

UNITED STATES DISTRICT COURT FOR
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

V.

H.N. McELROY, Harris County
Justice of The Peace, Precinct 4,
Position 1 (in his official capacity);
and HARRIS COUNTY,
Defendants.

Civil Action No.

COMPLAINT

Plaintiff, United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq., ("Title VII").
2. This Court has jurisdiction of the action under 42 U.S.C. §2000e-5(f) and 28 U.S.C. §1345.
3. Defendant H.N. McElroy ("H.N. McElroy"), the Harris County Justice of the Peace, Precinct 4, Position 1, is an elected official in the State of Texas. H.N. McElroy is sued in his official capacity only.
4. H.N. McElroy has responsibility for the employment of persons in the office of the Harris County Justice of the Peace, Precinct 4, Position 1, including the hire, promotion and termination of all employees in that office.
5. H.N. McElroy is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer or agent of an employer within the meaning of 42 U.S.C. 2000e (b).

6. Defendant Harris County, a political subdivision of the State of Texas, is named as a party pursuant to Rule 19(a) of the Federal Rules of Civil Procedure. Through its Commissioners Court, the County appropriates monies for the operation of the Justice of the Peace, Precinct 4, Position 1, including the salaries and wages of the employees in the office of the Justice of the Peace, Precinct 4, Position 1.

7. H.N. McElroy has discriminated against Pearlene Evans, a black female formerly employed in the office of the Harris County Justice of the Peace, Precinct 4, Position 1, and similarly situated black females on the basis of their race and sex in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-2(a), among other ways, by:

- a. subjecting them to sexual harassment that adversely affected the terms, conditions and privileges of their employment; and
- b. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

8. H.N. McElroy has further discriminated against Pearlene Evans, a black female formerly employed in the office of the Harris County Justice of the Peace, Precinct 4, Position 1 on the basis of race and sex in violation of Title VII of Section 703 (a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-2(a) by constructively discharging her.

9. The Equal Employment Opportunity Commission (EEOC) received a timely charge of discrimination filed by Pearlene Evans on or about January 21, 1997 (Charge number 330-97-1057), in which she alleged that because of her sex and race she was sexually harassed by H.N. McElroy and forced to resign from her position as Clerk with the Harris County Justice of the Peace, Precinct 4, Position 1.

10. 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 charge of discrimination filed by Ms. Evans, found reasonable cause to believe that unlawful discrimination had occurred, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge, and subsequently referred the matter to the Department of Justice.

11. All conditions precedent to the filing of suit have been performed or have occurred.

WHEREFORE, plaintiff United States prays that the Court grant the following relief:

(1) Enjoin H.N. McElroy and Harris County, as appropriate, from failing or refusing to provide sufficient remedial relief to make whole Pearlene Evans for the discrimination she has suffered as alleged in this Complaint;

(2) Award compensatory damages to Pearlene Evans and similarly situated black females for mental and/or physical injuries incurred as a result of the discrimination against them as alleged in this Complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

(3) Enjoin H.N. McElroy from engaging in sexual harassment of black female employees and from failing or refusing to provide training as to what acts may constitute sexual harassment to all supervisory and non-supervisory employees in the Harris County Justice of the Peace, Precinct 4, Position 1.

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

JURY DEMAND

The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

JANET RENO
Attorney General

By:

BILL LANN LEE
Acting Assistant Attorney General
Civil Rights Division

MERVYN M. MOSBACKER
United States Attorney
Southern District of Texas
910 Travis, Suite 1500
P.O. Box 61129
Houston, Texas 77208

WILLIAM B. FENTON
CHARLES E. LEGGOTT
Attorneys Civil Rights Division
U.S. Department of Justice
P.O. Box 65968
Washington, D.C. 20035-5968
(202) 514-0548