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with

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHNNIE M. HOBBS

~~920 1st St NW~~
~~Ft. Washington, MD 20744~~

Plaintiff,

v.

ROBERT E. RUBIN
Secretary, Department of the
Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Defendant.

)
CASE NUMBER 1:96CV02435

JUDGE: Paul L. Friedman

DECK TYPE: EEOC

DATE STAMP: 10/22/96

**JURY
ACTION**

COMPLAINT FOR RELIEF FROM
DISCRIMINATION IN EMPLOYMENT

Jurisdiction

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq., seeking damages and other relief for discrimination in employment based on race (African-American), color (Black) and sex (female). This Court has jurisdiction under 42 U.S.C. §§ 2000e-5(f)(3) and 2000e-16(c). Venue lies in the District under 42 U.S.C. § 2000e-5(f)(3).

Parties

2. Plaintiff Johnnie M. Hobbs is an African-American woman who has been employed with the Bureau of Alcohol, Tobacco and Firearms (ATF) since April 1992 as the GS-13 Manager of the

1

Headquarters' Equal Opportunity (EO) program. ATF is a Bureau within the Department of the Treasury.

3. Robert E. Rubin is the Secretary of the Department of the Treasury, and is the head of the agency in which plaintiff serves. He is sued in his official capacity. Defendant has more than 500 employees.

Facts

4. Plaintiff has worked in the equal employment opportunity field for more than a decade, and is a recognized expert in EEO policies and programs within ATF and the federal government. She has served as the GS-13 Manager of ATF's EO program since April 1992. Prior to that time, she worked in various EO programs for the Treasury Department. At all times relevant to this Complaint, her performance has been exemplary. She has consistently earned Outstanding performance appraisals and awards, and has extensive experience, knowledge and expertise in both ATF and government-wide EEO policies, procedures and programs. As EO Manager, she has successfully implemented a number of programs and procedures designed to afford equal opportunity to ATF employees.

5. Marjorie Kornegay, GM-15 Executive Assistant, Equal Opportunity, has at all times relevant to this Complaint served as plaintiff's immediate supervisor. Ms. Kornegay is African-American, and as Executive Assistant she is in charge of the ATF's agency-wide (i.e., headquarters and the field offices) equal employment opportunity programs and procedures. In her

absence, she has consistently designated plaintiff to serve as the Executive Assistant, EO and on such occasions plaintiff performed all of the duties and responsibilities of that position, including attending senior staff meetings, in an outstanding manner.

6. In or around the beginning of 1994, Kornegay determined that there was a need to create a new Deputy Executive Assistant position to help manage and analyze the EO functions department-wide. Kornegay determined that the Deputy position should be created at the GS-14 level, and would report directly to her.

7. During a meeting on January 24, 1994, Kornegay informed her supervisors, Deputy Director Daniel R. Black, and Director John Magaw, of her desire to create the new Deputy position. Magaw and Black agreed with the general principle of creating the Deputy position, and Director Magaw asked Kornegay who she would want selected for the job. Kornegay responded that her choice for the position would be plaintiff, because of plaintiff's overall performance, knowledge of EO programs, policies and procedures, and the fact that plaintiff had served as the Acting Executive Assistant in Kornegay's absence.

8. Following the meeting, Kornegay told plaintiff about her discussion with Black and Magaw, and specifically informed plaintiff that she had recommended plaintiff for the position. Plaintiff thanked Kornegay and told her that she was very interested in the position. Kornegay then instructed plaintiff to help draft a written proposal for the creation of the job, and

that proposal was later submitted to Black and Magaw for their review.

9. Neither Black nor Magaw acted on the proposal to create the Deputy position, nor did either of them discuss the matter again with Kornegay, until March 1995. On March 1, 1995, Black called Kornegay and informed her that he had selected Toby Bishop for the Deputy job. Kornegay asked Black for a meeting to discuss the position and the selection of Bishop, and a meeting was scheduled for March 6, 1995.

10. Toby Bishop is a white female. At the time of the March 1 discussion between Kornegay and Black, Bishop was employed with the Department of Energy as an attorney. She had never worked in an EO office for the federal government, and had no experience in EO policies or programs prior to her selection for the Deputy Executive Assistant job.

11. On March 6, Kornegay met with Black to discuss the Deputy job. She told Black that she was very concerned about the fact that she was not afforded the opportunity to participate in the selection of her own Deputy, which was unprecedented within ATF. She also told Black that she had recommended Johnnie Hobbs for the position because Hobbs had over ten years of direct experience in the EO field, and was very familiar with ATF policies and procedures. In contrast, Kornegay was not aware that Bishop had any EO-related experience and certainly could not conclude that she was better qualified for the position than Hobbs. Black criticized Kornegay during the meeting, warning her that she had to improve her attitude if she ever wanted to be

promoted into the Senior Executive Service. Black concluded the meeting by telling Kornegay that Bishop's selection was "a done deal," and that she had to make it work.

12. On March 9, 1995, Bishop's selection to the Deputy, Executive Assistant (EO) position was announced.

13. Plaintiff was far better qualified for the Deputy position than Bishop. She had direct working experience with, and in depth knowledge of, ATF's EO policies and programs, had served as the Acting Executive Assistant, EO, and had performed in an Outstanding manner all of the duties of her position. She had ten years of experience in the EO field generally, and had implemented a number of successful policies and programs. In contrast, Toby Bishop had no EO-related experience, and no knowledge of or experience with ATF's equal employment opportunity programs or procedures. She did not meet the minimum qualifications for the job at the time of her selection, as set forth in the Deputy Executive Assistant position description. In fact, Bishop had previously applied for at least one EEO position with ATF at a lesser grade, and was found to be not qualified for that job.

14. Moreover since October 1993, when Magaw became the Director, ATF has compiled an extremely poor record of promoting African-American women to senior level managerial positions. Upon information and belief, since the time of Magaw's appointment as Director and up until the time of plaintiff's administrative complaint, ATF had not selected a single African-American woman to a GS-14 or higher graded position, although

many had applied. During that period of time, ATF had approximately 500 employees at the GS-14 and GS-15 positions, but only 1 GS-15 African-American woman (Kornegay) and only four GS-14 African-American women. Under the direction of Magaw and Black, ATF followed a pattern and practice of placing white employees into senior level managerial jobs without competition, or, when competing the positions, of selecting less qualified white applicants. These practices have resulted in the exclusion of African-American women from senior level managerial jobs, and the creation of a glass ceiling.

15. Magaw has also publicly made disparaging remarks about African-American women. At an ATF town hall meeting, for example, Magaw publicly introduced to the audience Marjorie Kornegay (the only GS-15 African-American woman) by stating that "its obvious that she is from EO [Equal Opportunity]."

16. Plaintiff was the best qualified person for the Deputy Executive Assistant position, and had been recommended for the job by Kornegay. The only reason that plaintiff was not selected, or even allowed to officially compete for the Deputy Executive Assistant position, was because she is an African-American female.

17. Defendant's stated reasons for selecting Toby Bishop are a pretext for unlawful race, color and sex discrimination.

18. Defendant's actions in discriminating against plaintiff have caused her severe harm, including humiliation, emotional distress, pain, suffering and loss of enjoyment of life,

pecuniary and nonpecuniary losses. It has also inflicted damage upon her career and prospects for advancement.

COUNT ONE
RACE, COLOR AND SEX DISCRIMINATION

19. Paragraphs 1-18 are realleged.

20. Defendant refused to promote plaintiff to the GS-14 Deputy Executive Assistant position because she is an African-American female. Its actions constituted race, color and sex discrimination in violation of Title VII.

WHEREFORE, plaintiff requests that this Court:

1) award her promotion to the GS-14 Deputy Executive Assistant position she was denied, retroactive to the date of Toby Bishop's placement into the position, with full back pay and all related benefits;

2) award her compensatory damages for each of her claims in an amount to be proven at trial;

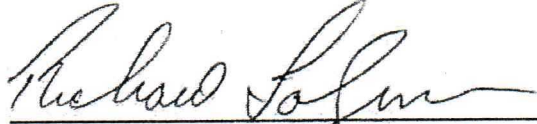
3) enjoin defendant from retaliating against plaintiff for pursuing this action and from discriminating against her on the basis of race, color and sex in future personnel actions;

4) award her costs and reasonable attorneys' fees incurred in this action and the administrative claims that necessarily preceded it;

5) award such other relief as the Court deems just.

JURY DEMAND

Plaintiff requests trial by jury.



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