

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

STEPHEN M. RALSTON)
)
Plaintiff,)
)
v.)
)
SOUTH BEND PUBLIC)
TRANSPORTATION CORPORATION)
)
Defendant.)
_____)

Civil Action No. 3:11CV 222

CONSENT DECREE

WHEREAS Plaintiff, Stephen M. Ralston (Ralston), commenced the above-captioned action in the United States District Court for the Northern District of Indiana, South Bend Division alleging that defendant South Bend Public Transportation Corporation (TRANSPO) violated the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) by: (1) eliminating his position and discharging him from employment with TRANSPO because of Ralston's absence to perform military service or his military obligations; (2) failing and refusing to reemploy Ralston in the position in which Ralston would have been employed if his continuous employment had not been interrupted by Ralston's military service; and (3) discharging Ralston within one year of his reemployment without cause.

WHEREAS TRANSPO denies that it violated any provision of USERRA. Nevertheless, Ralston and TRANSPO, desiring that this action be settled by an appropriate Consent Decree (Decree), and without the burden and risks of protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action. Ralston and TRANSPO also waive,

for purposes of this Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as a final and binding agreement and judgment between them with regard to the issues raised in the Complaint filed by Ralston in this case.

WHEREAS this Decree, being entered into with the consent of Ralston and TRANSPO, shall in no way constitute an adjudication or finding on the merits of the case, nor be construed as an admission by TRANSPO or a finding of wrongdoing or violation of any applicable federal law or regulation.

In resolution of this action, the parties hereby AGREE to, and the Court expressly APPROVES, ENTERS and ORDERS, the following:

I. PARTIES

1. The parties to this Decree are Ralston and TRANSPO.
2. TRANSPO includes its current, former and future agents, employees, officials, designees and successors in interests.

II. SCOPE OF DECREE

3. This Decree resolves all legal and equitable claims arising out of Ralston's Complaint filed against TRANSPO in this action.

III. NON-RETALIATION

4. TRANSPO shall not take any action against any person, including but not limited to Ralston, which constitutes retaliation or interference with the exercise of such person's rights under USERRA, or because such person gave testimony or assistance or

participated in any manner in any investigation or proceeding in connection with this case.

IV. REMEDIAL REQUIREMENTS

5. On or before July 15, 2011, TRANSPO shall pay Ralston a total amount of \$45,000 to satisfy all of Ralston's monetary claims for relief as follows:

a. TRANSPO shall pay Ralston \$45,000 in back pay from which TRANSPO shall make appropriate income tax withholdings and other statutory deductions.

TRANSPO shall pay its portion of any social security tax on the back pay separately and shall not deduct its portion of such tax from the amount paid to Ralston.

b. TRANSPO shall pay the required amounts in the preceding subparagraph by mailing to Ralston a check and pay stub with withholding information addressed as follows:

Stephen M. Ralston
26194 Edison Road
South Bend, Indiana 46628

c. TRANSPO shall provide documentary evidence of having paid Ralston as required by subparagraphs a and b of this paragraph by mailing a photocopy of the

checks and pay stubs with withholding information to his attorney at the following address within 10 days of payment to Ralston:

Wayne T. Ault
Assistant United States Attorney
United States Attorney's Office
Northern District of Indiana
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320

- d. Within the time required by the Internal Revenue Service (IRS), TRANSPO shall issue to Ralston the appropriate IRS tax forms reflecting the amounts paid to Ralston and the amounts withheld by TRANSPO on behalf of Ralston, including issuing to Ralston a W-2 wage and tax statement.
6. In response to any third party requesting information regarding Ralston's employment history, TRANSPO shall only make the following statement:

Mr. Ralston was employed at TRANSPO from the dates of December 5, 2005 until December 31, 2009. Unfortunately, due only to budget constraints, Mr. Ralston's position at TRANSPO was eliminated. In the absence of this budgetary decision, Mr. Ralston would be eligible for reemployment at TRANSPO.
 7. For and in consideration of the relief that TRANSPO provides to Ralston pursuant to this Decree, Ralston releases and discharges TRANSPO from the claims identified in the Complaint filed in this case and the complaint Ralston filed with the Department of Labor, DOL Case File No. IN-2010-00010-20-R. This release and discharge of claims is

subject only to the Court's approval and entry of this Decree and to TRANSPO's compliance with this Decree.

V. MISCELLANEOUS

8. The undersigned representative of TRANSPO certifies that he is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind TRANSPO.
9. This Decree may be signed in counterparts, and its validity shall not be challenged on that basis. All such counterparts, together, shall be deemed to be one document and a photocopy of this Decree and any signature page thereto is as valid as the original.
10. TRANSPO agrees to accept service of process by mail to the undersigned counsel for TRANSPO regarding all matters arising under or related to this Decree and to waive the formal service requirements in Rule 4 of the Federal Rules of Civil Procedure including without limitation service of a summons.
11. All Parties shall bear their own costs and expenses of litigation, including attorneys' fees.
12. This Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure on all claims asserted in this action. This Court retains jurisdiction over this matter, however, for the purpose of entering appropriate orders enforcing this Decree.
13. The terms of this Decree shall be binding on the present and future directors, employees, agents, administrators, successors, representatives, and assigns of TRANSPO and on the heirs, successors, and assigns of Ralston.

14. This Decree constitutes the entire agreement and commitments of the Parties. Any modifications to this Decree must be mutually agreed on and memorialized in a writing signed by all Parties.

VI. TERMINATION

15. This Decree shall expire, and this action shall be dismissed, without further order of this Court, 6 months after entry of this Decree, provided that TRANSPRO has provided Ralston with the remedial relief called for herein.

DATED AND ENTERED this 15th day of June, 2011.

S/Rudy Lozano

UNITED STATES DISTRICT JUDGE

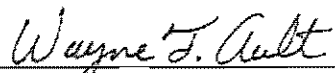
Entry Consented to:

FOR PLAINTIFF

FOR DEFENDANT

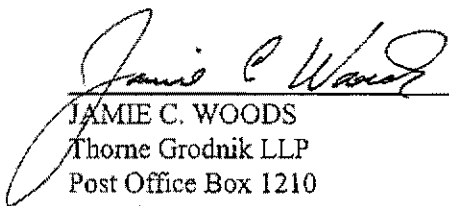

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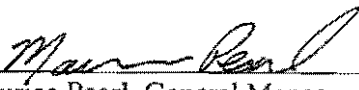
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