



## ***LGIT'S COMMANDER'S LOG***

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### **Wrongful Termination of a Correctional Officer Under Title VII of the Civil Rights Act of 1964 when the Officer is not Actually "Terminated"**

**QUESTION:** **Can a correctional employee who voluntarily resigns state a claim for wrongful termination in violation of Title VII of the Civil Rights Act?**

**ANSWER:** **Yes. If an employer deliberately makes working conditions intolerable in an effort to induce the employee to quit, the employee may be able to seek relief in the form of a lawsuit for constructive discharge under Title VII.**

**CASE:** ***Veronica Taylor v. Patuxent Institution*, United States District Court for the District of Maryland (The Honorable Catherine C. Blake), Decided November 30, 2009**

In this recent unpublished opinion from the United States District Court for the District of Maryland, the court considered whether a correctional officer who voluntarily resigned her position could maintain a lawsuit for wrongful termination under the Title VII of the Civil Rights Act of 1964. The facts established that Veronica Taylor was a Captain at the Patuxent Institution in Jessup, Maryland. She worked at Patuxent for eighteen years, but resigned rather than accept demotion from Captain to the rank of Lieutenant. A particular event led to Ms. Taylor's demotion. On August 22, 2008, she worked the evening shift. Around 6:00 p.m., she asked the senior captain on duty for permission to leave the prison and attend to a personal emergency. The captain gave Ms. Taylor permission to leave and asked her to bring back a sandwich from a fast food restaurant. A lieutenant then asked her to bring back a food item from a grocery store. Ms. Taylor then asked the captain for additional permission to bring back a birthday cake for a sergeant whose birthday it was and permission was granted. Ms. Taylor left the prison at 8:00 p.m. and returned an hour later with the fast food, grocery store item, and two birthday cakes. Her employer, Patuxent Institution, claimed that she failed to clock-out during this time.

Soon thereafter, Ms. Taylor was demoted to the rank of lieutenant on grounds that she left the prison and brought two cakes into the prison without proper authorization. There were other grounds for the demotion: Ms. Taylor was accused of favoritism for recognizing certain officers for exceptional job performance during roll call, and, in the two years preceding her demotion, the warden had filed at least three complaints against her for "various infractions" including insubordination. Ms. Taylor had "grieved" each complaint and the sanction for each complaint was reduced to counseling. As stated above, Ms Taylor resigned rather than be demoted.

In her lawsuit, Ms. Taylor alleged, in part, that she was not given any advance notice of her demotion. She did not appeal the demotion decision. She also alleged that the director of Patuxent barred her from employment at all correctional facilities in the State of Maryland.

The court rejected Ms. Taylor's claim of "constructive discharge" in violation of Title VII because she failed to allege any facts suggesting that her demotion was a deliberate attempt to induce her to quit. To the contrary, she alleged only that Patuxent had demoted her "on the grounds that she left the prison and later brought two cakes into the prison without authorization." The court further said that the fact that disciplinary complaints had been filed against Ms. Taylor on multiple occasions did not raise any inference that Patuxent deliberately sought Ms. Taylor's resignation. Moreover, Ms. Taylor failed to allege any facts showing that she was subjected to objectively intolerable working conditions. Her conclusory allegation that she was the "target of continuous harassment" was not supported by any alleged fact. She offered only that her superiors had disagreed over disciplinary actions taken against her for insubordination. In response, the court observed that although "Ms. Taylor may have found such discipline unwelcome, . . . a pattern of discipline does not amount to an objectively intolerable working environment." For these reasons, Ms. Taylor's lawsuit was dismissed.

**NOTE:** This case once again highlights the facts that although lawsuits may be brought against correctional institutions by both inmates and employees, courts ultimately will look to the facts, not mere allegations, in order to make decisions. Obviously, the evidentiary threshold ("objectively intolerable conditions") a former employee must meet to establish constructive discharge is very high. Disagreements over disciplinary measures or mere frustrations with or tensions in the workplace generally are insufficient. An employee's decision to voluntarily resign has consequences and one of them may be to severely weaken a later claim of constructive discharge.

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