

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE SHERIFF OF HAMPSHIRE COUNTY;
AND THE HAMPSHIRE COUNTY COMMISSION,
Defendants.

COMPLAINT

Plaintiff, the 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. 2000e, et seq.
2. This Court has jurisdiction of the action under 42 U.S.C. 2000e-5(f) and 28 U.S.C. 1345.
3. Defendant, the Sheriff of Hampshire County, ("Sheriff"), is an elected official in the State of West Virginia. The Defendant Sheriff is sued in his official capacity only.
4. The Sheriff is the chief law enforcement officer of Hampshire County, a political subdivision of the State of West Virginia.
5. The Sheriff has responsibility for the selection of jailers for the Hampshire County jail, and for their hiring and employment, by and with the assent of the Hampshire County Commission.
6. The Sheriff 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).
7. The Defendant Hampshire County Commission ("Commission") is responsible for approving the Sheriffs budget, for paying the Sheriffs employees and for supervising the police affairs of Hampshire County. The Commission is named as a party pursuant to Fed. R. Civ. P. Rule 19(a).
8. The Defendant Sheriff has discriminated against Ernestine Frieria in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-2(a), among other ways, by failing and refusing to hire her for a jailer position, a position for which she applied beginning in or about April 1993, because of her sex, female.
9. The Equal Employment Opportunity Commission (EEOC) received a timely charge from Ms. Frieria in which she alleged that she had been discriminated against on the basis of her sex by the Hampshire County Sheriffs Department. 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 and found reasonable cause to believe that discrimination in employment against Ms. Frieria on the basis of her sex, in violation of Title VII, had occurred. The EEOC attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge, and subsequently referred the charge to the Department of Justice.

10. 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:

- (a) Declare the Defendant Sheriff to be in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-2(a), for failing and refusing to hire Ernestine Frieria as a jailer on the basis of her gender;
- (b) Declare that sex is not a bona fide occupational qualification within the meaning of Section 703(e) of Title VII, 42 U.S.C. 2000e-2(e), for any of the jailer positions sought by Ms. Frieria at the Hampshire County jail;
- (c) Enjoin the Defendant Sheriff from failing or refusing to hire women on the basis of their sex for any jailer position at the Hampshire County Jail unless sex is a bona fide occupational qualification for that position within the meaning of Section 703(e) of Title VII, 42 U.S.C. 2000e-2(e).
- (d) Enjoin the Defendant Sheriff and the Defendant Hampshire County Commission, as appropriate, from failing and refusing to provide sufficient equitable relief to make whole the charging party, Ernestine Frieria, for the loss she has suffered as a result of the discrimination against her as alleged in this Complaint;
- (e) Award compensatory damages to Ernestine Frieria as would fully compensate her for injuries caused by the discrimination against her 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. 1981a.

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

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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. 1981a.

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