

This narrative details the discrimination and retaliation suffered by Dr. Sabina Burton. This narrative was authored by Dr. Burton's retained attorney Kara Amouyal, Esq. of The Blake Horwitz Law Firm, LTD.

Dr. Sabina Burton is a tenured professor in the Criminal Justice Department at the University of Wisconsin – Platteville ("UWP"). On October 10, 2012, Dr. Burton intervened on behalf of a student who felt uncomfortable with the perceived sexual advances of another professor. Since that time, Dr. Burton has been subjected to consistent retaliation and harassment, resulting in a hostile work environment. Because of the retaliation and harassment, Dr. Burton was forced to file several EEOC complaints (443-2015-00090, 26G201301269C, 443-2016-01415) and two civil suits concerning those EEOC complaints (14-cv-00274, 17-cv-00036). Unfortunately, despite these actions, the retaliation that began in 2012 continues to this day. This complaint will outline the conduct violations of UWP and its agents that have not been previously adjudicated by the EEOC. However, in order to understand the context of these actions, a review of prior incidents is in order:

I. FACTUAL BACKGROUND¹:

As stated above, on or around October 10, 2012, Dr. Burton reported to the Dean of Students (through the Dean's assistant) and to Dr. Elizabeth Throop (the then-Dean of the College of Liberal Arts and Education at UWP), that a student received a solicitous note from another professor. Dr. Burton reported that the student felt humiliated and upset by the note, and Dr. Throop agreed that the note could be interpreted as sexual harassment.

However, despite this, the reporting of the note and the student's discomfort set off the harassment and retaliation that Dr. Burton still experiences. From that time until he was replaced in July of 2013, the then-chair of the Criminal Justice Department, Dr. Thomas Caywood, engaged in harassing and retaliatory activities such as: publicly criticizing Dr. Burton for the way in which she reported the note, refusing to allow Dr. Burton to chair search committees, refusing to schedule meetings to assist Dr. Burton in activities meant to build her professional resume, refusing Dr. Burton's requests to teach certain classes, and refusing to respond to many of Dr. Burton's emails or questions.

Finally, in March of 2013, after enduring this behavior for months, Dr. Burton filed a grievance against Dr. Caywood with the UWP Complaints and Grievances Committee ("the Committee")² The Committee found that Dr. Caywood had mishandled the situation regarding the October 2012 note, that Dr. Caywood had unreasonably withdrawn support for Dr. Burton's efforts to build her professional resume, that Dr. Caywood's actions had damaged Dr. Burton's reputation and that the damage should be corrected.

¹ The facts and incidents related in this section are the subject matter of other EEOC complaints and lawsuits.

² Prior to filing the grievance, Dr. Burton had reported Dr. Caywood's behavior to both the Human Resources Director and to Dr. Throop (the then-Dean of the College of Liberal Arts and Education at UWP) but no recourse was given.

Despite these severe findings against Dr. Caywood, Dr. Caywood was never disciplined for any interaction he had with or concerning Dr. Burton. As stated above, he continued to chair the Criminal Justice Department until July of 2013. Dr. Caywood continued to receive his full salary as chair and received public praise for his service by the UWP administration after he stepped down. This undoubtedly gave other faculty and staff the impression that Dr. Caywood did not do anything wrong in his public treatment of Dr. Burton and that Dr. Burton was overreacting or being a troublemaker by bringing a grievance against him. Further, by the time that the Committee made its findings in April and July of 2013, other faculty and staff's attitude towards Dr. Burton had begun to turn in such a way that any time Dr. Burton attempted to stand up for herself or her rights or to tell her side of the story, she was seen as a troublemaker or was accused of harassing or bullying. Even Dr. Throop, who had originally agreed with Dr. Burton's handling of the note³, retaliated against Dr. Burton by withdrawing support for the above-mentioned resume-building activities.

In August of 2013, after not receiving any institutional support⁴ despite the Committee's findings against Dr. Caywood, Dr. Burton filed an EEOC Complaint regarding the retaliation she had suffered. The new chair of the Criminal Justice Department, Dr. Michael Dalecki, immediately began to retaliate against Dr. Burton. On more than one occasion, Dr. Dalecki asked Dr. Burton to dismiss her EEOC Complaint. When Dr. Burton made it clear that she was going to file a lawsuit, Dr. Dalecki asked Dr. Burton not to do so, told her to "get over it", and said "you can't expect to file a lawsuit without consequences". As a result of these actions, Dr. Burton filed a second EEOC Complaint, this time against Dr. Dalecki. Eight (8) days later, Dr. Throop sent Dr. Burton a Letter of Direction ("LOD"). This LOD, which remains in Dr. Burton's personnel file, classified Dr. Burton as harassing and/or bullying other staff; however, the incidents listed by Dr. Throop were either factually inaccurate or were incidents based on protected activity on the part of Dr. Burton.

Dr. Burton filed a lawsuit against the UWP Board of Regents and Dr. Caywood, Dr. Throop, and Dr. Dalecki based on the above-described actions. The harassment, however, continued.

Because the LOD is a black mark on Dr. Burton's personnel file, Dr. Burton filed a grievance with the Committee to have the LOD removed. Essentially, Dr. Burton asked the Committee for the chance to confront the allegations in the LOD and prove that they were (a) factually incorrect and/or (b) based on protected activity. Dr. Burton was denied the right to do so. Despite the fact that Dr. Burton filed her grievance in November of

³ Interestingly, Dr. Throop also changed her opinion on the note and the student who was harassed. In her 2015 deposition, Dr. Throop stated that the student was "biased".

⁴ For example, Chancellor Shields (who remains Chancellor at UWP) placed equal blame on Dr. Burton and Dr. Caywood for the handling of the note. Dr. Burton was not considered for chair of the Criminal Justice department after Dr. Caywood because she did not report the note on a "local level".

2014 roughly 2 weeks after Dr. Throop issued the LOD, the Committee never set a date for a hearing.⁵ In October of 2015, Dr. Burton finally withdrew the grievance due to the amount of time that had elapsed since the grievance was filed and due to the fact that the subject matter of the grievance was addressed in Dr. Burton's amended complaint in the original lawsuit.

In April of 2016, after the LOD had still not been removed from her personnel file, Dr. Burton renewed her grievance and, in writing, requested a hearing on the grievance. Dr. Burton made it clear, in writing, that her goal for the grievance was to have the LOD removed from her personnel file. Dr. Burton stated that she possessed testimony and documents from the original lawsuit that showed that the alleged incidents in the LOD involved protected activity and/or were factually incorrect. Despite this, the Committee still refused to give Dr. Burton a hearing, a violation of Dr. Burton's procedural due process rights.

II. DISCRIMINATION GIVING RISE TO THIS COMPLAINT

A. National Origin and/or Disability Discrimination

Deb Rice, a co-worker of Dr. Burton's, has created a hostile work environment for Dr. Burton. It appears that Deb Rice's discrimination, harassment, and retaliatory actions are because of Dr. Burton's national origin (German) and/or because of a perceived mental illness (disability) on the part of Dr. Burton.

In November of 2014, Deb Rice made statements to members of the Criminal Justice Department and at least one student that (a) Dr. Burton has a mental illness and (b) Dr. Burton is prejudiced against East Germans.⁶ Deb Rice admitted to UWP administrators that she made these statements, but no discipline against her was ever undertaken. The outlandish and offensive nature of these claims is readily apparent.

In December of 2014, Deb Rice inexplicably falsely alleged that Dr. Burton had cancelled a class so that Dr. Burton could travel to Germany (Dr. Burton was born and raised in Germany and has family that lives in Germany). Dr. Burton was informed of impending disciplinary measures as a result of this completely untrue allegation. At the time, Dr. Burton did not know that it was Deb Rice who had made this claim. In fact, Dr. Burton did not learn this until October of 2015 despite repeated requests to the administration for the identity of the person who had made the claim.

⁵ Upon information and belief, Dr. Throop told the Committee that she did not think a hearing on the grievance was appropriate.

⁶ During this time period, the Criminal Justice department had begun an exchange program with a police academy in East Germany.

Further, regarding Dr. Burton's trip to Germany in December of 2014, Deb Rice claimed that Dr. Burton was "manic" and "irrational" because Dr. Burton traveled to Germany and back to the United States in the course of one weekend. In fact, Dr. Burton did this to see her dying god-father one last time but was forced to make it a short trip because of personal and professional obligations. Deb Rice, however, used this heartbreaking trip as another opportunity to harass Dr. Burton.

In the spring of 2015, Dr. Burton was forced to take FMLA due to severe ulcers. While Dr. Burton was gone, Deb Rice made comments to many co-workers, including interim chair Dr. Dalecki, questioning the legitimacy of Dr. Burton's illness. This of course only furthered the toxic work environment as Dr. Burton was not there to defend herself. Further, in September of 2016, during the below-described investigation instigated by Deb Rice, Deb Rice made false claims to the investigator that Dr. Burton posted vacation photos to social medial during the FMLA leave. Not only do those comments belittle the serious medical issues that Dr. Burton was facing, but making those false statements during the course of the investigation threatened Dr. Burton's employment and eroded her colleagues' trust in Dr. Burton.

In April of 2016, Dr. Burton attempted to file a grievance against Deb Rice for these discriminatory and harassing comments. Just as with the grievance against Dr. Throop, UWP refused to hear the grievance.

In August of 2016, Deb Rice filed a complaint against Dr. Burton, which resulted in an investigation against Dr. Burton.

In September of 2016, Deb Rice alleged she believes that Dr. Burton has "undiagnosed and probably untreated, mental health issues", that Dr. Burton has "fairly frequent episodes of manic behavior", that Dr. Burton is "narcissistic" and that Dr. Burton's tendency to put in long hours of work are "either a symptom of or a contributing factor to, [*sic*] any mental health issue that Burton may have".

Deb Rice also stated that her relationship with Dr. Burton took a turn in 2013 when they went on an academic trip to Germany together. Deb Rice stated that Dr. Burton seemed "detached" during a tour of a Nazi concentration camp.⁷ Deb Rice then made false allegations that Dr. Burton's father (a German national) had a relationship with Nazis. Finally, Deb Rice stated that Dr. Burton had previously insinuated (during a deposition) that Dr. Burton had Jewish heritage, which Deb Rice found "inconsistent" with Rice's false allegation that Dr. Burton's father was a Nazi/Nazi sympathizer/somehow connected to Nazis. These statements are outlandishly discriminatory; worse, these allegations were disseminated to the Chancellor of UWP and have made Dr. Burton feel marginalized in the workplace as Dr. Burton believes that Deb Rice has repeated such comments to their co-workers. Further, Deb Rice made accusations during the course of the investigation (*e.g.*, that Dr. Burton had made comments about Deb Rice on Twitter,

⁷ Although Dr. Burton certainly owes no explanation for her demeanor during the visit to the concentration camp, Dr. Burton was, in fact, quietly grieving for members of her family and her father's friends who were imprisoned during World War II.

etc.) that were wholly without evidence. The only logical explanation is that Deb Rice meant these accusations to result in Dr. Burton's termination. Despite the fact that UWP is aware of these outrageous accusations by Deb Rice, and despite the fact that Dr. Burton filed a complaint against Deb Rice for her continued discrimination, Deb Rice has never been disciplined.

B. (Perceived) Disability Discrimination

In addition to Deb Rice's statements about Dr. Burton's mental health, Dr. Throop has made several similar statements. In a Human Resources meeting, Dr. Throop claimed that Dr. Burton is "labile". In August of 2016, Dr. Throop also claimed that Dr. Burton exhibits "erratic behavior" and believes Dr. Burton to be a threat. These allegations were made with no proof and with complete disregard to the harassment suffered by Dr. Burton.

C. Continued Harassment and Retaliation

1. Increased Scrutiny and Intimidation

As stated above, Deb Rice filed a complaint against Dr. Burton in August of 2016. As a result, Chancellor Shields began a formal investigation and threatened Dr. Burton with job termination. Chancellor Shields sent Dr. Burton a complaint via Certified Mail. In addition, he had a private investigator hand-deliver a copy of the complaint to her door. Because the complaint had already been mailed, via Certified Mail, the investigator was sent there with the sole purpose of informing Dr. Burton that she was under severe scrutiny and that she was reachable, even at her home. As stated in the EEOC compliance manual, heightening the level of scrutiny imposed on an employee constitutes actionable retaliation. It is clear that this investigation was initiated (as Chancellor Shields had the right to decline to investigate the complaint) to retaliate against Dr. Burton for her EEOC complaints and lawsuit.

2. Failure to Accommodate and Harassment

In early September of 2016, Dr. Burton suffered an unfortunate flare-up of her ulcers (mentioned above). Consequently, her doctor recommended that the investigation headed by Mr. Burke at the behest of Chancellor Shields be delayed by one month. Dr. Burton requested a delay in the investigation. The administration refused to provide any sort of accommodation and ordered Dr. Burton to meet with Mr. Burke against the opinion of a medical professional. The investigation caused Dr. Burton a significant amount of stress and worsened her already uncomfortable condition. In fact, as a result, Dr. Burton required medical treatment and was placed on sick leave for 2 days. This constitutes a failure to accommodate Dr. Burton's serious medical condition.

This also constitutes retaliation for the grievances that Dr. Burton pursued. There is significant evidence supporting this assertion. The timing of this investigation directly followed the filing of an EEOC/OCR Complaint. Chancellor Shields even went so far as to admit that the investigation was in response to Dr. Burton's request for an investigation into what she perceived as retaliation on the part of Dr. Strobl in blocking her grant writing efforts (previously complained about in another EEOC Complaint).

Towards the end of 2016, the administration also shifted Dr. Burton to a more cumbersome and less prestigious work schedule for the Spring 2017 semester. They assigned her to mainly introductory classes wherein if she were fired she could be easily replaced. As was decided in the 7th circuit case *O'Neal v. City of Chi* "repetitive reassignments negatively affecting plaintiff's eligibility to be promoted, and constitutes a materially adverse action". Similarly, having Dr. Burton perform only introductory level work easily performed by any professor would affect her ability to secure a promotion, which is retaliatory.

3. Miscellaneous Actions

First, despite the seriousness of the above-described 2016 investigation (which, essentially, threatened Dr. Burton's employment), the administration tried to withhold the investigator's report from her. Dr. Burton eventually had to involve the Attorney General's office to receive the report and, once she did receive the report, noticed many factual inaccuracies in it. For example, the investigator misquoted Dr. Burton repeatedly, despite having recorded their meeting. Further, the Human Resources Director had made a false claim that Dr. Burton had filed 4 grievances against Deb Rice when, in fact, Dr. Burton had filed only one (that the Grievances Committee refused to hear).

Second, in addition to the LOD from Dr. Throop remaining in Dr. Burton's personnel file, Dr. Burton's personnel file is not accurate and several important documents are missing. This is an adverse employment action that will have very serious consequences on Dr. Burton's future advancement and employment.

Third, the chair of the Criminal Justice Department failed to conduct a peer teaching evaluation and instead assigned an evaluation score. Dr. Burton repeatedly complained of this but it was never remedied.

Fourth, Dr. Solar, another member of the Criminal Justice Department, threatened Dr. Burton with "consequences of his choosing" after a disagreement. A few days later, the UWP Police Chief, believed to have known Dr. Solar for many years, came to Dr. Burton's office a few days later in full uniform. Dr. Burton felt intimidated and harassed by this unexpected and unusual visit. The Police Chief minimized Dr. Burton's obvious discomfort and informed Dr. Burton that Dr. Burton was making her colleagues uncomfortable. Dr. Solar also falsely reported to the administration that Dr. Burton gave her husband access to her university email (which is a violation of university policy). This false claim forms part of the basis for the current investigation against Dr. Burton (discussed below).

4. Retaliatory Termination Proceedings

Finally, on January 3rd, 2017 Chancellor Shields began proceedings that could result in Dr. Burton's termination. He did so based, in part, on the LOD that Dr. Throop wrote back in October of 2014 (the LOD that Dr. Burton had requested numerous times to have a hearing on so that she could defend herself against). The administration has initiated an investigation that could lead to termination proceedings against Dr. Burton.⁸

III. CONCLUSION

Since Dr. Burton intervened on the behalf of a student in the fall of 2012 and participated in the ensuing EEOC process, she has become the target of vicious retaliation by both her fellow professors and the administration of the school. She has suffered numerous adverse actions ranging from intimidation to attempts to block her career aspirations to threatened termination. These actions constitute retaliation against an individual who participated in protected activity, and stand as clear violations against EEOC guidelines.

Further, Dr. Burton has suffered years of national origin and perceived disability discrimination at the hands of Deb Rice and the administration that refused to reprimand her.

Thank you for your kind attention to this matter. I look forward to hearing from you.

Best,

/s/ Kara Amouyal
Kara Amouyal, Esq.

⁸ In addition, pending the results of the investigation, Chancellor Shields has banned Dr. Burton from the campus. This is thought to be, in part, based on the false claims of Deb Rice and Dr. Throop that Dr. Burton is "crazy".