

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIE COUNTY, NEW YORK

Defendant.

COMPLAINT

Plaintiff United States of America alleges that:

1. This action is brought by the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., (hereinafter "Title VII").
2. This Court has jurisdiction over this action under 28 U.S.C. §1345 and 42 U.S.C. §2000e-5(f).
3. The defendant Erie County, New York, is a municipal corporation established by laws of the State of New York.
4. The defendant, through its Erie County Correctional Facility ("ECCF"), employs guards to supervise inmates at the ECCF and assigns duties to those guards.
5. The defendant is a person within the meaning of 42 U.S.C. §2000e(a) and an employer within the meaning of 42 U.S.C. §2000e(b).
6. The defendant has discriminated against Niala Diebold, Roberta Grachowski, Claudia Pustulka and Craig Duff ("complainants"), guards at the ECCF, on the basis of their sex in violation of Title VII, by pursuing policies and practices that discriminate against men and women, deprive or tend to deprive men and women of employment opportunities, and adversely affect the status of men and women as employees because of their sex. The defendant has implemented these policies and practices by assigning only men to guard male inmates and only women to guard female inmates during trips outside the ECCF, regardless of whether such gender-based assignments are reasonably necessary as bona fide occupational qualifications.
6. The Equal Employment Opportunity Commission ("EEOC") received timely charges filed by the complainants, in which they alleged that the ECCF had discriminated against them on the basis of their sex. Pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5, the EEOC investigated the charges, found reasonable cause to believe that the allegations of discrimination were true, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the matter and subsequently referred the matter to the Department of Justice.
7. All conditions precedent to the filing of this suit have been performed or have occurred.

Wherefore, plaintiff prays that the Court grant the following relief: enjoin the defendant from failing and

refusing to adopt policies and practices designed reasonably to ensure that employees in the ECCF are not discriminated against on the basis of their sex.

Plaintiff prays for such additional relief as justice may require, together with its costs and disbursements in this action.

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