

State of Connecticut
Commission on Human Rights and Opportunities
Office of Public Hearings

Stephanie A. Wilson, Complainant

OPH/WBR 2016-314

v.

University of Connecticut, Respondent

March 10, 2017

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Ruling on Request for Reconsideration

On February 17, 2017, the complainant timely filed a request for reconsideration of the undersigned's ruling granting the respondent's motion to dismiss the complaint. The respondent has not filed a response. The thrust of the request is that the ruling does not address the complainant's claim that her work assignment as a commencement coordinator was in violation of the Fair Labor Standards Act of 1938. Upon a careful review of the aforementioned request and petition, and upon reconsideration of the February 2, 2017, ruling on the motion to dismiss, said ruling is affirmed in every respect as initially stated.

General Statutes § 4-181a (a) (1) provides for reconsideration of a final decision "on the ground that (A) An error of fact or law should be corrected; (B) new evidence has been discovered which materially affects the merits of the case and which for good reasons was not presented in the agency proceeding; or (C) other good cause for reconsideration has been shown."

As noted in the tribunal's ruling on the motion to dismiss, "An exhaustive review of complainant's amended [complaint] has disclosed no protected disclosure in state government 'involving corruption, unethical practices, violation of state laws or regulations, mismanagement, gross waste of funds, abuse of authority, or danger to the public safety' as provided in [General Statutes] § 4-61-dd. To the extent that the tribunal can divine the existence of any protected disclosures of improper conduct, the present case rests solely on individual complaints about discriminatory or unfair behavior of particular supervisors and co-workers in the workplace, for which there are other available remedies or other venues better suited for investigation and enforcement of the complaint."

The complainant's alleged whistleblower disclosure to the effect that "None of [her job duties as BGS Commencement Coordinator] constitute 'exempt professional' job duties as defined in the Fair Labor Standards Act of 1938;" Amended Complaint ¶ 132; is not the type of disclosure that "serve[s] the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures ... generally evoked by the term 'whistleblowing' ... *Spruill v. Merit Systems Protection Board*, [978 F. 2d. 679, 692 (Fed. Cir. 1992)]." *Harmon v. State of Connecticut Judicial Branch*, OPH/WBR No. 2015-311 (Ruling on motion to dismiss, November 22, 2016). As discussed at length in the *Harmon* ruling, and in the ruling on the motion to dismiss in the present case, Connecticut's whistleblower law; General Statutes § 4-61-dd; is designed to protect employees from retaliation when they expose harm committed on the public. The whistleblower law is not designed to protect an employee's right to complain about workplace policies and practices that she does not like, such as her own job misclassification or lack of job duties, for which other administrative and judicial remedies are available.

Having found no error of fact or law that should be corrected; no new evidence having been discovered and brought to my attention which materially affects the merits of this matter; or other good cause for reconsideration not having been shown, the complainant's request for reconsideration is hereby DENIED.

It is so ordered this 10th of March 2016.

A handwritten signature in black ink, reading "Elissa T. Wright". The signature is written in a cursive style with a horizontal line underneath it.

Hon. Elissa T. Wright
Presiding Human Rights Referee

cc.

Stephanie Wilson, Esq. – via email only

Erik T. Lohr, Esq. – via email only