

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SABINA BURTON,

Plaintiff,

v.

OPINION & ORDER

BOARD OF REGENTS OF THE UNIVERSITY
OF WISCONSIN SYSTEM,
THOMAS CAYWOOD, ELIZABETH THROOP, and
MICHAEL DALECKI,

14-cv-274-jdp

Defendants.

Plaintiff Sabina Burton brought this suit to challenge what she perceived to be discrimination and retaliation from colleagues and administrators at the University of Wisconsin—Platteville (UWP), where Burton is a tenured professor. Eight months into the case, Burton fired her counsel. Dkt. 12. She found new counsel, who vigorously litigated this case through discovery and dispositive motions.

I granted defendants' motion for summary judgment after concluding that Burton would not be able to prove critical elements of her claims at trial. Dkt. 90. In the wake of that ruling, Burton insisted on a course of action that her counsel would not follow. Dkt. 96, ¶ 2. I granted counsel's motion to withdraw. Dkt. 97.

Burton has now filed a pro se motion for reconsideration of my summary judgment decision. Dkt. 99. She contends that her former counsel did not allow her to proofread or edit the brief in opposition to defendants' motion for summary judgment, and that, as a result, counsel failed to dispute facts that Burton instructed them to dispute with evidence that she provided. Dkt. 100, ¶ 2. Burton has assembled this evidence and filed corrections and updates to several documents that her former counsel submitted in opposition to

summary judgment. *See* Dkt. 98; Dkt. 100; Dkt. 101; Dkt. 102. Through these filings, Burton purports to demonstrate genuine disputes of material fact that require a trial.

After reviewing Burton's submissions, I conclude that she is not entitled to relief under Federal Rule of Civil Procedure 59(e). I will deny her motion for reconsideration.

BACKGROUND

I recounted the material facts of the case in my opinion on defendants' motion for summary judgment. Dkt. 90. Although Burton takes issue with some of the finer points, the basic facts have not changed. I will summarize those facts here, and I will discuss Burton's recently submitted materials in the analysis section of this opinion.

Burton began working in the criminal justice department at UWP in 2009, and she was promoted to associate professor in 2012. She later received tenure, effective for the 2013-14 academic year. The defendants in this case include the Board of Regents, Thomas Caywood (the former chair of Burton's department), Michael Dalecki (who replaced Caywood as chair of the department), and Elizabeth Throop (the dean of the college that included Burton's department).

The first of two critical events in this case occurred in October 2012. One of Burton's colleagues upset a student during a lecture on breach experiments. The student sought out Burton to talk about the incident, and Burton emailed Throop to alert her that the student had been harassed. In the following months, Burton experienced what she perceived to be unwarranted public criticism for the way that she had handled the student's complaint. According to Burton, Caywood was upset that she had taken the issue to the dean instead of him. Caywood became bitter toward Burton and was less than collegial on several occasions.

At the time that the student incident occurred, Burton was developing a new cybersecurity curriculum. In the course of developing the curriculum, Burton secured a grant from AT&T. But Throop and Caywood took issue with the press release that Burton had approved to announce the donation. In their opinion, the press release incorrectly reported the status of the new curriculum as more developed than it really was. Despite Throop and Caywood's concerns, AT&T was able to correct the press release in time to present Burton with a check at a public ceremony in January 2013. About the same time, Throop and Caywood also identified other issues with how Burton was portraying the status of the curriculum to the public. Burton contends that Throop and Caywood's criticisms and their sudden drop in support were in retaliation for Burton assisting the student.

The second critical event in this case occurred in August 2013, when Burton filed a charge of discrimination with the Wisconsin Department of Workforce Development—Equal Rights Division (ERD). Burton charged that: (1) Caywood had discriminated against her because she was a woman and retaliated against her for reporting the student harassment; (2) Throop and the human resources director had discriminated against her; (3) Throop had defamed her; and (4) the university had been deliberately indifferent to her grievances.

After Burton filed her charge with the ERD, she continued to experience what she perceived to be hostile treatment by her colleagues and supervisors. Dalecki—who had replaced Caywood as department chair by that point—repeatedly encouraged her to drop the charge, and he expressed disappointment or told Burton to “get over it” each time that she refused to do so. Dalecki also implied that Burton was hurting her future opportunities to pursue administrative positions at UWP by continuing with the charge and later lawsuit. Burton and Dalecki had several disagreements throughout the 2013-14 academic year. The

disagreements concerned committee appointments, personnel changes, issues with graduate students, and department management. Burton contends that Dalecki's actions were in retaliation for the ERD charge and this lawsuit.

Burton's relationship with Throop deteriorated as well. In October 2014, Throop wrote Burton a letter of direction, identifying seven events that Throop described as showing "a consistent pattern of unprofessional and inappropriate behavior." Dkt. 37-15, at 5. Burton responded to the letter by disagreeing with Throop's summary of the relevant facts and by flatly refusing to accept any of Throop's directions. Given Burton's refusal to cooperate, Throop filed a complaint with the chancellor on January 5, 2015, asking him to write Burton a formal letter of reprimand that would be placed in her personnel file.

Burton pursued several grievances to address her concerns with UWP administrators. When those efforts proved unsuccessful, Burton filed suit in this court. I granted defendants' motion summary judgment, which disposed of the entire case.

ANALYSIS

Burton moves for reconsideration of my summary judgment decision, pursuant to Rule 59(e). Dkt. 99. She contends that her corrections and additions to the materials that her former counsel submitted demonstrate disputes of material fact that require a trial.

"A Rule 59(e) motion will be successful only where the movant clearly establishes: (1) that the court committed a manifest error of law or fact, or (2) that newly discovered evidence precluded entry of judgment." *Cincinnati Life Ins. Co. v. Beyrer*, 722 F.3d 939, 954 (7th Cir. 2013) (citations and internal quotation marks omitted). But Rule 59(e) is not "a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party

to introduce new evidence or advance arguments that could and should have been presented to the district court prior to the judgment.” *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996). Because Burton does not identify a manifest error of law or fact, and because she does not present newly discovered evidence, Burton is not entitled to relief under Rule 59(e). And even if I were to reconsider my summary judgment decision based on the evidence that Burton now identifies, I would reach the same conclusions.

The first type of motion under Rule 59(e) requires the movant to show that a court committed a manifest error of law or fact. But “[a] ‘manifest error’ is not demonstrated by the disappointment of the losing party. It is the wholesale disregard, misapplication, or failure to recognize controlling precedent.” *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (citations and internal quotation marks omitted). Burton does not identify controlling precedent that I failed to apply.¹ Burton also does not argue that I misunderstood the facts of the case as defendants and her former counsel presented them. Thus, Burton is not actually contending that I committed a manifest error of law or fact. Instead, she catalogues additional evidence that was not presented at summary judgment and asks me to revisit my earlier decisions with this evidence in mind. *See* Dkt. 103, at 1 (“Please review my attached findings of facts, corrections to Defendants’ Proposed Findings of Fact and my corrections to Plaintiff’s Brief in Opposition to Summary Judgment.”). The mere fact that Burton has additional evidence and arguments for me to consider does not mean that I committed a manifest error of law or fact in deciding defendants’ motion for summary judgment.

¹ This court is within the Seventh Circuit, so I must adhere to decisions from that court of appeals. Many of the cases that Burton cites in her brief are from other circuits, and they are persuasive precedent only, not binding.

As for the second type of Rule 59(e) motion, Burton has not presented “newly discovered evidence.” Despite the circumstances that led Burton to file her motion, none of the evidence that she presents is “new”—it was all available to her and to her attorneys when they opposed defendants’ motion for summary judgment. “[M]otions under Rule 59(e) cannot be used to present evidence that could have been presented before judgment was entered.” *Obrecht v. Raemisch*, 517 F.3d 489, 494 (7th Cir. 2008). Burton hired the attorneys who represented her in this case; they were not forced upon her. Those attorneys presented Burton’s case on her behalf, and she cannot pursue relief under Rule 59(e) just because she disagrees with their strategic decisions. It is too late for that. “A party seeking to defeat a motion for summary judgment is required to wheel out all its artillery to defeat it. . . . Reconsideration is not an appropriate forum for rehashing previously rejected arguments or arguing matters that could have been heard during the pendency of the previous motion. *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996).

Burton has not identified a manifest error of law or fact that I committed in granting defendants’ motion for summary judgment, nor has she identified newly discovered evidence that changes the result in this case. I will therefore deny her motion for reconsideration.

Even if I were to review my summary judgment opinion in light of the evidence and arguments that Burton presents now, I would still conclude that defendants are entitled to judgment as a matter of law. Burton alleged two retaliation claims: one under Title IX of the Education Amendments of 1972, and one under Title VII of the Civil Rights Act of 1964. Both claims required Burton to prove the same elements. *Milligan v. Bd. of Trs. of S. Ill. Univ.*, 686 F.3d 378, 388 (7th Cir. 2012). To withstand summary judgment, Burton needed to adduce evidence that: (1) she engaged in protected activity; (2) defendants took an adverse

action against her; and (3) there was a causal connection between her protected activity and the adverse action. *Cung Hnin v. TOA (USA), LLC*, 751 F.3d 499, 508 (7th Cir. 2014).

For Burton's Title IX claim, I assumed without deciding that Burton engaged in protected activity when she assisted the student who complained about harassment. Dkt. 90, at 13. But I concluded that Burton had failed to adduce evidence of a materially adverse action that defendants took against her. This element required Burton to demonstrate an action or series of actions "that a reasonable employee would find to be materially adverse such that the employee would be dissuaded from engaging in the protected activity." *Silverman v. Bd. of Educ. of Chi.*, 637 F.3d 729, 740 (7th Cir. 2011) (citations and internal quotation marks omitted). Burton identified two categories of materially adverse actions: (1) Caywood publically criticized her and was not collegial toward her; and (2) Caywood and Throop withdrew their support of her efforts to develop a cybercrime curriculum. I concluded that these actions did not qualify as materially adverse.

In moving for reconsideration, Burton contends that there were other instances of Caywood being rude or unfriendly toward her. *See* Dkt. 103, at 5-7.² For example, two days after the student incident occurred, Caywood did not reply to a morning greeting from Burton, and he gave her a stern look when he saw her later that day. On a different occasion, Caywood did not respond to an email from Burton informing him about a news crew coming to interview her. Throop later commented that Burton should have informed the college

² Burton does not identify record evidence to support most of her factual assertions. *See, e.g.*, Dkt. 102 (Burton's responses to defendants' proposed findings of fact) and Dkt. 103, at 5-22 (Burton's list of adverse actions that she suffered). This court requires parties to cite directly to record evidence to support their proposed findings of fact and their responses to an opponent's proposed findings of fact. Dkt. 9, at 12-15. Because Burton failed to comply with these procedures, I would likely disregard her factual assertions, which would further support my conclusion that she has failed to create a genuine dispute of material fact.

about the event. Caywood also wrote a harsh email to Burton (and cc'd Throop). The email came shortly after Burton had learned that her father was terminally ill. According to Burton, Caywood's timing was deliberate: he intended for Burton to receive the email during a troubling time (but Burton has only speculation to support this assertion).

At summary judgment, I concluded that Burton had adduced evidence of only "petty slights or minor annoyances that often take place at work and that all employees experience," which do not qualify as materially adverse actions. *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006). Burton's motion for reconsideration presents more of the same: Caywood was cold toward her and his reprimands were embarrassing. These are not adverse actions that give rise to a retaliation claim in federal court. *Sweeney v. West*, 149 F.3d 550, 556 (7th Cir. 1998) ("Absent some tangible job consequence accompanying [unfair or undeserved] reprimands, we decline to broaden the definition of adverse employment action to include them.").

Burton characterizes Throop and Caywood's responses to the AT&T press release as demonstrating a sudden withdrawal of support for the curriculum that she was developing. But Throop worked with an AT&T representative to promptly correct the issue with the press release, and Burton received the donation at a public ceremony. Moreover, Throop and Caywood encouraged Burton to continue developing the curriculum, but they urged her to comply with UWP's procedures for doing so. *See, e.g.*, Dkt. 53-4 and Dkt. 37-5, at 1. Their disapproval of the AT&T press release was not a materially adverse action.

For Burton's Title VII claim, I concluded that she had engaged in protected activity by filing a charge of discrimination. Dkt. 90, at 21. I also concluded that although Dalecki's pressure to drop the charge and lawsuit did not qualify as an adverse action, Throop's letter

of direction and formal complaint to the chancellor *did* qualify. But Burton still could not succeed on her Title VII claim because she had not adduced evidence of a causal connection between her protected activity and Throop's actions. Burton's motion for reconsideration challenges my conclusion that Dalecki's actions did not qualify as materially adverse and my conclusion that there was no evidence of a causal connection.

Burton had several disagreements with Dalecki, but I have already concluded that these did not qualify as materially adverse actions. In her motion for reconsideration, Burton identifies a few other petty slights that she endured. For example, Dalecki refused to put "Dr." in front of Burton's name on a list of department email addresses, and he "corrected and humiliated [her] in a department email for [her] response to a very devastating" evaluation of the department (Burton later apologized to Dalecki for the tone of that response). Dkt. 103, at 9, 11. These slights and personality conflicts do not qualify as materially adverse actions for purposes of a Title VII retaliation claim.

Burton's motion for reconsideration also recasts much of the evidence concerning Dalecki's threats after she filed a charge of discrimination and this lawsuit. But Burton did not dispute at summary judgment that these threats were empty: Dalecki never followed through on them. "[I]t is well established that unfulfilled threats that result in no material harm cannot be considered an adverse employment action under Title VII." *Hottenroth v. Village of Slinger*, 388 F.3d 1015, 1030 (7th Cir. 2004) (citing *Ajayi v. Aramark Bus. Servs., Inc.*, 336 F.3d 520, 531 (7th Cir. 2003)). Now, in moving for reconsideration, Burton adds a few factual allegations. Dalecki assigned a newly hired professor to manage one of Burton's projects, Dkt. 103, at 11, and he did not assign Burton to several search committees, *id.* at 15. From her submissions, I infer that Burton wanted these assignments. But Burton has not

explained how, or adduced evidence that, she was actually injured by not receiving them and how that injury would deter a reasonable employee from filing a charge of discrimination. At this point, Burton has not identified anything more than her own personal disappointment with Dalecki's decisions, which does not qualify as a materially adverse action.

This leaves Throop's letter of direction and formal disciplinary complaint. At summary judgment, I concluded that Burton had failed to adduce evidence of a causal connection between her protected activity and Throop's adverse actions. Burton sought to prove causation through pretext, by showing that Throop's reasons for disciplining her were so obviously false that they must have been a cover for retaliation. Burton takes the same approach in her motion for reconsideration. Dkt. 103, at 17 ("I believed Throop's accusations in the Letter of Direction to be false and in retaliation of a protected activity, or multiple protected activities. I have evidence to prove her accusations as false but I was never given a chance to present my side of the story.").

Federal courts "do not evaluate whether the stated reason [for an adverse action] was inaccurate or unfair." *Harden v. Marion Cty. Sheriff's Dep't*, 799 F.3d 857, 864 (7th Cir. 2015) (citations and internal quotation marks omitted). Thus, Burton's belief that Throop's accusations were false is irrelevant. The issue is not whether Burton can prove that Throop was wrong to issue her a letter of direction. Instead, Burton must identify record evidence demonstrating that Throop did not honestly believe the reasons that she gave for disciplining Burton. In my summary judgment opinion, I concluded that Throop had at least some factual basis for her decisions because she cited to specific events in her letter of direction. Burton obviously disagrees with Throop's description of the underlying events and with how Throop responded to them. But a federal court is not the forum in which to present these types of

disputes. I will not second guess internal business and personnel decisions, absent some evidence that the employer's decision was "completely unreasonable." *Hobgood v. Ill. Gaming Bd.*, 731 F.3d 635, 646 (7th Cir. 2013). Burton failed to meet this standard at summary judgment, and her recent submissions do not change that.

CONCLUSION

Burton does not contend that I committed a manifest error of law or fact, and she does not present newly discovered evidence that would change my earlier decisions. Burton simply disagrees with the way in which her former counsel presented this case. But this is not a proper reason for seeking reconsideration under Rule 59(e). I must therefore deny her motion. And even if I were to consider the evidence that Burton discusses in her recent submissions, I would still conclude that defendants are entitled to judgment as a matter of law on Burton's retaliation claims.

ORDER

IT IS ORDERED that plaintiff Sabina Burton's motion for reconsideration, Dkt. 99, is DENIED.

Entered June 21, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge



Zupec – Exhibit A

Zimbra

burtons@uwplatt.edu

Re: proposal

From : Elizabeth A Throop <throope@uwplatt.edu>

Wed, Oct 10, 2012 05:12 PM

Subject : Re: proposal**To :** Sabina Burton <burtons@uwplatt.edu>

Thank you, Sabina. We need to discuss the entire concept in much more depth with your colleagues, of course!

As for the student, I suggest that you direct that person to Artanya West, the dean of students. That seems to be where such things are going these days all over campus. Let me know if I can be of any help at all.

Best,
Liz

Dr. Elizabeth A. Throop
Dean, College of Liberal Arts and Education
160 Gardner
University of Wisconsin Platteville
1 University Plaza
Platteville, Wisconsin 53818-3099
608-342-1151
608-342-1409 (fax)
throope@uwplatt.edu

----- Original Message -----

From: "Sabina Burton" <burtons@uwplatt.edu>
To: "Elizabeth A Throop" <throope@uwplatt.edu>
Sent: Wednesday, October 10, 2012 5:01:44 PM
Subject: proposal

Hi Liz,

Just read up on some of the email exchange regarding the grant proposal. I totally understand your position. I feel a bit overwhelmed as well. I learned 2-3 weeks ago that the deadline for the Oct. proposal was Oct.14. Then Bob Roberts who has been working with me had a family emergency to attend to for several days and all efforts pretty much seized for that time being. Sponsored Office has also been swamped with grant writing requests and I didn't get much help from them either. Now Bob is back and I've been scrambling to get information together for the application. I do most of the work late at night as I don't want my classwork to suffer.

I very much hope we can put a solid grant application together in the next 1-3 months that will have a real chance of getting funded so we can be the first institution in the Tri-State area to implement cyber-security and homeland security. You may have noticed that I'm somewhat passionate about this idea. ;) I just don't want to miss this great opportunity for

UW-P 003384 Opening Brief
EXHIBIT D
1/27/2013 9:29 AM

our school. Thank you for your time and support in this matter.

On a different note, one of my student approached me today and showed me a note that she has received from one of our CJ faculty. It was an inappropriate note. I assume I'll talk to Tom about it? Or is it better to involve student affairs.

Thanks, Liz.

To: Chancellor Dennis Shields
From: Complaints and Grievances Committee
Re: Addendum to the Burton-Caywood Grievance
Date: April 17, 2013

Dear Chancellor Shields,

In the course of reviewing a complaint brought by Dr. Sabina Burton against Dr. Tom Caywood, specific information was discussed related to a third party. While the grievance committee was not paneled to determine a course of action related to this third party, his actions were so egregious that the committee felt compelled to provide this letter to your for review.

The Facts

On Wednesday, October 10, 2012, by his own admission, Dr. Lorne Gibson conducted a "sample breaching experiment" in two of his Criminal Justice research methods courses. In both cases, he approached a female student prior to the start of the lecture and handed her a note without saying a word. On the half-page of paper was a handwritten note : "call me tonight!!!642-0020" Dr. Gibson confirmed to his department chair, Dr. Caywood, that is indeed his personal cell phone number. The next day, upon learning from Dr. Caywood that one of the two women selected for this "experiment" had complained to another faculty member, Dr. Gibson emailed all his students in both sections an explanation of the events of the previous day. Included in this email were the following statements:

I would like to apologize to any students who weren't aware of the experimental nature of the note. I made a mistake in assuming it was easily apparent given the context of the lesson topic and how often I make fun of myself. I apologize to anyone who wasted time outside of class in reacting to my example, or for any anxiety it may have caused. Please do not feel compelled to identify yourself as one of the example subjects or groups.

Our Concerns (in ascending order of seriousness)

1. Dr. Gibson showed extremely poor judgment in conducting an in-class example of a study, *which purpose is to elicit strong, uncomfortable reactions in the participant*. The committee also questions Dr. Gibson's use of his personal number, as that had no relevance to the alleged purpose.
2. Dr. Gibson, it appears given his email of the following day, failed to debrief his class about the nature of this experiment. This is concerning for any first year research student and undermines Dr. Gibson's competence to teach research methods ethically and effectively.
3. Dr. Gibson's email is beyond reprehensible. Given the likelihood his note passing was witnessed by at least one other student, his "please do not feel compelled to identify yourself" comment rings hollow. He effectively "outed" the young women by his email, which he then compounds by suggesting they were too stupid ("I made the mistake of assuming it was easily apparent") and over-reactive ("anyone who wasted time outside of class"). This version of "slut-shaming" suggests Dr. Gibson has serious liabilities and lacks even a fundamental understanding of structural sexism.

Our Recommendations

1. Dr. Gibson should be required to attend instruction in maintaining an equitable and safe classroom for all his students
2. All of Dr. Gibson's lectures and "class-room activities" should be reviewed by the Criminal Justice Department for appropriateness.
3. Dr. Gibson should take a refresher course in professional ethics as it relates to research participants.

608 265 5319

Chronological list of events in CJ since June 2012

Throop notes

1. Almost upon my arrival, I was involved in a grade dispute between Burton and Fuller regarding an on-line graduate student's final paper. I do not know why Caywood did not manage this conflict; I would expect a chair to be able to handle an issue like this.

2. In October 2012 Burton came to me with a student's account concerning Gibson, who handed the student a note (there was a picture) saying "Call me ☺" and his phone number. I do not know why Caywood did not manage this conflict, and indeed why he exacerbated the problem by publicly chastising Burton for going around him. When I discussed the matter with Caywood and Gibson, Caywood attempted to explain it away to me as a classroom exercise; Gibson attempted to instruct me on the use of "breach experiments" and claimed that the note was a breach experiment. It of course is NOT a proper breach experiment and was interpreted by the student as sexual harassment. Well-trained sociologists will demonstrate breach experiments by, for instance, walking into class wearing completely inappropriate clothing (a former [male] colleague has done breach experiments coming into class wearing a frilly wedding dress and snorkel fins and proceeds to conduct class as though there is nothing unusual).

3. In November 2012 Caywood came to me concerned about Burton's representation of her expertise to the Center for New Ventures as focused on cyber-security (she has no publications or demonstrable academic training in the subject) rather than confronting Burton himself. He brought me web pages Burton had created claiming that UW Platteville had a cyber-security program. He seemed unable to manage Burton's misrepresentations and drew me into what turned into a huge drama regarding a small grant awarded by the AT&T Foundation to fund—as it turns out—the non-existent CJ cyber-security program. Burton and Caywood kept drawing me into their problems.

4. In December 2012 and January 2013, in direct violation of State law concerning the hiring of newly retired annuitants, Caywood arranged for Lomax to teach in the Spring 2013 semester. State law does not permit any communication regarding a re-hire until 30 days (at that time; it is now 75 days) after the official date of retirement. Caywood knowingly altered the start date for Lomax to 31 days after his official date of retirement, in direct violation of the law and committing fraud. His illegal behavior resulted in Lomax donating his time to the university as a volunteer. When I confronted Caywood on this illegal activity, he laughed and said that's what you get when you deal with former law enforcement: "we know how to get around the law." I didn't think it was funny.

It was at this juncture that I became seriously concerned about Caywood's management of the Criminal Justice department. He seemed unable to perform at a minimally competent level given how frequently I was being called in to deal with major issues. He also seemed to be encouraging, or at least abetting, bad behaviors by his male colleagues Gibson and Dutelle (as will be seen below) and ignoring or denigrating the excellence work of his female colleagues.

5. For example, in April 2013, the Chancellor received an email from the director of a HR department at a DC-based defense contractor attaching an email thread in which Dutelle, who had been working with the department in placing CJ graduates into employment, was interpreted as asking for a bribe (Dutelle called it a "finder's fee"). While Dutelle, when confronted, denied that he was asking for a bribe, the defense contractor remained unconvinced. In the discussion with Dutelle and Caywood, held by Den Herder and myself, Caywood was highly defensive and castigated Den Herder and me for making him feel like a fourth-grader being summoned by the principal.

6. Caywood bypassed me and went to Den Herder to ask for a particular salary rate for an academic staff member in April of 2013.

7. In June 2013, Dutelle came to me very concerned about an academic staff member's behavior toward him, behavior that he had reported to Caywood and HR in February. Caywood did nothing about the behavior (neither did HR). While I do not have the full picture of what exactly transpired in the department last year between Dutelle and the (now former) academic staff member, I yet again was brought into an issue that a chair should have been handling. Ultimately I helped to convince the academic staff member that a resignation would be in the best interests of everyone.

I and HR had offered Caywood various opportunities for mediation between he and Burton—he declined all efforts to reach out to help him with conflict resolution.

Because of all of these issues, I was having serious concerns about Caywood's ability to lead the CJ department effectively without intensive management training for him. In early July 2013, Den Herder and I met with him to discuss the department in the previous year (I had had similar formal meetings with chairs throughout the year). We outlined the issues discussed above and explored with him how to resolve the problems. We offered to send Caywood to chairs' workshops, management training, or conflict resolution training. He refused to consider any of these options. I then said, "well, Tom, how do you plan to avoid having another year like the one we just finished?" He said "I will just hope for the best, I guess." I said "That troubles me a great deal. That can't happen." He said "Maybe it's time for new leadership." I said "Maybe it is. Are you stepping down?" "I guess so," he said. "Who would you suggest replace you as a temporary chair?" I asked. He suggested Mike Dalecki. Den Herder, Caywood, and I then went into a discussion of salary, duties, and how to handle the transition, all of which he agreed with. I sent an email to the department discussing the change in leadership once Dalecki agreed to take on the role; Caywood, in the meantime, sent emails painting the discussion in very different ways than either Den Herder or I recall it.

Caywood did behave relatively well during the transition but, from what I understand through forwarded emails by various members of the department, has been quite difficult and obstructionist in DRB and search deliberations and discussions.

With regard to elections, I will agree that an election should have been held in the summer before opting for an external candidate. I actually did not expect that Caywood would step down; I was very hopeful that he would have been willing to acquire the management skills necessary to allow the department to run at a minimally acceptable level. His resignation was something of a surprise, creating a leadership vacuum and an emergency due to his sudden resignation, and my examination of the governance documents covering this situation really didn't provide me with much guidance given that they do not seem to address 12-month positions. He certainly did not suggest that an election was necessary.

Since this body has already addressed the issue of chair selection through the Burton grievance, there is no need for additional deliberation on this matter.

Zimbra

caywood@uwplatt.edu

Re: EMAIL UPDATE - Can we call a spade a spade?

From : Sabina Burton <burtons@uwplatt.edu>

Thu, Jun 05, 2014 10:45 PM

Subject : Re: EMAIL UPDATE - Can we call a spade a spade?

To : Michael Dalecki <dalecki@uwplatt.edu>

Cc : Thomas E Caywood <caywood@uwplatt.edu>, Dana L Cecil <cecild@uwplatt.edu>, Steven Elmer <elmerst@uwplatt.edu>, Cheryl Fuller <banachoc@uwplatt.edu>, Lorne Gibson <gibsonlo@uwplatt.edu>, Joe Lomax <lomaxj@uwplatt.edu>, Rex Reed <reedre@uwplatt.edu>, Deborah L Rice <ricede@uwplatt.edu>, Edward Ross <rosse@uwplatt.edu>, Pat Solar <solarp@uwplatt.edu>, Sheri Kratcha <kratcha@uwplatt.edu>, Amy Nemmetz <nemmetza@uwplatt.edu>, Valerie Stackman <stackmanv@uwplatt.edu>, Diana Johnson <johnsondi@uwplatt.edu>

I plan to tell students the truth about what's been happening in the department. I would like to know how long Dutelle (who ironically wrote a book on "ethics") or Johnson knew they would be leaving before they told the department about their plans to do so. Both waited until the last minute to inform the department of their decision to depart, leaving their students (and us) hanging. I have never worked with such inconsiderate and unprofessional colleagues before. I think the students deserve to know who is responsible for the "train wreck" and put blame where blame is due. Our FI students were aggressively recruited into a program with, as confirmed by the recent reports, at least partially false information or intentional lack of information.

Their prospect for being hired into an FI job after graduation is poor. Most states require CSIs to have LE field experience. Academies and police/Sheriff's departments train in fingerprinting, photography etc. in a much shorter time-span. Police officers can specialize in forensics in in-departmental training at low or no cost.

This "train wreck" shouldn't be our mess to clean up. FI students deserve to know what they are up against so they can make meaningful, informed career choices before it is too late for them to do so, before we take their money for a program we

THROOP EXHIBIT UUU-001
Opening Brief
EXHIBIT G
6/6/2014

know is flawed and understaffed. Let the students know who abandoned them and give them some options for moving forward into a field of study that has some hope of securing them a good paying job. My focus is on the CJ program. I recommend that the FI program be turned back into an emphasis and that we put our attention on restorative justice, cyber-crime/cyber-forensics, homeland security and white collar crime. We had two outside evaluators and nationally recognized (and not self-proclaimed!) experts with no personal stake in this department or program give us their "2 cents." Let's talk about their recommendations and how we can apply them to our department.

I would like to see an investigation into this matter. Dutelle and Johnson both leaving on short notice seems like a conspiracy to damage the department (and the students). I wouldn't be surprised if we get at least one more sudden "resignation" at the worst timing for students. As a public institution there really should be an investigation into potentially corrupt behavior that if substantiated would allow for legal remedies (e.g., tuition reimbursement for students who cannot continue their FI education as planned). As a parent of a student myself, I would want to know what is going on. I think the Attorney's General office would be a good institution to look into this mess.

Letting your employer know that you are leaving as soon as you accepted a new position is not just ethical but demonstrates professional courtesy and maturity. Ed Ross, who will be dearly missed by all of us, has been a great recent example (and he has not been kept out of his office because of giving notice!).

We wouldn't have a job without our students. Our actions or inaction affects their futures. Many of our students (and their parents) have made great sacrifices to be here. They don't deserve to pay the cost of some faculty selfishness or pettiness.

I must say I am very glad that my daughter chose a different program than FI ...

We have a chance now to make some difficult decisions and effect some changes for the better. Let's do it right this time. Let's start being transparent in our dealings. Let's keep open minds as we look to the future of our department. Let's work together for the good of the school and students. Let's follow policy.

Let's follow policy and law. Let's use some good old common sense going forward. I have many ideas for moving past this point in our department's history. Most of my suggestions in the past have been ignored or have been thrown back in my face. I hope those days are behind me. I hope those of us remaining in the department can act like professionals.

THROOP EXHIBIT UUU - 002

My 2 cents ...

Sabina

----- Original Message -----

From: "Michael Dalecki" <dalecki@uwplatt.edu>
To: "Michael Dalecki" <dalecki@uwplatt.edu>, "Sabina Burton" <burtions@uwplatt.edu>, "Thomas E Caywood" <caywood@uwplatt.edu>, "Dana L Cecil" <cecild@uwplatt.edu>, "Steven Elmer" <elmerst@uwplatt.edu>, "Cheryl Fuller" <banachoc@uwplatt.edu>, "Lorne Gibson" <gibsonlo@uwplatt.edu>, "Joe Lomax" <lomaxj@uwplatt.edu>, "Rex Reed" <reedre@uwplatt.edu>, "Deborah L Rice" <ricede@uwplatt.edu>, "Edward Ross" <rosse@uwplatt.edu>, "Pat Solar" <solarp@uwplatt.edu>, "Sheri Kratcha" <kratcha@uwplatt.edu>, "Amy Nemmetz" <nemmetza@uwplatt.edu>, "Valerie Stackman" <stackmanv@uwplatt.edu>
Sent: Thursday, June 5, 2014 9:42:09 AM
Subject: EMAIL UPDATE

In this email:

DIANA JOHNSON LEAVING UW-PLATTEVILLE
PERSONNEL ISSUES AND SEARCHES
700-HOUR ACADEMY

DIANA JOHNSON LEAVING UW-PLATTEVILLE

In a move that surprised many of us, Diana Johnson resigned her position at UW-Platteville on June 4. She is moving to Milwaukee. We wish her the best as she moves on to a new stage in her life.

Obviously we have some position filling to do and work has begun on that. If you know of anyone who may be able to fill in for Diana's courses in the fall, please let me know.

PERSONNEL ISSUES and SEARCHES

Our next year promises to be busy from a personnel point of view. Here are the position openings:

Ed Ross (retiring December 2014)
Aric Dutelle (June 1 2014)
Diana Johnson (June 4 2014)

Zimbra

burtons@uwplatt.edu

Info requested

From : Sabina Burton <burtons@uwplatt.edu>

Tue, Oct 07, 2014 07:23 AM

Subject : Info requested

To : Deborah L Rice <ricede@uwplatt.edu>

Deb,

I need the following information for my complaint:

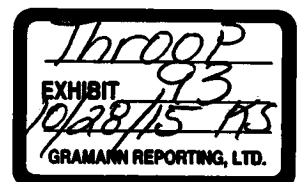
- (a) Who authorized your directed study with Alex Marsh in Fall 2013?
- (b) For how many credits did he signed up with you?
- (c) Did Alex pass the study? What was his grade?
- (d) What was the title of his paper/project? What was it for?
- (e) Who was the project turned in to?
- (f) Please provide me a copy of the paper of the directed study.

This is what I know: Alex told me that he is developing the itinerary for the German delegation's visit. He also wrote a letter for the Chancellor to officially invite the Germans. You never coordinated the project with me nor did you discuss it with me. You took over and I didn't spend much thought on the project teaching overload, grad. seminar and directed studies for other students.

Thanks for sending the info.

Sabina

Opening Brief
EXHIBIT H



THROOP EXHIBIT RRR - 001

10/29/2014 10:49 AM

Zimbra

burtons@uwplatt.edu

Re: research methods

From : Sabina Burton <burtons@uwplatt.edu> Wed, Oct 17, 2012 12:09 PM
Subject : Re: research methods
To : Thomas E Caywood <caywood@uwplatt.edu>
Cc : Elizabeth A Throop <throope@uwplatt.edu>

Tom,

Alexandra approached me after my Wed. afternoon class at around 4:30 pm. After talking to her I checked to see if you were still in but you already left. I sent an email to Liz Throop at 5:01 pm in response to the grant proposal message that I got from her. I added toward the end that a student reported an incident with a faculty member to me, that I intended to report that to you, the chair, and if that was all I had to do. Liz emailed back that I should also refer the student to student affairs. This made sense to me as the sexual harassment training that I have received at my previous job mandated that in sexual harassment incidents involving faculty/staff & student we always had to get a student representative involved as well.

I talked to Aric Dutelle after 5:29 pm the same day. I wanted to talk to a friend as I was deeply concerned about the incident. It didn't make sense to me at all.

Next day I saw you first thing, talked to you in office 1166. You seemed surprised and shocked about the news. I'm very sure that I mentioned to you I would see student affairs next. I had no intentions of talking to anyone behind your back and was sure you wanted me to do the right thing.

I did not talk to Lorne. Frankly I didn't want to nor did I think it was my responsibility or necessary. When I was in the police academy a police instructor hit on me when I delivered something to his office. I was very upset then, felt vulnerable, and not taken seriously as a cadet. I reported the event to someone else but it was dismissed and not taken seriously. I can tell you it had an emotional impact on me. Whenever that instructor was around I was nervous and uncomfortable, even though he never made advances again. I never shot well when he was at the range and I'm sure my evals were lower because of the event. I can relate to Alexandra's discomfort.

I hope Lorne will understand that his poorly conducted "experiment" put me in a very uncomfortable situation. I feel used. I wish Alexandra hadn't come to me. She wouldn't have if Lorne had conducted his experiment professionally. I don't need and didn't ask for this stress in my life and in my working relationships. Perhaps you should ask Lorne to talk to me. It would be nice to get an apology from the highly

trained and qualified person whose lack of attention to detail and control of a poorly conceived and executed "experiment" has caused you to question my professionalism in this matter. It was Lorne's actions that started this mess, not mine. Until this event I had the highest regard and respect for Lorne and an apology will go a long way to restoring my respect for him. I would also like to know why Lorne did not obtain the required permissions for conducting experiments of this nature. Those permissions are required to protect people like Alexandra and myself from collateral damage such as we are now experiencing. This has strained my professional relationship with Lorne and has made you question my ability to handle these situations in the future. I acted in a professional manner in this experience and given similar circumstances in the future would do the same thing again.

I am ccing Dean Throop with my response.

Respectfully,

Sabina Burton

----- Original Message -----

From: "Thomas E Caywood" <caywood@uwplatt.edu>

To: "Sabina Burton" <burtions@uwplatt.edu>

Sent: Wednesday, October 17, 2012 8:42:23 AM

Subject: research methods

Would like a time line concerning Lorne's research class. What time did A. Zupec first contact you? Was it by phone or in person?

What time did you call Aric?

At what time did you notify the dean and possibly others about the note?

At any time did you contact or attempt Lorne to ask about the note?

Tom Caywood, Ph.D.
Chairman, Criminal Justice Department
UW-Platteville

UW-P 003363