ___ MCARE \$ ___

Count ___ Fine \$ ___ EMSA \$ ___ MCARE \$ ___

Pay the costs of prosecution and pertinent constable fees.

Pay restitution of \$ _____ to: _____
at: Clk. of Crt Other

Pay restitution of \$ _____ as documented on the restitution claim form made part of the record, or
Joint and severally with _____

Appendix G

Lab Fees: _____

- Have no direct/indirect contact with _____
- Victim notified of or present in court for the hearing/plea agreement.
- Supervision for a period of _____ with county probation dept.
- Incarcerated for a period of not less than _____ nor more than _____

At: W.C.P. Other _____

- Reparole forthwith Release forthwirth upon verifiable address Remain detained on this case
- Appeal rights given

Remarks/Comments/Additional Conditions _____

By the Court:

/s/ _____ Judge

*Appendix G*WESTMORELAND COUNTY COURT OF COMMON
PLEAS

10th Judicial District of Pennsylvania
 Clerk of Courts - Westmoreland County
 2 North Main Street
 Suite 203
 Greensburg, PA 15601

SENTENCE & ORDER FOR TAXING COSTS

CO#: CP-65-SA-0000478-2018		
Commonwealth of Pennsylvania v. Patricia G. Fritz		
Defendant's Address: 243 Turnpike Rd Mount Pleasant, PA 15666		
Defendant's DOB: 11/02/1954 Defendant's SID: Defendant's OTN:		
Address Correction:		
Judge: Senior Judge Richard E. McCormack		
Summary Appeal Trial 8/22/2019		
CHARGE	SECTION	GRADE
1 Harassment - Subject Other to Physical Contact	18 § 2709 §§ A1	S

Appendix G

Affiant(s): Randall D. Gardner

Attorney(s): Daniel P. Beisler, Esq.

Court Assistant(s): Stephanie Apone

Court Reporter(s): FTR

**APPENDIX H — ORDER OF THE
COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF WESTMORELAND,
DATED OCTOBER 2, 2018**

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF WESTMORELAND**

COMMONWEALTH OF PENNSYLVANIA

v.

PATRICIA G. FRITZ

ORDER IMPOSING SENTENCE

Patricia G Fritz
243 Turnpike Rd
Mount Pleasant, PA 15666

Docket No: MJ-10210-NT-0000636-2018

Case Filed: 8/22/2018

OTN:

Charge(s)

18 § 2709 §§ A1 (Lead)	Harassment - Subject Other to Physical Contact
------------------------	---

THIS IS TO NOTIFY YOU THAT:

On October 02, 2018, you were convicted of or pled guilty to violating the above charge(s) and I sentenced you to the following:

Appendix H

- Fines, Costs, and Restitution
(Payments shall be made at the Magisterial District Court listed above. Payment is due immediately unless a payment plan schedule has been established and issued by the Magisterial District Judge.)

Collateral Amount: \$0.00				
Fines:	\$300.00	Fines:	(\$6.97)	Fines: \$293.03
Costs:	\$160.25	Costs:	(\$43.03)	Costs: \$117.22
Restitution:	<u>\$0.00</u>	Restitution:	<u>\$0.00</u>	Restitution: \$0.00
Total	\$460.25	Paid to date	(\$50.00)	Case Balance \$410.25

Appendix H

You have the right to appeal to the Court of Common Pleas within 30 days for a trial de novo. If you choose to file an appeal, you must appear for the trial de novo in the Court of Common Pleas or your appeal may be dismissed. If you are found not guilty, any money previously paid in this case will be returned to you. If you have any questions, please call this office immediately.

October 02, 2018

Date

/s/

Magisterial District Judge
Chris Flanigan

