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Equal Employment Opportunity Commission, Plaintiff and Rocky Dillard, Intervening Plaintiff, v. Tri-State Security Agency, Inc., Defendant.

Judge Curtis L. Collier

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**Equal Employment Opportunity Commission, Plaintiff and Rocky Dillard,
Intervening Plaintiff, v. Tri-State Security Agency, Inc., Defendant.**

Keywords

Equal Employment Opportunity Commission, Rocky Dillard, Tri-State Security Agency Inc., 1:04-CV-219,
Consent decree / Settlement, Disparate Treatment, Termination, Other physical impairment disability,
Learning Disability/ADHD, Traumatic Brain Injury, Service, Employment Law, ADA

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
Plaintiff)	
and,)	
)	
ROCKY DILLARD)	
)	
Intervening Plaintiff,)	
)	
v.)	Civil Action No. 1:04-CV-219
)	
TRI-STATE SECURITY AGENCY, INC.,)	Judge Collier Magistrate Lee
)	
Defendant)	
)	JURY TRIAL DEMANDED
)	
)	
)	

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (hereinafter the "Commission") against Defendant, Tri-State Security Agency, Inc., pursuant to Section 107(a) of the Americans With Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(A). The Complaint alleged that Defendant discharged Rocky Dillard because of his learning disabilities and a seizure disorder. Mr. Dillard raised similar issues in his Complaint in Intervention.

The Defendant denies that it engaged in the unlawful employment practices alleged

by the Commission and maintains that the actions of its officials were proper and lawful in all regards. This Consent Decree does not constitute an admission by the Defendants of the allegations of the Complaint. However, as all parties to this action desire to avoid the additional expense and delay in the litigation of this case, the Commission, the Plaintiff Intervenor, and the Defendant have agreed to settle all claims involved in this lawsuit.

In the event this proposed Consent Decree is not approved or does not become final, it shall not be admissible in evidence in any subsequent proceeding in this action.

This Consent Decree constitutes the complete and exclusive agreement between the parties with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Consent Decree shall be effective unless made in writing. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Consent Decree. No further statutory or other relief pursuant to the ADA or Civil Rights statutes or payment of any kind pursuant thereto will be sought by any parties, save action for any future violation of this Consent Decree.

The Court has reviewed the terms of the proposed Consent Decree in light of the applicable laws and regulations, the statements and representations of counsel for all parties, and hereby approves the Consent Decree.

It is hereby **ORDERED, ADJUDGED AND DECREED:**

I. JURISDICTION

The United States District Court for the Eastern District of Tennessee, Southern Division, has jurisdiction over the parties and subject matter of this litigation.

II. SCOPE AND DURATION OF DECREE

A. This Consent Decree resolves all issues and claims arising out of the Commission's Complaint in this cause, alleging unlawful employment policies and practices maintained by the Defendant and arising out of Charge No. 253-A1-0080, filed by the Plaintiff-Intervenor, Rocky Dillard, with the Commission. Notwithstanding any provisions contained in this Decree, this agreement shall not be considered in any manner to be dispositive of any charge now pending before any office of the Commission other than Charge No. 253-A1-0080. The Commission will divulge to the Defendant whether there are pending charges.

B. The provisions of this Consent Decree shall continue to be effective and binding upon the parties to this action for three years.

III. INJUNCTION PROVISIONS

A. The Defendant, its officers, management employees, and all persons acting in concert with the Defendant are hereby enjoined from intentionally discriminating against a qualified individual with a disability because of the disability of such individual in regard to discharge and other terms, conditions, and privileges of employment.

B. The Defendant, its officers, management employees, and all persons acting in concert with the Defendant shall not intentionally engage in any employment practice which has the purpose or effect of discriminating against any individual on the basis of a disability under the Americans With Disabilities Act of 1990.

IV. NON-RETALIATION PROVISION

The Defendant, its officers, management employees, and all persons acting in concert with the Defendant shall not discriminate against any individual because such

individual has opposed any act or practice made unlawful by the Americans With Disabilities Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the Americans With Disabilities. The Plaintiff-Intervenor is not seeking reinstatement of employment in this action.

V. TRAINING

Defendant shall retain an outside consultant to provide training in the workplace for its staff, including its management, at its Chattanooga, Tennessee facility regarding the Americans With Disabilities Act of 1990.

- (a) The training session will include at least two (2) hours of instruction.
- (b) The training will include the following topics: what constitutes employment discrimination in violation of Americans With Disabilities Act of 1990; how to prevent, identify, and remedy disability discrimination; what constitutes reasonable accommodation under the Americans With Disabilities Act of 1990, what constitutes retaliation in violation of ADA; Defendant's policy against disability discrimination and retaliation; and implementation of Defendant's policy against employment discrimination, including procedures and responsibilities for reporting, investigating, and remedying conduct an employee believes may constitute employment discrimination under the Americans With Disabilities Act of 1990.
- (c) The training will be conducted within 120 days after entry of the Decree by the Clerk of the Court.

Within twenty days after the completion of this training, Defendant will submit a report to Katharine W. Kores, Regional Attorney, at the address indicated below, confirming that this

training has occurred. A statement from the outside consultant/trainer stating that the training was conducted and the date and duration thereof will satisfy this requirement.

VI. NOTICE POSTING

The Defendant shall continue to conspicuously post at its Chattanooga, Tennessee office, the notice (posters) required to be posted pursuant to the Americans With Disabilities Act of 1990. Furthermore, the Defendant shall conspicuously post the notice at Appendix A of this Decree at its Chattanooga facility for three years commencing within ten (10) days after entry of this Decree by the Court.

VII. INDIVIDUAL RELIEF

The Defendant shall deliver to William J. Brown, counsel for Rocky Dillard, a check or checks made payable to "Rocky Dillard and William J. Brown" in a total amount not to exceed \$30,000.00 at the following address within thirty (30) days after entry of this Decree.

William J. Brown
William J. Brown & Associates
23 N. Ocoee, P.O. Box 1001
Cleveland, Tennessee 37364-1001

Defendant will also forward copies of the checks to Katharine W. Kores, Regional Attorney, 1407 Union Avenue, Suite 621, Memphis, TN 38104.

VIII. COSTS

Each of the parties shall bear their own costs, including attorneys' fees. **IT IS SO ORDERED THIS ___ DAY OF _____, 2005.**

/s/

CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE

FOR DEFENDANT:

s/ John D. Barry (by permission DS)

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JAMES LEE

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Associate General Counsel

s/ Katharine W. Kores

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DEIDRE SMITH

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**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

1407 Union Avenue, Suite 621

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(901) 544-0140

FOR PLAINTIFF INTERVENOR

s/ William J. Brown (by permission DS)

WILLIAM J. BROWN

TN Bar No. 005450

William J. Brown & Associates

23 N. Ocoee, P.O. Box 1001

Cleveland, Tennessee 37364-1001

(423) 576-4515

Attorney for Rocky Dillard

APPENDIX A

NOTICE

1. This Notice to all employees of Tri-State Security Agency, Inc., Inc. is being posted as part of the remedy agreed to between Tri-State Security Agency, Inc., and the Equal Employment Opportunity Commission in settlement of a complaint of employment discrimination filed by a former employee. The settlement provided for a lump sum payment to the employee.
2. Federal law requires that there be no discrimination against any employee because of a disability under the Americans With Disabilities Act of 1990.
3. Tri-State Security Agency, Inc. supports and will comply with such Federal law in all respects and will not take any action against employees because they have exercised their rights under the law by filing charges with the Equal Employment Opportunity Commission and/or testified, assisted or participated in any manner in any investigation, proceeding or hearing under the Americans With Disabilities Act of 1990.
4. The posting of this Notice by Tri-State Security Agency, Inc., does not constitute an admission by Tri-State Security Agency, Inc., of any liability under Federal law.
5. This Notice shall be posted at Chattanooga office of Tri-State Security Agency, Inc., for three years.

SIGNED this ____ day of _____, 2005.