

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DR. SABINA BURTON,
Plaintiff,

v.

Case No. 14-CV-274

BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, et al.,
Defendants.

DECLARATION OF DR. SABINA BURTON

Pursuant to 28 U.S.C. § 1746, Dr. Sabina Burton declares, as follows:

1. I am an adult resident of the State of Wisconsin, the Plaintiff in the above-named case, and I make this declaration based on personal knowledge.

2. On August 13, 2013, I filed a discrimination complaint with the Wisconsin Department of Workforce Development (ERD) (ERD Case No. CR1302243) and the U.S. Equal Employment Opportunity Commission (EEOC) (EEOC Case No. 26G201301269) and received a Notice of Right to Sue on February 26, 2014. Ex. 1, Dkt. No. 54-1, attached to this Declaration, is a true and correct copy of the ERD and EEOC complaints and the Notice of Right to Sue in EEOC Case No. 26G201301269.

3. On October 20, 2014, I filed an intake questionnaire and charge of discrimination at the EEOC (EEOC Charge No. 443-2015-00090), which I supplemented on July 21, 2015, by letter of counsel, and received a Notice of Right to Sue on July 31, 2015. Ex. 2, Dkt. No. 54-2, attached to this Declaration, is a true and correct copy of the EEOC charge, supplement, and Notice of Right to Sue in EEOC Charge No. 443-2015-00090.

4. In April 2009, I received from UW-Platteville and accepted an offer of appointment as assistant professor in the Criminal Justice (CJ) Department (the Department) for the 2009-2010 academic year, under the agreed-upon terms that my “principal assignment will be teaching on campus and online courses. . . .” Ex. 3, Dkt. No. 54-3, attached to this Declaration, is a true and correct copy of the offer of appointment, dated Apr. 15, 2009, and my agreed-upon probationary faculty appointment.

5. My contracted assignment, as expressed in Dkt. No. 54-3 at 2, requires that I teach online courses. Because the normal full-load of a member of the faculty at UW-Platteville is comprised of four 3-credit courses, if I were to teach only one on-line course it would comprise 25% of my regular, contracted course load. (Burton Dep., Dkt. No. 39, 416:16, 429:17-430:14)

6. In the spring of 2010, Dr. Caywood refused to authorize my teaching graduate online courses, because he was upset that Dr. Fuller had accused him of harassment, so I did not present those approval forms to him, as revealed in my emails with Dr. Fuller on November 15-16, 2010. (Hawks Decl ¶6(a), Ex. 18, Dkt. No. 53-18)

7. On July 30, 2012, Kory Wein, LA&E associate dean, emailed an urgent request to me and others seeking our immediate project ideas to support grant requests through the Center for New Ventures. Ex. 4, Dkt. No. 54-4 is a true and correct copy of the email.

8. Between August 10 and 17, 2012, Ms. Smyrski emailed me and others an NSF update on Secure and Trustworthy Cyber space (SaTC), closing with this funding opportunity notice: “In addition, the SaTC program seeks proposals addressing Cybersecurity Education with total budgets limited to \$300,000 and durations of up to two years.” In the email exchange, Ms. Smyrski agreed with Engineering, Mathematics and Science Dean William Hudson that they

might find opportunities in the investigation of cybercrimes, which is why she sent the notice to me, given my interests. Ex. 5, Dkt. No. 54-5 is a true and correct copy of the email exchange.

9. On August 17, 2012, on learning that the April 2012 NSF proposal would not be funded, Ms. Smyrski encouraged me to use the NSF information to prepare another grant proposal. Ex. 6, Dkt. No. 54-6, is a true and correct copy of my emails with Ms. Smyrski and NSF.

10. Mr. Roberts was also encouraging, because NSF funding is rare and most larger universities are funded only after having made three to five prior funding submissions, and because the NSF feedback indicated that the funds sought will not provide for initial curriculum development. Ex. 7, Dkt. No. 54-7, is a true and correct copy of my August 31, 2012 email exchange with Mr. Roberts and others.

11. Mr. Roberts was also encouraging in an August 31, 2012 email, because NSF funding is rare and most larger universities are funded only after having made three to five prior funding submissions, and because the NSF feedback indicated that the funds sought will not provide for initial curriculum development. On the same day, Dr. Burton forwarded his encouragement to the three other UW-Platteville professors who contributed to the NSF application, along with a copy of the NSF proposal reviews and the original proposal.

12. On the AT&T funding request, I represented that the CJ Department sought funds for its development and implementation of a cybersecurity curriculum for undergraduate and graduate students. (Throop Decl., Dkt. No. 37-1, Ex. GGG at 002-003)

13. On October 3, 2012, at my request, Dean Throop and I met and discuss the wide-ranging nature of cybercrimes and the huge potential for UW-Platteville and our students to be engaged in this field. I reported to Dean Throop having heard Homeland Security Secretary Janet

Napolitano address a meeting of ASIS International. Secretary Napolitano urged private sector entities, including banks and insurance companies, to work with the government in identifying and reporting cybercrime. Dean Throop and I discussed the opportunity to develop cybersecurity curricula and private sector internships for our students, and I told her that Todd Carothers, in Business/Accounting, was also interested in developing a cybersecurity curriculum. Dean Throop was encouraging, 100% on board, and I reported that to Michael Gay at the Center for New Ventures. Ex. 8, Dkt. No. 54-8, is a true and correct copy of the notice in my calendar program showing I requested the October 3, 2012, meeting with Dean Throop and she accepted. Ex. 13, Dkt. No. 54-13, is a true and correct copy of my email message to Mr. Gay.

14. On the morning of October 11, 2012, after informing Dr. Caywood about Dr. Gibson's disturbing note given to the student, I walked to the Office of Student Affairs and, because the Dean was unavailable, I notified the Assistant Dean of Students, Kate Demarse, of the student's complaint against Dr. Gibson.

15. At Ms. Demarse's request, I gave her the student's name and a copy of the note.

16. On October 11, 2012, I notified Dean Throop that I feared a reprimand by Dr. Caywood for having rightly notified the Dean and student affairs about the note, as Dr. Caywood had written me refusing to agree to notify faculty of future experiments, like Dr. Gibson's, for fear that such disclosure might "bias" the experiment. Dr. Caywood wrote that he would sort out any problem a student might have with a faculty member. Ex. 9, Dkt. No. 54-9, is a true and correct copy of my email exchange with Dean Throop and Dr. Caywood.

17. On October 15, 2012, Dean Throop and I met again to discuss progress regarding cybersecurity, and I reiterated my plans for two open source journals. I again gave her the two URLs, she typed them into her computer, and looked at them and told me she was impressed by

them. We discussed how to use the AT&T donation to move the project forward. Dean Throop asked about budget issues and fringe costs, and I told her that Bob Roberts was handling that side of the proposal. I also told her that Lt. Jeff Haas, at the Platteville Police Department, had asked me to let him know when we have cybercrime courses available so he could send his officers. Ex. 10, Dkt. 54-10, is a true and correct copy of the notice in my calendar program showing that I requested the October 15, 2012, meeting with Dean Throop and she accepted.

18. Over a month after the incident with Dr. Gibson and the student, at the CJ faculty meeting on November 15, 2012, Dr. Caywood reiterated his directions regarding the “chain of command” for reporting student issues and reminded us at the meeting that somebody overreacted and brought a student complaint all the way to the provost and everything got out of hand. By that time, Dean Throop had admonished me for failing to notify her of media coverage of me and my work, although I had sent an email to Dr. Caywood on October 16, and he had not responded. Exhibit 12, Dkt. 54-12, is a true and correct copy of my email to Dr. Caywood, dated October 16, 2012, and my emails with Dean Throop and Dr. Caywood on this subject on November 14, 2012.

19. Before Christmas 2012, Jim Jermain of AT&T delivered the check in person to me and I immediately took the check to the UW-Platteville Foundation, which was the recipient of the donation.

20. In about June 2014, a colleague told me that Dean Throop and Dr. Dalecki talked about ways to terminate me. (Burton Dep., Dkt. No. 39, 357:15-358:1)

21. By the fall and winter of 2014-15, Dr. Dalecki caused me further to fear for my job, causing me great stress because of Dr. Dalecki’s gag order to CJ faculty and staff, his failure to correct Deb Rice’s public statements to colleagues and Ron Jacobus challenging my mental

health and continued employment, and his private admonishments and warnings to Ron Jacobus regarding Mr. Jacobus's professional relationship with me.

22. On learning that I had first complained to the Chancellor and then filed a grievance against Dean Throop regarding the circumstances of Dr. Dalecki's appointment as interim CH chair, Dr. Dalecki called me into his office and chastised me for having contacted the Chancellor about his appointment.

23. Dr. Dalecki told me that he is a better choice for chair because he knows where the skeletons are buried and that I would not be chair material because I had not served on the CRST, did not have the support of my colleagues, and do too much complaining. He told me that I could not expect to file a lawsuit without suffering consequences.

24. By the fall and winter of 2014-15, Provost Den Herder's public statement challenging my continued employment caused me to fear for my job.

25. By the fall and winter of 2014-15, Dean Throop further caused me to fear for my job, causing me great stress because of her appointment of Dr. Dalecki as interim CJ chair, and her disciplinary measures against me, including: the letter of direction of October 28, 2014 (Dkt. No. 35-15 at 4-6); her false charge and promise of discipline on December 16, 2014 that I had cancelled a class (Dkt. No. 43-3 at 2); and her §UWS 6.01 complaint of January 5, 2015 (Dkt. No. 35-15 at 1-3).

26. During the fall and winter of 2014-15, I was suffering physically and emotionally from the stress created around my job and my continued employment by Dr. Dalecki and Dr. Throop and because of the severity of my physical condition, I sought care and treatment from my physician, Dr. Dianna Bearse. (Bearse Decl. ¶¶4-7, Dkt. No. 50)

27. Because of the severity of my work-related stress, Dr. Bearse determined that it was necessary for me to take a leave of absence from work for the spring semester, beginning in January 2015. (Bearse Decl. ¶¶5-6, Dkt. No. 50)

28. On September 25, 2015, I submitted to Chancellor Shields and Dr. Barraclough a response to Dean Throop's complaint of January 5, 2015. Ex. 11, Dkt. No. 54-11, is a true and correct copy of my response to the complaint.

29. On July 10, 2013, Dean Throop notified the Department that she had appointed Dr. Dalecki as interim CJ Chair and, thereafter, Dr. Dalecki was Dean Throop's candidate for the permanent Chair position.

30. The Department drafted a job description for the permanent Chair position, which contained minimum qualifications that Dr. Dalecki did not possess.

31. Dean Throop unilaterally changed the Department's job description and rewrote it so that Dr. Dalecki would qualify for the position.

32. In about March, 2014, when Dr. Dalecki learned that I had been granted a salary inequity/inversion adjustment, he asked me whether my lawsuit was still on and when I told him it is because my damages had not been fairly addressed, he became angry and said I should get over it because I am getting a raise and nothing good could come from a lawsuit.

33. At about that same time, Dr. Fuller asked me what my intentions were regarding my lawsuit and warned me that I should not mess with administration and come across as "crazy" and "sue happy," and that I would be dean material but not with a lawsuit.

34. Dr. Fuller reminded me that she had handled her own sexual harassment claim against Dr. Caywood without filing a grievance and it worked out well for her.

35. On November 17, 2012, following Dr. Caywood's admonition at a Department faculty meeting the previous day that he should be notified first of a student complaint before a harmless matter is taken all the way to the provost, I notified Provost Den Herder that Dr. Caywood was retaliating against me because of my assistance to the student who was harassed by Dr. Gibson. Ex. 14, Dkt. No. 54-14, is a true and correct copy of my message to the Provost.

36. On October 3, 2012, I also met again with the group preparing the NSF resubmission, as we had an October 8, 2012 deadline, and I asked Kathy Lomax, at the UW-Platteville Foundation, to review the AT&T proposal. Ex. 15, Dkt. No. 54-15, is a true and correct copy of my email message to Ms. Lomax.

37. On October 10, 2012, the group continued our correspondence regarding the NSF resubmission, including Dean Throop, who was concerned that, given the short deadline, she would be unavailable to review the NSF proposal and draft budget, so Dr. Caywood wrote to me and Mr. Roberts: "No need to rush this to get it to the dean by tomorrow if we are not going to do it correctly. I'm sure she wants some time to look everything over before she signs. If there is another cycle in December then that should give us time to get everything ready and to the dean early enough for her satisfaction." Ex. 16, Dkt. No. 54-16, is a true and correct copy of the emails of October 10, 2012, regarding advanced notice on a tight timeframe for a CJ Department NSF proposal.

38. Dr. Dalecki refused my request to serve on the Department curriculum committee in the fall of 2014 and he refused to meet with me in early October to discuss it.

39. My attempts to resolve my grievances and requests for investigation were mishandled. Ex. 17, Dkt. No. 54-17, are true and correct copies of related emails.

40. I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 1, 2015

s/Dr. Sabina Burton
Dr. Sabina Burton