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United States of America and Laura Molina Rodriguez et al. v. Municipio de Vega Alta et al.

Judge Juan M. Perez Gimenez

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United States of America and Laura Molina Rodriguez et al. v. Municipio de Vega Alta et al.

Keywords

United States of America, Laura Molina Rodriguez, Municipio de Vega Alta, 06-cv-1302 (PG), Consent Decree, Disparate Treatment, Retaliation, Assignment, Sex, Female, Other, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

LAURA MOLINA RODRÍGUEZ, MADELINE GARCÍA
GONZÁLEZ, IRIS BIDOT FIGUEROA, AND RAFAEL
MIRANDA VÁZQUEZ,

Plaintiffs/Intervenors,

v.

MUNICIPIO DE VEGA ALTA,

Defendant,

JOSÉ M. COLÓN GARCÍA AND VÍCTOR REY DE LA
CRUZ,

Individual Defendants.

Civil Action No. 06-cv-1302 (PG)

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U.S. DISTRICT COURT
SAN JUAN, P.R.

CONSENT DECREE

This matter is before the Court for entry of this judgment by consent of the parties to effectuate a compromise and settlement of all claims. After review and consideration, the Court believes that entry of this judgment is in the interest of justice.

1. Plaintiff the United States commenced the above entitled action to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.* ("Title VII"). In its Complaint, the United States alleges that Defendant Municipio de Vega Alta ("Municipality"), by and through its agency, Policía Municipal de Vega Alta ("Municipal Police"), subjected Plaintiffs/intervenors Laura Molina Rodríguez ("Molina"), Madeleine García González ("García"), Iris Bidot Figueroa ("Bidot"), and similarly situated female municipal



police officers to discrimination on the basis of sex in violation of 42 U.S.C. § 2000e-2(a), and subjected Plaintiff/intervenor (and former municipal police officer) Rafael Miranda Vázquez (“Miranda”) to retaliation in violation of 42 U.S.C. § 2000e-3(a).

2. Plaintiffs/intervenors Molina, García, Bidot and Miranda filed an Intervenor Complaint alleging that Defendant the Municipality, by and through its agency, the Municipal Police, and Individual Defendants José M. Colón García (“Colón”) and Víctor M. Rey de la Cruz (“Rey”), subjected the three female Plaintiffs/intervenors to discrimination on the basis of sex in violation of Title VII and Puerto Rico Acts Nos. 69 and 100, and subjected Plaintiff/intervenor Miranda to retaliation in violation of Title VII and Puerto Rico Act No. 115. Both complaints shall be referred to jointly herein as the “Action.”

3. As a result of settlement discussions, the parties¹ have resolved their differences and have agreed that this Action should be settled by entry of this Consent Decree. It is the intent of the parties that this Consent Decree be a final and binding settlement in full disposition of all claims against Defendant the Municipality alleged in the Complaint and the Intervenor Complaint filed in this case.

I. PARTIES AND DEFINITIONS

4. The parties to this Consent Decree are Plaintiff the United States, Plaintiffs/intervenors Molina, García, Bidot and Miranda, and Defendant the Municipality.

5. Defendant the Municipality, its current, former and future agents, employees, officials, designees and successors in interests are referred to hereinafter as the “Municipality.”

6. The Equal Employment Opportunity Commission is referred to hereinafter as the

¹ Individual Defendants Colón and Rey are not parties to this Consent Decree.

“EEOC.”

7. Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.*, is referred to hereinafter as “Title VII.”

8. “Retaliation” is any act that would be prohibited under Title VII’s prohibitions against retaliation such as taking an adverse employment action against an employee because the employee has opposed any practice he or she reasonably believes violates Title VII, or has made a formal or informal complaint or charge, or testified, assisted, or participated in any manner in a formal or informal investigation, proceeding or hearing relating to a practice alleged to violate Title VII.

II. STIPULATED FACTS

9. The parties acknowledge the jurisdiction of the United States District Court for the District of Puerto Rico over the subject matter of this Action and of the parties for the purpose of entering this Consent Decree and, if necessary, enforcing this Consent Decree.

10. Venue is proper in this district for purposes of this Consent Decree and any proceedings related to this Consent Decree only. Defendant the Municipality agrees that all statutory conditions precedent to the institution of this lawsuit have been fulfilled.

III. FINDINGS:

11. Having examined the terms and provisions of the Consent Decree and based on the pleadings, records, and stipulations of the parties, the Court finds the following:

- a. The Court has jurisdiction over the subject matter of the Action and the parties.
- b. The terms and provisions of this Consent Decree are fair, reasonable, and

just.

- c. This Consent Decree conforms with the Federal Rules of Civil Procedure, Title VII, and Puerto Rico Acts 69, 100 and 115, and is not in derogation of the rights and privileges of any person. The entry of this Consent Decree will further the objectives of the Title VII and other applicable law, and will be in the best interests of the parties.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED
AS FOLLOWS:**

NON-ADMISSION

12. This Consent Decree, being entered with the consent of the parties, shall not constitute an adjudication or finding on the merits of the case and shall not be construed as an admission by Defendant the Municipality of any violations of Title VII, or any other law, rule or regulation dealing with or in connection with equal employment opportunities. Defendant the Municipality denies any wrongdoing.

SPECIFIC RELIEF

13. Without admitting the allegations of Plaintiff the United States and Plaintiffs/intervenors Molina, García, Bidot and Miranda, and in settlement of the United States' claims for individual relief, as well as in settlement of the claims of Plaintiffs/intervenors Molina, García, Bidot and Miranda with respect to Defendant the Municipality, Defendant the Municipality agrees to do the following:

- a. Laura Molina Rodríguez

The Municipality shall offer Officer Molina:

(1) a total monetary award (inclusive of attorney's fees²) of \$70,000 which shall be considered compensatory damages; and

(2) to expunge from Officer Molina's personnel files, as well as from any other files maintained by the Municipality, including the Municipal Police, all documents (issued or dated between June 1, 2003, and January 9, 2005) that contain negative references about Officer Molina's work performance.

b. Madeleine García González

The Municipality shall offer Sergeant García:

(1) a total monetary award (inclusive of attorney's fees) of \$70,000 which shall be considered compensatory damages; and

(2) to expunge from Sergeant García's personnel files, as well as from any other files maintained by the Municipality, including the Municipal Police, all documents (issued or dated between June 1, 2003, and January 9, 2005) that contain negative references about Sergeant García's work performance.

c. Iris Bidot Figueroa

The Municipality shall offer Officer Bidot:

(1) a total monetary award (inclusive of attorney's fees) of \$50,000 which shall be considered compensatory damages; and

(2) to expunge from Officer Bidot's personnel files, as well as from any other files maintained by the Municipality, including the Municipal Police,

² Attorney's fees will be 25% of the monetary award paid to each Plaintiff/intervenor.

all documents (issued or dated between June 1, 2003, and January 9, 2005) that contain negative references about Officer Bidot's work performance.

d. Rafael Miranda Vázquez

The Municipality shall offer former Officer Miranda:

(1) a total monetary award (inclusive of attorney's fees) of \$35,000 which shall be considered compensatory damages;

(2) to expunge from former Officer Miranda's personnel files, as well as from any other files maintained by the Municipality, including the Municipal Police, all documents (issued or dated between June 1, 2003, and July 15, 2004) that contain negative references about former Officer Miranda's work performance; and

(3) to not provide negative employment references for Officer Miranda to any future prospective employer that inquires about his past employment in the Municipal Police, and to not refer in any way to Officer Miranda's filing of a charge of retaliation or to this lawsuit when communicating with prospective employers seeking a reference for Officer Miranda. If a reference is requested by a prospective employer, the Municipality will only confirm the length of Officer Miranda's employment, his past salary history, the fact that he received satisfactory ratings, and that he is eligible for rehire. The Municipality also agrees that should Officer Miranda apply for re-employment with the Municipality in the future — in the Municipal Police or in another department — his application will be given fair,

objective and non-discriminatory consideration.

14. Defendant the Municipality shall pay the full amount of the monetary award specified for each individual in paragraph 13 of this Consent Decree, in care of counsel for the Plaintiffs/intervenors, on or by September 30, 2007. Plaintiff/intervenor Molina shall receive a check for \$52,500; Plaintiff/intervenor García shall receive a check for \$52,500; Plaintiff/intervenor Bidot shall receive a check for \$37,500; Plaintiff/intervenor Miranda shall receive a check for \$26,250, and counsel for Plaintiffs/intervenors shall receive a check for \$56,250.

15. Plaintiffs/intervenors agree that they will be responsible for payment of any and all taxes that may be required of them by the appropriate authorities. Plaintiffs/intervenors agree and acknowledge that the Municipality is not responsible for the decisions made by any governmental entity in relation to the fiscal treatment that may be given to the payments to be made under this Consent Decree.

16. The Municipality shall notify the United States as soon as payment to Plaintiffs/intervenors Molina, García, Bidot and Miranda has been made. The Municipality shall promptly forward to the United States a copy of the check(s) or other appropriate documentation indicating that payment has been made.

17. In consideration for accepting the relief being offered them pursuant to paragraphs 13 and 14 of this Consent Decree, Plaintiffs/intervenors, individually and in all other capacities, and for their heirs, next of kin, beneficiaries, agents, personal representatives, successors, assignees, administrators, executors, devisees and legatees, hereby release, discharge forever, agree not to sue, indemnify and hold harmless the Municipality, including its agents, employees,

directors, officers, and all other representatives, known or unknown, from any and all rights, claims, demands, damages, debts, indemnification, contribution, causes of action, or suits at law or in equity, of whatever kind or nature, that they ever had, now have, or may have in the future arising from or relating to discrimination on the basis of sex, retaliation, or any of the other allegations, facts, circumstances or injuries alleged in the Action. Plaintiffs/intervenors agree that the consideration that they will receive pursuant to this Consent Decree is provided and accepted in full settlement of all past, present and future injuries and damages, whether presently known or unknown, regarding the facts as alleged in the Action, including but not limited to damages for pain and suffering, medical expenses, liens for medical and/or other services, emotional distress, punitive damages, attorney's fees, interests, costs, and any and all other pecuniary and non-pecuniary losses.³

GENERAL RELIEF

18. The Municipality agrees not to engage in any act or practice that has the purpose or effect of unlawfully discriminating against any employee of the Municipality in that employee's compensation, terms, conditions or privileges of employment because of such employee's sex.

19. The Municipality agrees not to retaliate against any person because that person has opposed allegedly discriminatory policies or practices; filed a complaint, either formal or informal, with the Municipality; filed a charge of discrimination with the EEOC; or participated in or cooperated with the initiation, investigation, litigation or administration of this case or this

³ The release in paragraph 17 does not encompass the claims in the Intervenor Complaint against Individual Defendants Colón, former Mayor of the Municipality, and Rey, former Commissioner of the Municipal Police.

Consent Decree.

POLICIES AND PROCEDURES

20. Within sixty (60) days after the date of entry of this Consent Decree, the Municipality shall implement policies and procedures in its Municipal Police that shall, at a minimum, include the following:

- a. A clear re-statement of the Municipality's commitment to equal employment opportunity and non-discrimination on the basis of sex or retaliation;
- b. An assurance that employees who make complaints of sex discrimination or provide information related to such complaints will be protected against retaliation;
- c. A clearly described complaint process that provides multiple and accessible avenues by which an employee may make a written or verbal complaint of sex discrimination or retaliation;
- d. An assurance that the Municipality will protect the confidentiality of complaints of sex discrimination or retaliation to the fullest extent possible;
- e. A process that provides a prompt, thorough, and impartial investigation of complaints of sex discrimination or retaliation; and
- f. An assurance that the Municipality will take immediate and appropriate corrective action when it determines that sex discrimination or retaliation has occurred.

21. Within thirty (30) days after the date of entry of this Consent Decree, the Municipality shall submit the policies and procedures described in paragraph 20 to the United

States for review, comment and approval. The United States' approval will not be unreasonably withheld.

22. Within ten (10) days after the date on which the Municipality implements the policies and procedures described in paragraph 20, the Municipality shall distribute copies of such policies and procedures to all employees in its Municipal Police, and post such policies and procedures in all buildings and facilities used for posting general information to Municipal Police employees.

23. The Municipality shall ensure that each new employee in the Municipal Police receives a copy of the policies and procedures implemented pursuant to paragraph 20 at the time of the new employee's hire. Each new employee in the Municipal Police shall sign an acknowledgment that he or she has read and understood such policies and procedures, and the signed acknowledgment shall be placed in each new employee's personnel file.

TRAINING

24. No later than ninety (90) days after the date of entry of this Consent Decree, all supervisors in the Municipal Police, including the Police Chief, shall be provided with training by the Municipality on the law of equal employment opportunity, including discrimination based on sex and retaliation, lasting at least three (3) hours. The training will include an explanation of the Municipality's policies and procedures, as described in paragraph 20, regarding initiation and investigation of a complaint of discrimination or retaliation. The Municipality will select, with the concurrence of the United States, a qualified individual or group of individuals to conduct the training outlined in this paragraph. The United States' concurrence will not be unreasonably withheld. The United States will review and approve any proposed training program prior to its

administration.

25. All persons who attend training shall sign and date an acknowledgment of attendance for the training described in paragraph 24. The Municipality shall provide the United States with copies of these acknowledgments within ten (10) days of their execution. The Municipality will keep on file all original signed and dated acknowledgments for the duration of this Consent Decree.

COMPLIANCE MONITORING

26. The United States may review compliance with this Consent Decree at any time. The Municipality shall, upon request, provide copies of any documents relevant to the Municipality's compliance with this Consent Decree to the United States. The Municipality shall also provide to the United States' counsel access to any and all of its employees for the purpose of conducting interviews or depositions to evaluate the Municipality's compliance with this Consent Decree.

27. The Municipality shall, upon request, provide the United States with compliance reports documenting all steps taken by the Municipality to comply with the Consent Decree.

28. Within thirty (30) days of receiving a formal or informal complaint of sex discrimination or retaliation from a Municipal Police Department employee, the Municipality shall:

- a. advise the United States of the complaint and of all actions taken to investigate the complaint; and
- b. provide the United States with copies of all documents relevant to the complaint.

29. The Municipality shall retain during the term of this Consent Decree all documents, in paper or electronic form (including electronic mail), that come into its possession that are relevant to this Consent Decree including but not limited to: (a) documents related to complaints of sex discrimination or retaliation (formal or informal) made by Municipal Police Department employees; and (b) documents related to the training required by this Consent Decree.

NOTIFICATION OF THE PARTIES

30. All documents required to be delivered under this Consent Decree to the United States shall be sent to the attention of, if by U.S. mail:

Chief
Employment Litigation Section
United States Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW
PHB - Room 4040
Washington, DC 20530

or if by overnight delivery service to:

Chief
Employment Litigation Section
United States Department of Justice
Civil Rights Division
Employment Litigation Section
601 D Street, NW, Room 4040
Washington, DC 20004

31. All documents required to be delivered under this Consent Decree to the Municipality shall be sent to the attention of:

Francis A. Márquez San Martín, ESQ.
Nachman & Guillemard

P.O. Box 9949
San Juan, Puerto Rico 00908

and

Mario Carrillo, Esq.
Asesor Legal
Municipio de Vega Alta
Centro Gubernamental
Apartado 1390
Vega Alta, Puerto Rico 00692-1390

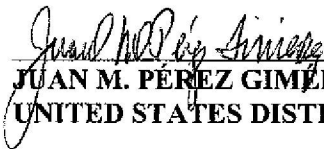
JURISDICTION OF THE COURT

32. The Court shall maintain jurisdiction of the matters covered by this Consent Decree for a period of three (3) years from the date of entry of this Consent Decree. This Consent Decree shall expire without further order of this Court three (3) years from the date of entry.

33. If a dispute arises concerning compliance with this Consent Decree, the parties shall engage in good faith efforts to resolve the issue before seeking action by the Court. If the parties are unable expeditiously to resolve the issue, any party may move the Court for resolution, provided that written notice is first provided to the other party at least fourteen (14) days in advance of any intended filing with the Court.

34. Failure by the United States to enforce this Consent Decree or any provision thereof shall not be construed as a waiver of its right to do so.

APPROVED and ORDERED this 6th day of September, 2007.

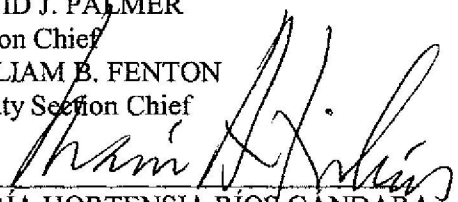


JUAN M. PÉREZ GIMÉNEZ
UNITED STATES DISTRICT JUDGE

AGREED AND CONSENTED TO:

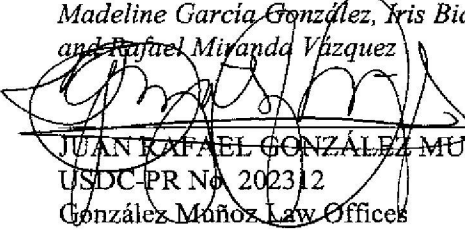
On behalf of Plaintiff the United States

WAN J. KIM
Assistant Attorney General
Civil Rights Division
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Section Chief
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Deputy Section Chief


MARÍA HORTENSIA RÍOS GANDARA
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United States Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW
Washington, DC 20530


Dated: August 27, 2007

*On behalf of Plaintiffs/Intervenors Laura Molina Rodriguez,
Madeline García González, Iris Bidot Figueroa,
and Rafael Miranda Vázquez*


JUAN RAFAEL GONZÁLEZ MUÑOZ, ESQ.,
USDC-PR No. 202312
González Muñoz Law Offices
P.O. Box 9024055
San Juan, Puerto Rico 00918-2404

Dated: 29/VIII/07.

On behalf of Defendant the Municipality of Vega Alta


FRANCIS A. MARQUEZ SAN MARTÍN, ESQ.
USDC-PR No. 222112
Nachman & Guillemard
P.O. Box 9949
San Juan, Puerto Rico 00908

Dated: August 30, 2007