

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TERESA COLLINS : CIVIL ACTION
: :
v. : :
: :
THE PHILADELPHIA HOUSING :
AUTHORITY, CARL GREENE, MICHAEL :
LEITHEAD, LINDA STALEY, and :
JAMES JONES, Individually and :
as Corporate Officials for the :
Philadelphia Housing Authority : NO. 03-2500

MEMORANDUM AND ORDER

Fullam, Sr. J.

April , 2004

Plaintiff was discharged from her position as Director of the Head Start Program of the defendant Philadelphia Housing Authority. In this civil rights action, she alleges that she was fired because she complained to the Office of Inspector General about alleged financial improprieties at the Authority. She asserts claims under the Pennsylvania Whistleblower Law, Title VII, § 1983, etc. The individual defendants are charged with having conspired to cause these violations of plaintiff's rights.

The case was scheduled for trial on April 19, 2004, but several recently-filed motions must first be dealt with.

The defendant has filed a motion for summary judgment, plaintiff has filed a response, and the defendant has requested leave to file a rebuttal to plaintiff's response. The

defendants's motion will be granted, and the reply brief will be deemed filed.

Earlier, plaintiff filed a motion to compel the defendant to disclose the records of the Office of Inspector General with respect to plaintiff's complaints. Defendant objected, on the ground that the records related entirely to matters occurring after plaintiff was fired, and that disclosure of the records might prejudice an ongoing investigation. I required the defendant to submit the records for in camera review. I have now completed review of the (seemingly disorganized and fragmentary) records of the OIG, and am satisfied that there is nothing in these records which is discoverable, and certainly nothing relevant to the issues in this case. Plaintiff's motion to compel discovery will therefore be denied.

Argument on defendant's motion for summary judgment was held on the date set for trial, and that motion is now ripe for disposition. It is undisputed that, in 2000, the federal auditors had identified numerous deficiencies and inadequacies in the Head Start Program in question, and that plaintiff was made Director in order to remedy these deficiencies and inadequacies. Another federal audit was scheduled to take place in mid-January 2003. Unfortunately, that audit reported that the previously-identified problems had not been adequately addressed, and that

the Head Start Program was in even worse shape than it had been in the year 2000.

It was necessary for the Philadelphia Housing Authority to prepare, and submit to the federal authorities, a "quality improvement program" (QIP), and plaintiff was responsible for assembling the required information and preparing a draft QIP. The deadline was supposed to be March 30, 2003. Plaintiff submitted a draft proposal a couple of days before the deadline, but her superiors deemed it inadequate and in need of substantial revisions. After various frantic attempts to complete the corrections in time, plaintiff's superiors obtained an extension of time for filing the QIP, which was actually submitted in May 2003, and ultimately approved, in further revised form, in November of that year. In the meantime, plaintiff was fired, as of April 4, 2003, for two stated reasons: (1) her failure to have the QIP report ready in time and in satisfactory condition, and (2) her overall poor performance as Director of Head Start, as established by the negative report of the January audit.

Plaintiff contends that the reasons given are pretextual, and that real reason for her discharge is the fact that, beginning in mid or late March, 2003, plaintiff had complained to the Office of Inspector General about financial irregularities, particularly with respect to a consulting contract with a group named "521." Plaintiff apparently believed

that the contract with this firm had actually expired, and that they should not be providing services or being compensated for such services. There is also some suggestion that plaintiff believed that improper favoritism or perhaps nepotism may have been involved.

The difficulty with plaintiff's theory is that there is simply no evidence which would permit a finding that the persons who made the firing decision had any knowledge that plaintiff had complained to the Office of Inspector General. Each of the persons involved in the discharge decision has testified, under oath, that they did not know of plaintiff's complaints to the OIG. Everyone involved at the Office of Inspector General has also verified, under oath, that plaintiff's complaints were treated as confidential, and were not disclosed to anyone.

Plaintiff seeks to remedy this lack of evidence by contending that, because of earlier discussions she had with her fellow employees, everyone knew that she was unhappy with the 521 Firm. Assuming that to be the case, however, it simply does not support a conclusion that plaintiff was discharged in retaliation for having exercised her First Amendment rights, or for having complained about corruption.

There can be no doubt that the federal audit report of January 2003 was even more critical of the Head Start Program than was the earlier audit report. Neither is there any dispute

about the fact that plaintiff's immediate superior was extremely displeased with plaintiff's performance in connection with the QIP. The superior felt that she had been unnecessarily required to work long hours trying to get the report in on time, whereas plaintiff worked normal hours and did not make herself available for the necessary efforts to finalize the QIP.

Plaintiff contends, with considerable support in the record, that all of the problems with the audit report, and all of the difficulties in compiling a timely QIP, were not her fault. The summary judgment record as a whole presents an unsavory picture of bureaucratic buck-passing, personality clashes, back-stabbing, and self-protective paper shuffling. But the issue in this case is not whether plaintiff was properly fired, or merely a victim of bureaucratic ineptitude. In order to recover in this action, plaintiff must show that the decision-makers knew of her complaints to the OIG (they did not) and that she was fired in retaliation for having exercised her First Amendment rights. Proof of the necessary causal connection is entirely lacking.

For all of the foregoing reasons, defendant's motion for summary judgment will be granted. In view of this determination, it is unnecessary to address the issue of whether plaintiff's counsel should have been disqualified in this case,

because of his long-term employment as house counsel for the defendant Housing Authority.

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ORDER

AND NOW, this day of April 2004, IT IS ORDERED:

1. Defendant's motion for leave to file a reply brief is GRANTED, and the reply brief is deemed filed.
 2. Plaintiff's motion to compel discovery is DENIED.
 3. Defendant's motion to preclude expert testimony is DENIED as moot.
 4. Defendant's motion for summary judgment is GRANTED.
- This action is DISMISSED with prejudice.

John P. Fullam, Sr. J.