

FEMALE CORRECTIONAL OFFICER ALLEGES AN "OPENLY SEXUALLY CHARGED ENVIRONMENT"



A woman working as a correctional officer in Dakota County, NE, sued her former employers – the County, the sheriff, and her supervisor. She alleged a hostile work environment stemming from sexual harassment and a constructive discharge, which means she felt that she had no choice but to quit, a claim that treats the resignation as a termination. District and appellate judges had differing opinions on the case. The woman was employed at the Dakota County jail in August 2006. She claimed that her supervisor, who was the chief deputy and also the jail administrator, established an “openly sexually charged environment.” There were allegations of sexual relations with jail employees, as well as sexual favoritism and favoring some of the officers by giving promotions or letting them come in late or sleep on the job. The plaintiff was aware of her supervisor having a child with one of the women working at the jail, and another employee who was pregnant with the man’s child. There were also several other female officers who’d had sex with the chief deputy. She supported her argument with affidavits and testimony from other female employees. One officer said the chief deputy had acted inappropriately towards her, including the assurance of an easier work schedule if she stripped for him at work. Another woman claimed that the man made it clear that dating him would be advantageous, while not doing so would likely prove detrimental. The chief deputy admitted in court to having sex with the latter female and promoting her just two weeks after she was hired. The plaintiff further alleged the presence of pornographic emails and sexual jokes at work. She never received such emails, but she was shown an explicit message on at least one occasion. She asserted that the other officers knew of her disapproval of the emails and jokes, and that workers who took part in the pornographic materials were either treated favorably or were not reprimanded. The district court denied the County’s motion for summary judgment and denied the chief deputy qualified immunity. The latter denial was based on the man’s “long history of conduct” which the court believed a jury might perceive as harassment, as well as recognizing the possibility of favoritism. Appellate judges, however, disagreed. They did not believe that the plaintiff had shown any way in which the chief deputy’s behavior had affected her employment. She testified that she had been offered chances for promotions but never applied for fear of potential damage to her reputation. She had not shown any benefits or opportunities that the chief deputy had denied her. She furthermore hadn’t alleged that any promotion available to her had gone to another officer having a sexual relationship with the plaintiff’s supervisor. Judges called the chief deputy’s behavior “vile and inappropriate,” but didn’t consider it an actionable hostile work environment claim for the plaintiff. His conduct was not physically threatening or humiliating to her and did not interfere with her work performance. As the appeals court did not believe that the chief deputy had violated the woman’s right to equal protection, the judges believed that he was entitled to qualified immunity on the claim. The district court’s judgment was reversed and remanded for additional proceedings.