



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

June 3, 2014

Linda Pearce Edwards, Esq.
Gignilliat, Savitz & Bettis LLP
900 Elmwood Avenue, Suite 100
Columbus, SC 29201

Re: Notice of Findings
[REDACTED] v. S.C. Judicial Dep't and Sumter County Sheriff's Office (14-OCR-29)

Dear Ms. Edwards:

Thank you for the Position Statement that you submitted to the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ) on behalf of your client, the Sumter County Sheriff's Office (SCSO), in connection with the administrative Complaint that [REDACTED] (Complainant) filed with the OCR. In her Complaint, the Complainant alleges that court bailiffs at the Sumter County Court of Common Pleas discriminated against her based on race (African American) and religion (Islam) when they impeded her access to the courtroom for wearing a head scarf in observance of her religious beliefs. The Complainant further alleges that the SCSO retaliated against her for filing a complaint with SCSO when SCSO deputies failed to respond to her emails. In a letter dated March 26, 2014, the OCR notified the SCSO of the Complainant's allegations and requested a Position Statement responding to the allegations. In our letter, we noted that it was unclear at that time who the bailiffs are employed by.

The OCR has completed our review of the documentation provided by both the SCSO and the Complainant and has determined that the bailiffs who allegedly discriminated against the Complainant are not employees or agents of the SCSO. We have also determined that there is insufficient evidence that SCSO deputies retaliated against the Complainant in violation of Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) and their implementing regulations. Our findings are set forth below for your review.

Factual Background

The Complainant alleges the following:

On January 8, February 5, and June 17, 2013, the Complainant arrived at the Sumter County Court of Common Pleas to attend hearings in connection with a lawsuit that she filed. The Complainant was wearing a head scarf, or hijab, in accordance with her Islamic religious beliefs and practices. After successfully clearing security screening at the building entrance the Complainant proceeded to the courtroom on the third floor. On each occasion, when the Complainant attempted to enter the courtroom, separate bailiffs requested that she remove her head scarf, and the Complainant

declined to do so. On January 8 and February 5, the bailiff then left the Complainant to speak with the presiding judge, and ultimately allowed the Complainant to enter the courtroom without removing her head scarf. On June 17, the Complainant immediately left to try to find the clerk of court. The Complainant further alleges that on February 5, the head bailiff came to speak to her and verbally harassed her when he asked her if she had a knife and, when the Complainant asked for his name, said “[c]an you read?” in a very condescending manner. The Complainant believes that all of the bailiffs who prevented her from accessing the courtroom along with the head bailiff discriminated against her based on race and religion.

In May 2013, the Complainant filed an online complaint with the SCSO regarding the January 8 and February 5 incidents. On July 2, 2013, the sheriff of the SCSO sent the Complainant a letter stating that the head bailiff is not a SCSO deputy but rather is a bailiff who reports to the clerk of court and therefore the SCSO cannot take any disciplinary action against the head bailiff. The Complainant believes that the SCSO subsequently retaliated against her for filing this complaint by failing to provide her with requested action on two separate occasions. Specifically, the Complainant alleges that on June 6, 2013, she sent an email to a SCSO deputy requesting that the deputy follow up in writing regarding actions taken in response to a complaint the Complainant lodged regarding stray dogs, but that the deputy never responded. The Complainant further alleges that on July 8, 2013, she sent an email to another SCSO deputy to request that he take her statement and revise a claim of harassment that she made against a neighbor, but that he never responded. The Complainant provided the OCR with copies of her June 6 and July 8 emails sent to the SCSO deputies.

In your May 13, 2014, Position Statement, you stated that all of the bailiffs who allegedly discriminated against the Complainant on January 8, February 5, and June 17 are employees of the Sumter County clerk of court, not the SCSO. You further said that each county in South Carolina elects a clerk of court, who is autonomous and answers only to the electorate and has control over his or her employees.

In regard to the Complainant’s allegations of retaliation by the SCSO, you stated that the deputy who handled the Complainant’s complaint regarding stray dogs picked up the stray dogs and considered the matter to be closed. According to your Position Statement, the deputy does not recall receiving an email from the Complainant requesting written confirmation of actions taken. The deputy does recall speaking with the Complainant by telephone and that the Complainant wanted the deputy to sign an affidavit stating that the dogs that she picked up belonged to the Complainant’s neighbor, which the deputy refused to sign as the neighbor denied owning the stray dogs. Regarding the second incident, you stated that the deputy was on vacation at the time the Complainant said she sent him an email and that the deputy does not recall seeing the email upon his return. You stated that the deputy had filed a report regarding the Complainant’s claim of harassment, and that there was nothing to prevent the Complainant from filing a supplemental statement. For each instance, you asserted that it is possible that the Complainant’s emails were misdirected or even lost in cyber-space. You further stated that no discrimination or retaliation occurred in these instances as neither deputy was aware of the Complainant’s complaint to the sheriff, they were unaware of the Complainant’s religion as she was not wearing a head scarf when they interacted with her, and both deputies took action in response to her calls for service. You further noted that since the Complainant filed her complaint in May 2013, the SCSO has taken action to respond to at least eight requests for service from the Complainant.

Legal Analysis

Title VI provides that “[n]o person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. Additionally, the Safe Streets Act, under which the SCSO receives DOJ funding, contains a discrimination provision modeled after Title VI that prohibits funding recipients from discriminating on the basis of race, color, national origin, sex, and religion. 42 U.S.C. § 3789d(c)(1). These laws also prohibit funded agencies from retaliating against individuals for filing a complaint of discrimination. See 28 C.F.R. 42.107(e). To establish a claim of discrimination, the evidence must show the following: (1) the funding recipient engaged in protected activity; (2) the recipient took adverse action against a complainant; and (3) a causal relationship exists between the protected activity and the alleged retaliatory action. *Peters v. Jenney*, 327 F.3d 307, 320 (4th Cir. 2003).

Based on the information that you provided in your Position Statement, it appears that all of the bailiffs who temporarily denied the Complainant access to the courtroom on January 8, February 5, and June 17, along with the head bailiff and clerk of court, are not employees of the SCSO. Rather, all of the bailiffs are employees of the clerk of court, who is an elected county official. Therefore, the OCR finds that the SCSO is not liable or responsible for the conduct of the bailiffs.

In regard to the Complainant’s allegation of retaliation, while the OCR is unable to conclusively determine whether the deputies received the Complainant’s emails, the OCR finds that even if they did receive her emails, the evidence is insufficient to demonstrate that they failed to respond to her emails with the intent to retaliate against her for filing a complaint with the sheriff. The evidence is insufficient to demonstrate that they were even aware that the Complainant filed a complaint with the sheriff, and both deputies did take action in regard to the Complainant’s initial requests for service. Therefore, the OCR finds that the evidence is insufficient to demonstrate a causal connection between the deputies’ failure to respond to the Complainant’s emails and her complaint to the sheriff.

Accordingly, the OCR is closing the administrative Complaint against the SCSO. Thank you for your cooperation in this matter. If you have any questions, please contact OCR attorney Shelley Langguth at (202) 305-2353.

Sincerely,

X 

Michael L. Alston

Director

Signed by: MICHAEL ALSTON