U.S. EQUAL EMPLOYMENT OPPORTUNITY COMISSION
Washington Field Office - 570

Loretta Bethea Complainant v. Donald C. Winter, Secretary, U.S. Department of the Navy Agency	)	EEOC Case No. 570-2006-00054X Agency No. DON 05-00171-00753 Date: March 6, 2007

AGENCY'S MEMORAUNDUM IN SUPPORT OF A DECISION WITHOUT HEARING

I. Introduction

Complainant Loretta Bethea has filed a claim before the U.S. Equal Opportunity Commission (EEOC), based on gender discrimination (female), after she was not selected for a position as Lead Police Officer, GS-0083-07, announced under requisition No.: NW4-0083-GS-07 K12986681-OC.

II. Uncontested Facts

1. Complainant is employed as a Police Officer, GS-0083-06 at the U.S. Naval Observatory, an activity of Naval District Washington (NDW), United States Department of the Navy (DoN);
2. In September 2004, Complainant responded to a vacancy announcement advertising the position of Lead Police Officer (Sergeant), and was interviewed for the position;
3. The agency deciding official (DO) was CDR Michael Ryan (a white male), who did not draft the interview questions or position description;
4. The selection process involved a review of the applicants' experience, qualifications, and responses to questions during an interview before an interview panel, and assigned a score to each applicant based on that criteria;
5. Six applicants were selected for the position, five males and one female, four of whom are African American and two of whom are Caucasian.

III. Standard for Decision Without Hearing

The regulations governing Federal sector Equal Employment Opportunity (EEO) complaints provide for the issuance of a decision without hearing. 29 C.F.R. § 1614.109(g). The EEOC standard for granting a decision without hearing is patterned after summary judgment procedures set forth in Rule 56 of the Federal Rules of Civil Procedure (FRCP). Rule 56

provides for summary judgment to be granted if the trial judge determines that no genuine issue of material fact exists, as governed by the applicable substantive law, and that the moving party is entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986), *Beard v. Whitley County REMC*, 840 F.2d 405, 409-410 (7th Cir. 1988).

In disputes such as this, involving intentional discrimination, where there is no direct evidence of discrimination, the Commission has articulated three situations in which summary judgment may be appropriate. The situations were set forth in *Bridgeforth v. Secretary of Transportation*, 01934222, 4129/A11 (1994):

> In a discrimination case, the governing law includes the methods of presumption and shifting burdens of production that the Supreme Court set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) and *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248 (1981). Accordingly, a summary judgment decision is appropriate when the undisputed facts show that: 1) the complainant fails to establish a *prima facie* case of discrimination, or 2) the employing agency fails to articulate a legitimate, non-discriminatory reason for its actions, or 3) the complainant fails to establish that the agency's stated reason was a pretext for discrimination. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

IV. The Complainant Has Failed to State a *Prima Facie* Case for Discrimination

The Supreme Court established the shifting burdens of production in a Title VII case in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). The plaintiff has the initial burden of establishing that there is **some substance** to their discriminatory allegation. In order to meet this burden, the plaintiff must establish a prima facie case of discrimination. *See Furnco Construction Co. v. Waters*, 438 U.S. 567 (1978). The plaintiff must present a body of evidence that, if not rebutted, could lead the trier of fact to conclude that unlawful discrimination occurred. If a *prima facie* case is established, the burden shifts to the Agency to articulate a legitimate, nondiscriminatory reason for the challenged action. *Burdine*, 450 U.S. at 253-54. The Complainant may then show that the reason articulated by the Agency is a mere pretext for discrimination. *Burdine, id.* at 256; *McDonnel Douglas*, 411 U.S. at 804. However, it is not enough to disbelieve the employer's articulated reason. In addition, the fact finder must believe the complainant's explanation of intentional discrimination. *St. Mary's Honor Center v. Hicks*, 509 U.S. 502, 113 S. Ct. 2742, 2749, 2751-54 (1993). The ultimate burden of persuading the trier of fact that the Agency discriminated against the Complainant remains at all times with the Complainant.

To state a *prima facie* case of discriminatory non-selection on the basis of gender, Complainant must demonstrate that (1) she is a member of a protected class; (2) she applied for and was qualified for the position; (3) she was rejected for the position; and (4) upon Complainant's rejection, her employer awarded the position to a person who was outside her protected class. *See Patterson v. McLean Credit Union*, 491 U.S. 164, 186-87 (1989) (42 U.S.C. § 1981 promotion case); and, e.g., *Mallory v. Booth Refrigeration Supply Co.*, 882 F.2d 908, 910

n. 1. (4th Cir. 1989) (applying the Patterson *prima facie* case in the Title VII context); *Liu v. Army*, EEOC No. 01943515 (1995).

The Complainant bears the burden of establishing a *prima facie* case for discriminatory non-selection by a preponderance of the evidence. Failure by the complainant to establish any of the elements in a given case can be the basis of an agency's motion for summary judgment. This means that a dispute of material fact involving one element of a *prima facie* case will not preclude summary judgment when the complainant fails to establish sufficient facts to meet another element of the prima facie case. *See* EEOC Management Directive 110 (Nov. 1999) (MD-110) at 7-15.

In the present case, the Complaint alleges that she was the victim of discriminatory non-selection on the basis of gender Formal Complaint of Discrimination, Report of Investigation (hereinafter "ROI") at 2-4. Based on this claim, the Complainant can not meet the burden required to prove her *prima facie* case, because the Agency hired both men and women for the position. Because one of the elements the Complainant must establish in order to sustain her *prima facie* case is that the employer awarded the position to a person who was outside her protected class, *Patterson*, 491 U.S. *supra*, the Complainant will never be able to meet her necessary burden since a member of her protected class (gender, female) was selected for the position. Clearly, there is no genuine issue of material fact which could lead a reasonable fact finder to conclude that it is possible for the Complainant to establish a *prima facie* case and the Complainant has not established that there is any substance to her allegation. The Complainant has not met the basic burden of showing some evidence which, if not rebutted, could lead a trier to fact to the conclusion that any discrimination occurred. Because the Complainant can not establish the necessary elements of a *prima facie* case for discriminatory non-selection, her case should be dismissed without a hearing.

V. <u>The Agency Had a Legitimate, Non-Discriminatory Reason for its Selection of a Candidate Other than the Complainant</u>

Assuming, *in arguendo*, that the Complainant has established a *prima facie* case for discrimination based on the standards set in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), the Agency has stated a legitimate, non-discriminatory reason for its selection of a candidate other than the Complainant. Once the complainant has established a *prima facie* case, the burden shifts to the Agency to articulate a legitimate nondiscriminatory reason for its actions. The shifting of the burden to the Agency pertains to the burden of production, not the burden of persuasion, which remains at all times with the Complainant. The Agency's burden to articulate a legitimate nondiscriminatory reason for its actions does not require the Agency to prove, by a preponderance of the evidence, the existence of nondiscriminatory reasons for its actions; rather, the Agency bears only the burden of explaining clearly the nondiscriminatory reasons for its actions. *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248, 257-58 (1981).

The Agency's legitimate, non-discriminatory reason for its selections for the position at issue is: A large number of qualified individuals applied for the position, which had only six openings, and that the deciding official, CDR Michael Ryan, selected those he felt best suited for the position based on a number of factors, objective and subjective, including performance before

the panel, the selecting official's personal experience with the requirements for the position, and the selecting official's own observations of the candidates' performance while on duty.

The use of subjective criteria does not establish that a particular selection was based on discriminatory motives. *Frey v. Department of Health and Human Services*, 01830815, 1061/C7 (1983). The Commission has held that employers have discretion to choose among qualified candidates, provided that the decision is not based upon unlawful criteria. *Burdine,* 450 US, *supra*, at 259. The use of subjective criteria is often the deciding factor when the selecting official is confronted with a choice between two candidates who have substantially equal qualifications. The Commission generally will give great latitude to these subjective criteria in the absence of evidence suggesting a discriminatory animus. *See, e.g., Tabor v. Department of Army*, 01832502, 1224/C4 (1985). Reliance on subjective factors, such as oral communications and interpersonal relations skills, can be appropriate, particularly as a selection factor for a supervisory position. *See Zahn v. Secretary of Health and Human Services*, 01923072, 3563/A2 (1993). "In finding that complainant failed to establish discrimination, we also note that the fact that a reviewing authority may think that an employer misjudged the qualifications of the applicants does not in itself expose the agency to Title VII liability." *Burdine,* 450 US, *supra* at 259.

VI. The Complainant Has Failed to Produce Evidence of Pretext

Under the shifting burden scheme in *McDonnell Douglas*, 411 US, *supra*, once the employer has articulated a legitimate, nondiscriminatory reason for its action, the burden returns to the complainant, who must prove, by a preponderance of the evidence, that the defendant's proffered reason is no more than a pretext for discrimination. *Burdine,* 450 US, *supra*. In order to survive summary judgment at this level, the complainant must "demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its actions that a reasonable fact finder *could* rationally find them 'unworthy of credence.'" *Fuentes v. Perski*, 32 F.3d 759, 765 (3rd Cir. 1994), *citing Ezold v. Wolf, Block, Schorr & Solis-Cohen*, 983 F.2d 509, 531 (3rd Cir. 1992), *cert denied*, 510 U.S. 826 (1993). The Commission has articulated a similar standard, holding that summary judgment for the agency at the pretext stage is appropriate when the complainant fails to present any evidence to show that the agency's articulated reasons for its actions are pretext for discrimination. *DesVergnes v. Postmaster General,* 01A00806 (2000).

In the present case, the Complainant has failed to prove that Agency's legitimate, non-discriminatory reason was a pre-text for discrimination. Not only has the Complainant neglected to offer any evidence to demonstrate that the Agency's stated reason for making its selection was pretext for discrimination, she neglects to allege any specific discriminatory intent at all. The Complainant fails to offer a reason or motive which would even suggest that the Agency's selections were based on gender, and not the Agency selecting official's perception of the selectees' abilities to perform well in the position in conjunction with their interview based performance and overall qualifications for the position.

The Commission held in *Roland v. Veterans Administration*:

> Rule 56(e) of the Federal Rules of Civil Procedure requires motions for and opposing summary judgment to set forth facts through admissible evidence. **A party cannot rely upon mere allegations or denials.** The appropriate time for the appellant to present allegations and evidence is during the investigation. [emphasis added] *Roland v. Veterans Administration*, 01881726, 2111/D2 (1988).

Because the Complainant has not offered any evidence of discriminatory intent or motivation by the Agency, her entire claim is based on allegations lacking in discriminatory intent, and she has failed to bring forward any evidence which a reasonable finder of fact could interpret as demonstrating that the Agency's legitimate reason for making its selection is pretext, a decision without hearing is appropriate.

VII. The Complainant's Allegations of Favoritism are Not Allegations of Discriminatory Intent

The Complainant further undercuts her claim by arguing that the selecting official had engaged in favoritism with regard to some or all of the candidates, an allegation which, even if true, does not support a violation of Title VII. In the Complainant's affidavit, in the Report of Investigation (ROI) at 37-41, the Complainant alleges that the selections were motivated by, *inter alia,* the selecting official's personal perceptions, labor union contacts, the poor qualifications of the female candidate who was selected, and the physical location of the selectees' job duties. If those factual assertions are assumed to be true, *in arguendo*, the Complainant has still failed to allege a discriminatory pretext for the Agency's selection, because these allegations do not accuse the Agency of any discrimination under Title VII.

The Commission holds that "preselection does not violate Title VII when such preselection is based on the qualifications of the preselected party and not on some basis prohibited by Title VII." *Marvin v. Secretary of Veteran's Affairs,* EEOC No. 01891677, 2301/D11 (1989), *citing Goostree v. State of Tennessee*, 796 F.2d 854, 861 (6th Cir. 1986). Although preselection, including cronyism or an "old boy's network" may be inexcusable, it does not establish discrimination. *Foster v. Dalton*, 71 F.3d 52 (1st Cir. 1995). In *Foster*, the court found that evidence of both preselection and departure from established hiring procedures was not enough to establish pretext. *Id.* at 55-57. In its ruling, the court noted: "Title VII does not have a limitless remedial reach. An employer can hire one person instead of another for any reason, fair or unfair, without transgressing Title VII, as long as the hiring decision is not spurred by race, gender, or some other protected characteristic." *Id. See also Sumrell v. Department of Justice*, 01840190, 1210/B4 (1984) (The appellant must show that the preselection was based on a prohibited motive) and *Hawkins v. Secretary of Navy*, 01956446 (1996) (Even where there is strong evidence that the selectee was preselected and is not qualified for the position, the complainant must still prove that the preselection was based on discrimination).

VIII. Assuming Every Allegation of the Complainant to be True, He Has Failed to Establish the Essential Elements of her Case and Summary Judgment is the Appropriate Resolution.

The Agency certainly does not concede that any preselection or favoritism occurred. But even assuming it had, the Complainant has still failed to articulate a reason which would establish that the Agency's action was motivated by discrimination.

Because the Complainant has not presented any evidence to suggest that the Agency's stated reason for not selecting her was pretextual, there is no question of fact for the trier of fact to weigh. The United States Supreme Court has stated that summary judgment is appropriate where the trier of fact determines that, given applicable substantive law, no genuine issue of material fact exists. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). An issue is "genuine" if the evidence is such that a reasonable fact-finder could find in favor of the non-moving party. *Oliver v. Digital Equip. Corp.*, 846 F.2d 103, 105 (1st Cir. 1988). The evidence in this case does not raise questions of how a reasonable person could interpret it, because there is nothing to interpret. No evidence has been introduced which could be interpreted to produce a genuine issue of material fact. There is no evidence for the fact finder to consider which would establish Agency pretext, an essential element of the Complainant's burden. "In the context of an administrative proceeding under Title VII, summary judgment is appropriate if, after adequate investigation, complainant has failed to establish his or her case." *Monsegue v. Social Security Administration*, 01A03398 (2001), *citing Spangle v. Valley Forge Sewer Authority*, 839 F.2d 171, 173 (3d Cir. 1988). Clearly, the Complainant has failed to present evidence that the Agency's decision not to select her for the position of Lead Police officer, GS-0083-07 was a pretext for discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), 42 USC § 2000e-16. Based on the foregoing, it is respectfully requested that the complaint in this matter be dismissed without a hearing.

IX. Conclusion

For the reasons fully set forth above, the Agency maintains that there are no genuine issues of material fact regarding the Complainant's failure to establish a *prima facie* case of discriminatory non-selection. Moreover, even if the Complainant was able to meet the minimal burdens required to establish a *prima facie* case, she has not made any allegations which could lead a fact finder to determine that she has raised an issue under Title VII. The Agency therefore requests that the Administrative Judge find, based on the record, that the Agency did not discriminate against the Complainant on the basis of gender.

Respectfully Submitted,

Isaac J. Natter, Esq.
Agency Representative

DEPARTMENT OF THE NAVY
HUMAN RESOURCES OFFICE WASHINGTON
1014 N STREET SE SUITE 1
WASHINGTON NAVY YARD DC 20374-5050

IN REPLY REFER TO
12713
40/LJ

JUN 20 2005

From: Acting Deputy Equal Employment Opportunity Officer
To: Ms. Loretta Bethea, 5324 Eleanor Brook Way, Upper Marlboro, MD 20772

Subj: NOTICE OF ACKNOWLEDGEMENT OF RECEIPT OF FORMAL COMPLAINT FOR LORETTA K. BETHEA V. GORDON R. ENGLAND, SECRETARY OF THE NAVY, DOCKET NO. DON-05-00171-00753

Ref: (a) Formal Complaint dated June 6, 2005

1. This notice acknowledges receipt of your discrimination complaint dated June 6, 2005, and received by this office on June 6, 2005.

2. Your complaint has been assigned Docket No. DON 05-00171-00753. Please include this docket number on all future correspondence or other documents regarding this complaint.

3. If your complaint is accepted, you will receive a copy of the Official Record along with your Notice of Further Rights.

4. If your complaint is dismissed, you have the right to appeal that action to Equal Employment Opportunity Commission, Office of Federal Operations. You will receive a separate written notice advising you of your appeal rights.

5. If you have further questions, please contact Ms. Tazzella Ezell-Brown at (202) 433-2692.

Renee Walker
RENEE WALKER
By direction

DEPARTMENT OF THE NAVY
NAVAL DISTRICT WASHINGTON
1014 N STREET SE SUITE 200
WASHINGTON NAVY YARD DC 20374-5001

12713
N00CP1/OCB
28 July 2006

From: Command Deputy Equal Employment Opportunity Officer
To: Director, Naval Office of EEO Complaints Management and Adjudication, 614 Sicard Street, SE, Suite 100, Washington Navy Yard, DC 20374-5072

Subj: NOTICE OF REQUEST FOR A FINAL DECISION BY THE SECRETARY OF THE NAVY FOR THE COMPLAINT OF LORETTA BETHEA V. DONALD C. WINTER, SECRETARY OF THE NAVY, DON NO. 05-00171-00753

Ref: (a) 29 CFR § 1614.110(b)

Encl: (1) Complaint File

1. In accordance with reference (a), enclosure (1) is forwarded for issuance of a final decision.

2. On 14 June 2006, Ms. Bethea was notified of her right to request a decision with or without a hearing within 30 days. The Notice and Investigative File was received on 17 June 2006. Ms. Bethea did not respond within the prescribed timeframe.

3. A copy of the final decision and enclosure (1) should be returned to this office for retention. If you need additional information, please contact Ms. Renee Walker, Complaints Manager, at (202) 685-0079.

for GRACE M. ROSS
By direction

Copy to: (w/o encl.)
Ms. Loretta Bethea
6704 Tiara Court
Clinton, MD 20735

Richard Greenberg, Esq.
HRO-W Bethesda Satellite Office, Office of Counsel
8901 Wisconsin Avenue, Building 1, Room 5194, 5th Floor
Bethesda, MD, 20889

November 9, 2005

This is my statement regarding the electronic correspondence, (e-mail) sent to Major Graves,dated November 5, 2005. It is incidents Lt. Cowan. This is my perception of events leading up to retaliation, sex harassment and discrimination by Lieutenant E. Cowan.

In 2003, a verbal complaint was expressed to Master Chief Davis by an Officer regarding Lt. Cowan's mishandling of his weapon in building 59. I was asked to write a statement because I was there in the immediate area when this incident occurred. Lt. Cowan was walking with his weapon, from his office down the hallway to the vault, out of the holster, and as he was turning the corner in the hallway, the muzzle of his weapon was pointing up toward me and another officer. During this period of time I do not believe he was medically qualified to carry a weapon and has been medically disqualified without a weapon ever since that time. Medical records could probably be pulled to confirm this.

Months later, I asked him about the fairness of the schedule because Officer Martin was still getting the easiest schedules. Lt. Cowan told me to "stop bitchen" in front of other supervisors and officers. It hurt my feelings and I felt humiliated and embarrassed. I informed the Master Chief what he said, and I believe he spoke to him about it.

In the email, I also discussed that he was a customer of pills, (Viagra) and it is known that he was purchasing it from someone at building 59. He was seen with it on his desk, when an officer went into his office he tried to scoop it up in his hands so all of the pills could not be seen. Viagra and other medications are still illegal to buy and are only obtained by a physician's prescription.

I also discussed Lt. Cowan heard saying in front of officers in the break room, speaking about Officer Martin, "I sure would like to fuck her." I have also seen him running after Officer Martin when she has on shorts and short skirts. I have seen him trying to touch another female officer.

Lt. Cowan also stated to me on October 24th — "you the only one having a problem with him not having a weapon and that management does not have a problem with it.

In conclusion, I am a problem to Lt. Cowan because he thinks I am the only one feeling this way and as a result I am disrespected, intimidated.

Loretta Bethea

I

April10, 2007

Steve,

Here is what I have. In the red binder, look at the email that I sent to Major Graves.

The email discuss misconduct by Lt. Cowan, like buying illegal drugs (Viagra) at the USNO, building 59, and making sure a female under his supervision has a better work assignment than those on the same shift, because he "wants to fuck her" Most of our shift would agree including Cpl. Waters.

Cpl. James Waters saw the blue pills on Lt. Cowan's desk while he was trying to hide them from view.

Cpl. V. Godbee saw a transaction, where money was exchanged, between two officers. So, we know pills were for sale and Lt. Cowan were buying pills.

I informed Major Graves about this in his office along with Cpl. Godbee. Cpl. Godbee told Major Graves what he saw. Cpl. James Waters during the year long investigation told Graves that he saw the blue pills on Cowan's desk as he was trying to scoop them up from his desk.

I only told Major Graves what I knew and Cpl. Godbee went in his office to confirmed what I stated in the email. How can this be hearsay.

I have three complaints and EEOC decided to combined all three together because they said they were all similar.

BETHEA, LORETTA NDW

To: Graves, Larry NDW
Subject: The last time we talked

Hello Sir:

We talked in the parking lot at USNO last month in March in reference to Lt. Cowan issuing my weapon. I stated at that time that I was not comfortable with him issuing my weapon in light of my EEO complaint filed in October 2005. It has been since October 2005 and nothing has changed except for Lt. Cowan being reassigned to evening shift and still in command of the midnight shift. The midnight seargeants has also stated that he is still watch commander for this shift because he has been approving leave inquiring about midnight shift personnel, and has been intimately running the midnight shift, In light of my EEO complaint he still maintains control over my schedule as well.

For instance, on Sunday April 23, the schedule was already prepared by Sgt. Taylor, buy instead Lt. Cowan manipulated or changed the orginal schedule to satisfy Officer Cherokee by removing him from the post with me. This also effects other Officers' besides me and this practice should not be tolerated. Lt. Cowan continues to do what ever he can from his position to take sides, harass, belittle and intimidate me.

Today, April 28, Lt. Cowan issued my weapon and worked a 8 hour overtime shift on midnight from his evening shift.

Also, my claim for medica treatment at Georgetown University Hospital to this day has not been paid which occurred in 2004. It was Lt. Cowan that filled away my paperwork that worked against my claim being paid.

I do look forward to hearing from you regarding this matter.

Cpl. Loretta Bethea

Bethea, Loretta K

~~WALLS, JEFFREY NDW~~

To: Graves, Larry NDW
Subject: For your information. sir

My email #2

November 14, 2005

Major Graves,

I'm sending this email via Jeffrey Wall's email account because for some reason over the weekend all of my programs including Outlook will not work. I sent in a repair ticket to have the programs on my account reconfigurated. You can still send a response back to my email account becaue I was told by a MNCI technician that as soon as the programs on my account are repaired any emails sent to me will still be there.

The reason that I am sending this email is to inform you that over the weekend Cpl Guzman got the wod to me through Cpl. Waters amd Cpl Williams that Lt. Cowan came to him to ask him for a statement against me and he said he could not. I am sure that he has asked others and also asked Jeff Walls to write a statement that he saw me sleep. Walls told him he could not do that because he did not see me sleep. Lt. Cowan told him to change his statement to say that he saw me sleep.

It is ironic, that he has been going around asking for statements against me when he is under investigation, as a result of information provided to you in my last email.. For a man that sleeps 6 out of 8 hours with his slippers on, because Officers have seen him with them on, this could appear to be personal and a way to get back at me. I never played his game of allowing him to touchime and say inappropriate comments. People have seen him sleep including the morning shift before you come in, and If you ask the night shift they too have seen him sleep.

This feels like retaliation because he is trying to get anyone that can write to say something to discredit me. I thought I would never be in a situation like this but It feels like "get back" I wanted you know! Officers keep telling me to watch out that and he is going to get me somhow.

Also, I will place an envelop under your door for tomorrow so you will receive it on your return Tuesday.

Thank you

Cpl. Loretta Bethea

BETHEA, LORETTA NDW

To: Graves, Larry NDW
Cc: Schedules
Subject: Schedules

Major Graves,

On Friday May 12, 2005, once again, Lt. Cowan continues to retaliate against me for initiating a EEO againts him. For example, the schedule is prepared by Sgt. Taylor a week in advance to ensure that officers are rotated every night. I informed Lt. Cowan that I was at the South gate from 4:00 to 6:00 on Monday already and that I thought assignments would be fair. He stated that" he had nothing to do with writing the schedule," and you need to talk to him. How would Sgt Taylor know a week before that Officer Carter from the evening shift would stay for the midnight shift. Lt Cowan was not truthful about the schedule because he manipulated the schedule again -- the same message that I sent to you last week with no response.

Once again, I look forward to your response.

Cummings, Harris M NDW

From: Graves, Larry NDW
Sent: Monday, November 07, 2005 8:04
To: Cummings, Harris M NDW; BETHEA, LORETTA NDW
Cc: Elliottjr, Gilbert NDW; Dougherty, Thomas B CIV (WNYD)
Subject: FW: The last time we talked

Cpl. Bethea,

During our conversation on October 7, 2005 I informed you that you need to put these allegations/complaints in writing before a formal Investigation could be open. Now that I have your written statement these alleged allegations will be forwarded over to our Investigation Division.

Harris could you pls assigned one of your investigator to look into these allegations that are stated below. Pls contact me and let me know how we will proceed with this investigation. I can be reached at 202-762-1552 (office)or 202-369-0304 (cell)

r/Larry

-----Original Message-----
From: BETHEA, LORETTA NDW
Sent: Saturday, November 05, 2005 8:21
To: Graves, Larry NDW
Cc: Dougherty, Thomas B CIV (WNYD); Schilling, Charles L CDR
Subject: The last time we talked

Hi Major Graves.

I wanted to know the status of what we discussed in your office on October 7, 2005@ 0800, along with with Corporal Godbee and Corporal Walls, regarding the poor condition of our shift. We discussed with you that someone here in building 59 has been selling illegal pills (viagra) and that Lt. Cowan has been purchasing it and has been doing so for a while. Corporal Godbee stated that he actually witnessed a transaction of pills in the men's lockerroom , not with Lt Cowan but someone else. At one point another officer actually saw Lt. Cowan with the pills in his office trying to scoop them up in his hands so he could not see all of the pills he had purchased. Viagra is still illegal to sell and buy and it is a drug obtained only by a Doctor's prescription. Lt. Cowan has been a paying customer of these pills for some time now.

We also discussed Lt Cowan reporting for duty intoxicated. It is also a fact that officers have been in the break room in building 59 when Lt Cowan would enter the room and just say out loud about a female officer on our midnight shift "I sure would like to "Fuck Lisa." I understand from the officer(s) he says this on a regular basis. In our meeting I also stated to you that we believe that this is the reason why he gives her the easy post and assignments almost every night and she is getting preferred treatment. A schedule can be made in advance but Lt Cowan will adjust the schedule for Coporal Martin's comfort as if the rest of the shift revolves around her. I have seen Lt. Cowan get excited and try to hung on her and playing like he chasing her around especially when she changes nto a short shirt and shorts.

see this and take notice because we know it is not appropriate and as a consequence ngs the morale down, and it does not show good leadership and judgement.

action by Lt Cowan is a form of sexual harrassment because it does allow any fairness e, as woman, or the rest of the shift.

ENCLOSURE #1

ıen I ask him anything about the schedule he tells me to "stop bitchin" and as a result
: makes me feel belittled, intimidated, and embarrassed. I have never had a supervisor
ılk down to me before.

s mentioned above, I would like to know what if anything has been done. This continues!!

am not sure if you remember but we had this discussion via telephone last year.

await your response!! Thank you

Sincerely,

Corporal Loretta Bethea

For further information see attached MPDC Report 638528, taken on September 8, 1998, and MPDC Report 102855, taken today. MPDC Officer Sandra Connor, badge number 3700, took report 102855.

Michael N. Carey
Lieutenant
Naval Observatory Branch