

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

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Sabina Burton,

Plaintiff,

v.

Case No. 14--CV-274

University of Wisconsin Regents, et al,

Defendants.

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DECLARATION OF THOMAS CAYWOOD

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Thomas Caywood declares as follows under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an adult resident of the State of Wisconsin. I make this declaration based on personal knowledge.

2. I am currently retired. I retired from UW-Platteville in the summer of 2015. I was a professor in the Criminal Justice (CJ) department at UW-Platteville between 1991 and 2015. In 2006, I was elected chair of the CJ department. I served as chair until July of 2013. My primary responsibilities as department chair included scheduling professors to teach courses, hiring adjunct professors, maintaining course syllabi, making staff appointments, approving department expenditures and proposing a department budget, and recruiting students, among other duties. In addition, the department chair was to act as a liaison between the

faculty and the Dean. As CJ Chair, I had no authority to set professor's base salaries. That function was performed by the Dean and Provost.

3. As of 2013, there were about 800 undergraduate students enrolled in CJ and Forensic Investigation (FI). FI is a program within CJ. In addition, there were about 200 students enrolled in the undergraduate and graduate online CJ programs. The CJ department has been a stand-alone department at UW-Platteville since 1971.

4. Scheduling courses could be difficult. The CJ department had between 12-14 full time faculty and academic staff, and often needed to hire adjunct instructors to teach. The department generally offered about 40 on-campus classes during both the spring and fall semesters. I needed to secure classrooms that could accommodate the class size, schedule professors, making sure they were not doubled up on teaching time, and work around professor sabbaticals and release time. Not every professor is qualified to teach every course.

5. Faculty were generally contracted to teach four, three-credit courses per semester. Where possible, I kept one professor teaching two sections of the same course, so that the professor would not have to prepare for too many courses. When scheduling courses, I first considered the needs of the department. Then, if I could, I considered special requests made by professors. I do not recall faculty other than Dr. Burton making special requests. No faculty other than Dr. Burton complained about the courses they were assigned to teach.

6. As the CJ Chair, I was not responsible for finding faculty to teach online. CJ faculty are given the opportunity to volunteer to teach online. The CJ Chair's signature is required on professor's contract to teach online. I do not recall ever refusing to sign a contract to teach online that had been submitted for my signature.

7. Dr. Cheryl Banachowski-Fuller is the director of the online Criminal Justice Graduate program. She has been director of that program for several years. She is responsible for assigning professors to teach courses in the graduate online program.

8. Since about 2014, Dr. Banachowski-Fuller has also acted as the online undergraduate coordinator. The undergraduate online coordinator is responsible for scheduling faculty to teach the online undergraduate courses. Amy Nemmetz was the undergraduate online coordinator from about 2007 to 2011. Dana Cecil served as the undergraduate online coordinator from about 2011 through 2014.

9. When full-time CJ faculty teach online courses, whether graduate or undergraduate, they generally teach the online class as an overload. An overload is a teaching responsibility over and above the professor's contracted-for classes. Faculty earn extra money when they teach overload courses. The extra compensation is a flat per-class rate based on rank. The department chair needed to approve overload assignments. Approval was provided by signing an overload request form that the faculty requesting the overload completed. Before each semester, when overloads were requested, I would receive a stack of overload

request forms, and would sign them. I do not recall ever refusing to sign an overload request form that had been submitted for my signature.

10. Teaching online courses are not a typical part of full-time faculty members' regular load because on-campus undergraduate courses took priority over online courses. Often, faculty have the opportunity to teach on-campus overload courses. As CJ Chair, I was responsible for assigning faculty to teach overload courses. I made assignments based on various factors, including but not limited to: expertise, regular course schedule (one professor cannot teach two courses at the same time), multiple section offerings (e.g., if a professor was already teaching two sections of Intro to Criminal Justice, it would make sense for the professor to teach a third section as an overload, because no additional preparation would be required of the professor), and asking for volunteers.

11. Professors also earn money over and above their contracted-for teaching by taking on interns. As CJ Chair, I was responsible for assigning interns to faculty. To do this, I would take the total number of interns and divide them by the total number of faculty available to take on interns. Faculty would be paid a flat rate per student, where the flat rate was based on the professor's rank. Sometimes, students would drop their internship, or fail to pay the registration fee. If that was the case, the professor to whom the intern was assigned would not be paid for the intern who dropped his or her internship.

12. In 2003 Provost Carol Sue Butts asked department chair, Joe Lomax, whether we as a department could develop a forensic related program. The

department had the backing of the administration through the entire development process providing funding and more importantly positions to start the forensic investigation program. A nation-wide search was held late 2003 and early 2004. Aric Dutelle was hired, as academic staff, to start the FI program beginning Fall 2004. He has a Master's degree in forensic sciences.

13. We had several FI classes approved through all related curriculum committees by the time Aric Dutelle arrived on campus for the Fall semester. Unfortunately, not everyone in the CJ department was supportive of the FI program or of Mr. Dutelle's qualifications; nevertheless, it was backed by a majority of the department, and curriculum and courses were approved, when such approval was required by the CJ department, LA&E College, UW-Platteville, and/or the UW System Board of Regents.

14. When the FI program was developed, the CJ department did not have its own curriculum committee. Prior to the department curriculum committee, the process for obtaining course approvals was by discussion and consensus among the faculty.

15. In January 2009, the criminal justice department moved from Warner Hall to the suites in Ullsvik Hall. Office space was assigned by seniority – meaning, who had been at UW-Platteville the longest. Faculty with higher degrees did not get preference. Cheryl Banachowski-Fuller, as director of the graduate program, and I, as CJ department chair, were assigned the two largest offices. Tenure track faculty and academic staff, by seniority, picked which office each wanted. Kathy

Winz opted not to take a window office as she was retiring in May. Otherwise, the senior staff picked windowed offices. Junior staff picked remaining offices.

16. In the fall of 2012, CJ was short faculty, and by the end of semester we had four or five different faculty searches ongoing. Instead of running five separate searches with five different committees, the dean and the director of human resources agreed to reduce the number of different search committees and allow each committee to search for multiple positions. That is how Lorne Gibson became chair of two searches and Aric Dutelle became head of two searches.

17. The criminal justice department is a hierarchical organization where faculty report to the chair, the chair reports to the dean, who reports to the provost, who reports to the chancellor.

18. Around May of 2012, Dr. Burton was upset about not having enough summer interns, and told me she had received an unsolicited job offer and she may have to entertain future offers if her income diminished. In response, I discussed the challenges of dividing interns among faculty, told Dr. Burton that she is a valuable member of the department, and I also said if opportunities were available elsewhere I wished her the best. A true and correct copy of the email exchange between myself and Dr. Burton regarding this topic is attached as **EXHIBIT SS**.

19. Around October 4, 2012, Dr. Burton was trying to get an online graduate course approved. New graduate courses must be approved through a governing body called the Graduate Council. Around October 22, 2012 I was copied on an email from Dr. Fuller, director of CJ graduate program, instructing Dr.

Burton that the Graduate Council must approve the course before Burton is issued a development contract, and advising that the development contract must be submitted in January (of 2013). In November, 2012, Dr. Fuller informed Dr. Burton of a December 13, 2012 deadline to submit course materials to the Grad Council. She did not submit such materials prior to the deadline.

20. Around March 18, 2013 Dr. Burton's proposal was placed in my mailbox. The Graduate Council was scheduled to meet on Thursday March 21st. I reviewed the proposal and had several concerns. Rather than refuse to sign, I took it upon myself to seek out the advice of Dr. David Van Buren, then dean of the graduate school, and one of the smartest people I knew at UW-Platteville. He was a leading expert in faculty governance and well versed in how the graduate council operates. I wanted to get Dr. Van Buren's advice on Dr. Burton's proposal. My understanding of my conversation with Dr. Van Buren was that Van Buren had objections to some of the wording and the focus of the course. I passed these concerns on, and indicated that Dean Throop and I would approve if Dr. Van Buren's suggestions were implemented. The intent was to ensure passage at the Graduate Council without objections from other members of the Council.

21. Dr. Burton made the requested changes, I signed off on the form and personally took it to the Dean's office for her signature.

22. The emails I was copied on indicate that Dr. Burton was aware as early as October of 2012, but no later than November 2012, that she needed to submit course approval to the Graduate Council in December 2012 to keep on

schedule of having her development contract issued. Dr. Burton did not submit her proposal to me until the middle of March, 2013, when several people had to scramble to make sure the Graduate Council approved the course. A true and correct copy of the email exchange described above is attached as **EXHIBIT TT**.

23. On January 15, 2013, Dr. Burton requested to use CJ funds to take students to Washington D.C. for a conference. Although the CJ department had already covered costs for a different trip Dr. Burton took with students in the fall of 2012, I approved funding for the second trip. My approval was given on January 22, 2013. Prior to my approval of funding Dr. Burton's second conference trip, I was not aware of any other time in the 21 years I'd been at UW-Platteville when the CJ department provided funding to a faculty member for two different conferences during the course of one school year. A true and correct copy of the email exchange described above is attached as **EXHIBIT UU**.

24. On February 12, 2013, Dr. Burton requested my approval for three PACCE projects. I do not believe professors receive additional compensation for PACCE projects. I reviewed her projects which seemed to me to be very labor intensive. I was aware of Dr. Burton's overload course, intern supervision, and graduate seminar paper supervision (all of which resulted in her receiving additional funds). Dr. Burton was also developing a short study abroad trip to Germany that spring. I was concerned she was doing too much. Despite my concerns, I signed the paperwork and put in her mailbox. A true and correct copy of the email exchange described above is attached as **EXHIBIT VV**.

25. I was hesitant about Dr. Burton's tenure request. She had only been at the university for four years. Usually, tenure is granted in the fifth or sixth year. Despite my reservations, I agreed to support Dr. Burton's tenure. As had been my experience with Dr. Burton, when she did not get what she wanted, she engaged in accusatory email-writing and complained to the dean, provost, and chancellor. Her behavior was very stressful for me. Opposing Burton's early tenure wasn't worth a fight.

26. Dr. Lorne Gibson taught two sections of a criminal justice research methods course designed to educate students in part on various methods of collection data or how different types of experiments are conducted. I learned after the fact that during two different class discussions on breach experiments that occurred Wednesday October 10, 2012. Dr. Gibson passed a note to a female student during class. The note said "call me tonight 642-4160." In one section when Dr. Gibson handed the note to a female student she read the note, laughed out loud, passed the note to other students who also laughed and the lectured continued. Nothing else was said. In the other section he did the same thing handing a note to a female student. This student looked at the note and said or did nothing.

27. Dr. Burton notified me of the incident at about 8:30 AM the following morning (Thursday October 11th.) She showed me the note as described above. A copy of her email and a photo of the note are attached as **EXHIBIT WW**. I was surprised when I saw the note, and wanted to find out from Dr. Gibson what had happened.

28. Dr. Gibson was teaching that morning. I sat in on both of his classes. The second class was over around noon. I immediately met with Dr. Gibson, discussed the note incident with him, and reviewed his course syllabus for the previous day. Dr. Gibson explained it was part of a lecture on breach experiments and the note was an example of how to elicit a response. We talked about how the student may have misunderstood the purpose of the note. I instructed him to email both sections of research methods to explain what happened. This he did at 12:47 p.m. A copy of Dr. Gibson's email, with student names redacted, is attached as **EXHIBIT XX**.

29. In the mean time I emailed Dr. Burton with the explanation of why the note was passed. From Thursday afternoon onward, I had a number of emails from the Dean Throop and Dr. Burton. By this time, the Provost and Director of HR where also involved in a number of emails about the incident. The Dean directed me late Thursday evening October 11th to set up a meeting with The Director of HR, the Dean, Dr. Gibson and myself for Tuesday October 16th at 8:30 AM, which I did.

30. I am a trained investigator and I began to investigate this incident. I tried to ascertain who the student was so I could speak to her to find out what happened. I was instructed at the October 16th meeting to stop trying to speak to the student. I was instructed by human resources on October the 17th to quit asking Dr. Burton for information. So I stopped. I was assured at the October 16th meeting that the dean or the Director of HR would contact the student. I had no further involvement in the incident. At some point, however, I learned who the

student was, and some time later I had an advisee meeting with the student in question. I asked her if she had been contacted by either the Dean or Director of HR. She said she had not.

31. I believe the issue with the student was mishandled from the start, by nearly everyone involved, including myself. I realized that part of the problem was lack of policy that instructed what everyone was supposed to do. Therefore, I created a policy and distributed it at a departmental meeting that occurred sometime around October 16, 2012. Most importantly, Dr. Gibson needed to explain his intentions to his classes, and clear up any misunderstandings. I directed him to do this, and he did it.

32. I am a big believer in the chain of command. I believe that if I had been informed about the student note first, I could have quickly contacted Dr. Gibson and directed him to apologize to his students, and solve the problem before it got out of hand. As it stood, Dr. Gibson was not aware there was a misunderstanding until the next day.

33. Sometime around the Spring of 2012, Dr. Burton, together with faculty from other colleges and departments at UW-Platteville, submitted a proposal to the National Science Foundation. My understanding was that its goal was to create a cyber-security research center at UW-Platteville. The grant request was for several hundred thousand dollars. With a grant of that magnitude, I was more comfortable putting the cart before the horse. In other words, had Dr. Burton and the others

won the grant, everyone would have scrambled to find a way to make it happen. As Dr. Burton's department chair, my signature was required on the grant application.

34. Sometime in the fall of 2012, I learned Dr. Burton and the others had not received the grant. I was aware that Dr. Burton remained interested in getting some sort of cyber-security program (degree, certificate, or emphasis) started at UW-Platteville. I supported her efforts to create and develop a new program, but had emphasized to her the need to follow the required steps for starting new courses.

35. Prior to January of 2013, I was aware that Dr. Burton intended to teach a graduate online cyber-security course, but I had not seen the proposal, and it had not been approved by the Graduate Council. As of January 2013, Dr. Burton had not submitted any cyber-security course proposals through the College Curriculum Committee or the University Curriculum Committee. As of January 2013, I was aware that not all CJ faculty supported a cyber-security program, and was unsure as to whether the CJ department, as a whole, would support development of a cyber-security curriculum.

36. Around January 24, 2013, I received a press release regarding a \$7,000 grant from AT&T. I did not know who wrote the press release, but I had very serious concerns about statements made both in the press release, and on websites that Dr. Burton owned. I had no problem with Dr. Burton getting a grant from ATT. I was concerned about statements being made about something that did not

exist in the criminal justice department. A true and correct copy of the New Release is attached and marked as **EXHIBIT YY**.

37. Aric Dutelle was hired in the Fall of 2004 to coordinate the Forensic Investigation Program. He was brought in as teaching academic staff. It took five years to get this position as a tenure track position. A national search was conducted and he was hired in 2009 or 2010. He was given two years toward tenure by the dean and provost.

38. Dutelle received 50% release time because he was the FI coordinator. This 50% release time was written into the policies and procedures for the criminal justice department. The department policies also indicated that the undergraduate online coordinator, and the director of CJ online graduate program, would receive 50% release time if they were fulltime faculty.

39. As coordinator, his duties included leading, planning, and managing the undergraduate FI program, managing the FI budget, providing faculty oversight, training faculty, developing and revising courses, supervising, recruiting and managing program personnel, advertising the program and recruiting students, and performing other duties assigned by the CJ Chair.

40. I am personally aware that Aric Dutelle had been involved in a number of activities outside the classroom since he had been at UW-Platteville. He worked with agencies of the Federal Government in recovery attempts of human remains of US citizens killed in Africa. He had been involved in forensic training for

government agencies in Central and South America. Dutelle did not receive time off during the regular school year to do these activities.

41. Mr. Dutelle has been successful in obtaining a Wisconsin Department of Justice grant to purchase photographic equipment. As of 2012, he had brought \$100,000 in grants to the CJ department. He had authored several books. He, along with John Rink (political science & mock trial supervisor) and Chuck Cornett (chemistry) provided forensic camps for local high school students during the summer. Camp participants learn about evidence collection, crime lab techniques and legal proceedings.

42. One semester Dutelle taught a class aboard an aircraft carrier. He was not on campus for several weeks at the start of the semester. We had talked about class coverage. This is a classic example of a hybrid type of course (at the time no university policy governed this). He utilized distance learning software extensively for this class until he returned to campus. Most CJ faculty members utilize distance learning software to some extent in their on campus classes. Dutelle also lead short term study abroad classes in Honduras for our students just like Dr. Burton did with her study abroad trip to Germany.

43. Many faculty, including Mr. Dutelle and Dr. Burton, were paid by outside sources for off-campus work. For example, one faculty member taught online courses for a university out of state. Another faculty member was a practicing attorney with a private practice. I am aware that Dr. Burton taught online at other institutions.

44. Dutelle, Gibson, and I received a two-year UW system grant for prior learning assessments. Bob Roberts, who worked in the sponsored programs office, contacted me, Dutelle, and Gibson about grant money available from the Lumina Foundation through the U.W. System to explore offering veterans university credit for their prior learning experience serving in the military. In our proposal, we requested the following salaries for our work, which was to cover a two year period: Me: \$6,500 (for 130 hours at \$50/hour), Dutelle: \$13,050 (290 hours at \$45/hour), Gibson: \$13,050 (290 hours at \$45/hour). The grant would temporarily bump up our base salaries for two years. The grant application was submitted in late 2011. We created a report which we provided to the Lumina Foundation. When our work was complete, our base salaries returned to normal. A copy of the Prior Learning Credit Initiative grant application is attached as **EXHIBIT ZZ**.

45. By the fall of 2012, the numerous email complaints sent by Dr. Burton took a toll on my work environment. She had a habit of involving upper management, by cc-ing them in email, in her various complaints. I felt caught between her, other faculty in CJ, Dean Throop, human resources and the Provost. Much of my time during the 2012-2013 school year had been spent dealing with Dr. Burton's actions, reactions, and disgruntled behavior. In 2012 and 2013 I was dealing with my own serious health issues, as well as a death in my immediate family, and my seriously ill mother.

46. I never told Sabina Burton that a woman's salary is secondary to a man's.

47. The following Exhibits AAA through FFF, some of which are regular business records of the University of Wisconsin – Platteville, are documents I am personally familiar with, and I attest to their authenticity.

48. A true and correct copy of an email exchange with Burton in December 2012 is attached as **EXHIBIT AAA**.

49. A true and correct copy of business records related to Aric Dutelle is attached as **EXHIBIT BBB**.

50. A true and correct copy of an email exchange with Dr. Burton in December 2012 is attached as **EXHIBIT CCC**.

51. A true and correct copy of an email exchange with Dr. Burton in October 2012 is attached as **EXHIBIT DDD**.

52. I approved expenses for Dr. Burton to attend a conference on October 24, 2012. A true and correct copy of the Individual UW Travel Expense Report signed October 24, 2012 is attached as **EXHIBIT EEE**.

53. I approved expenses for Dr. Burton to attend a 2<sup>nd</sup> conference on April 2, 2013. A true and correct copy of the Individual UW Travel Expense Report signed April 2, 2013 is attached as **EXHIBIT FFF**.

PURSUANT TO 28 USC § 1746, I VERIFY UNDER PENALTY OF PERJURY THAT THE STATEMENTS IN THIS DECLARATION ARE TRUE AND CORRECT AND BASED UPON MY PERSONAL KNOWLEDGE.

Dated: 11-6-15

/s/Thomas Caywood

Thomas Caywood