

FEMALE DEA AGENT ALLEGES DISCRIMINATION, HOSTILE WORK ENVIRONMENT



A female Special Agent for the DEA (Drug Enforcement Administration) was denied an extension on one of her tours. She brought action against the government, alleging, among other claims, discrimination and a hostile work environment. The woman had worked as an agent since 1994. In 2004, she requested assignment in the Virgin Islands. DEA positions are reportedly hard to fill, so agents are offered incentives to accept longer assignments or extend the original assignment. The woman chose a three-year agreement, and by the end, she requested a one-year extension. Her supervisor, a male, despite positive employee evaluations, recommended against extending her agreement and submitted a memorandum noting 25 incidents. Based on this information, the extension was denied. The woman transferred to a position in Florida and later filed suit. The district court, after dismissing one of the claims, granted summary judgment in favor of the government. The female agent appealed two of the claims: discrimination and hostile work environment. To support the discrimination charge, she argued that she was adversely affected when she was transferred because she lost 20 days paid leave and a higher cost of living allowance. The government responded by stating that she would only receive these benefits when awarded the extension to four years. The district court concurred with the government, but appellate judges disagreed. They believed that, regardless of whether or not the extension was granted, the woman suffered from the loss of benefits. The appeals court likewise found merit in her argument of pretext, citing "stark and glaring contradictions" between her employee evaluations and the supervisor's memorandum – claiming that she "caused problems" in the memorandum while declaring her an "asset" and a "team player" in an employee evaluation. Appellate judges believed that a jury might conclude that the differences supported



an allegation of pretext for unlawful discrimination.

For the hostile work environment charge, the woman centered on five points: male agents received preferential treatment; men were assignment as acting agent in charge in lieu of the plaintiff; she was denied access to the office gun safe despite her qualifications; an email reference to her as "The Aggressive Woman" with an attached video of a female being tasered by two male officers; and the supervisor noting her appearance in "tight jeans with a gun and a badge." With regard to this claim, the appeals court was in agreement with the district court. Judges considered the video an "offhand comment" and the "tight jeans" reference a singular, isolated remark. None of the alleged discrimination, the courts believed, detracted from the woman's job, discouraged her from retaining employment, hindered the possibility of career advancement or altered the conditions of her employment. Accordingly, the appeals court affirmed the district court's ruling on the hostile work environment claim, but the discrimination claim was vacated, and the case was remanded for further proceedings.