

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DR. RACHEL TUDOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-15-324-C
)	
SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY and)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Plaintiff brought the present action asserting that Defendants violated Title VII during the course of her employment as an associate professor at Southeastern Oklahoma State University (“Southeastern”). The matter was tried to a jury, which found in favor of Plaintiff. Plaintiff has now filed a post-trial motion requesting the Court reinstate her to her position as associate professor at Southeastern and grant her tenure. Plaintiff’s request comes pursuant to 42 U.S.C. § 2000e-5(g). Plaintiff also requests the Court award front pay from the date of the jury’s verdict to the date of her reinstatement. Plaintiff notes that in the event the Court denies her request for reinstatement she may request additional front pay damages. Defendant objects to Plaintiff’s request for reinstatement, arguing that the relationship between Plaintiff and Southeastern is such that reinstatement is impractical and that even if the Court were to consider reinstatement that granting Plaintiff tenure

would be inappropriate, as that is a decision that should be made by Southeastern, rather than by the Court.

It is clear that reinstatement is the preferred remedy. See Jackson v. City of Albuquerque, 890 F.2d 225, 231 (10th Cir. 1989) (quoting EEOC v. Prudential Assoc., 763 F.2d 1166 (10th Cir. 1985)). Plaintiff has the burden of establishing her entitlement to reinstatement; however, this burden is met where she demonstrates that she has prevailed on her discrimination claim. See Donnellon v. Fruehauf Corp., 794 F.2d 598, 602 (11th Cir. 1986). Where Plaintiff has met her burden, the Court must determine if “reinstatement or front pay is the appropriate remedy.” Abuan v. Level 3 Commc’ns, Inc., 353 F.3d 1158, 1176 (10th Cir. 2003). Reinstatement is not feasible where there is continuing hostility between Plaintiff and the employer or its workers. Prudential, 763 F.2d at 1172.

In support of her request for reinstatement, Plaintiff states that she desires to return to Southeastern and believes that she can be successful teaching in that environment. Plaintiff argues that she did well while she was teaching there and has continued to develop her skills as a professor and stay current in her line of expertise. Plaintiff then offers a number of other personal reasons which reinstatement to Southeastern would satisfy. Plaintiff also notes that all of the former members of administration with whom she had problems while teaching at Southeastern have now left and that she feels positive the new administration will support her role as an associate professor.

In response, Defendants offer testimony from Dr. Randy Prus, who is currently the Chair of Southeastern’s Department of English, Humanities, and Languages, the Department to which Plaintiff wishes to be reinstated. Dr. Prus argues that Plaintiff should

not be reinstated, as neither her tenure packet nor her teaching style merit appointment as an associate professor or promotion to tenure. Indeed, Dr. Prus voted against granting her tenure during the 2009-10 process. Defendants point to Dr. Prus's testimony at trial where he noted that he did not believe Plaintiff's return to Southeastern would be a positive thing, for the university or the students. Defendants also note that Plaintiff's work since leaving Southeastern demonstrates that her work performance is insufficient to merit reinstatement.

To determine whether reinstatement is appropriate, the courts must conduct a fact-based assessment of feasibility. Greenbaum v. Svenska Handelsbanken, NY, 979 F. Supp. 979, 986 (S.D.N.Y. 1997). Further, "reinstatement may not be an appropriate remedy where hostility or animosity between the parties, as a practical matter, makes a productive and amicable working situation [im]possible." Thornton v. Kaplan, 961 F.Supp. 1433, 1437 (D. Colo. 1966). After considering the evidence offered by the parties, the Court finds that reinstatement is simply not feasible in this case. As has been the case throughout this litigation, there is clear evidence of ongoing hostility between the parties apparent in the briefs and the evidence. Whether as a result of counsel or the parties, there are repeated unnecessary attacks on individuals and their character or credibility. Neither side is blameless in this matter. However, the Court finds that the repeated occurrences offer at least some evidence that reinstating Plaintiff to Southeastern would only create an ongoing environment of hostility. Such an environment would be patently unfair to the students at that school. Next, Defendants have offered substantial competent evidence demonstrating that they are convinced that Plaintiff's teaching abilities and academic pursuits do not rise to the level which would warrant a tenured professorship at Southeastern. According to

Defendants, Plaintiff does not appear to have published anything in the last six years and her work at Collin College ended based on that university's determination that she was not a good teacher. Dr. Prus noted during his trial testimony that Plaintiff's lack of scholarly activity was one of the reasons he voted against granting her tenure in the 2009-10 process. Placing Plaintiff back into an environment where she is considered unworthy would lead to renewed litigation between the parties and again, that result is unacceptable.

Other than her own testimony, Plaintiff's only evidence in favor of reinstatement was the testimony of Dr. Meg Cotter-Lynch; however, Dr. Cotter-Lynch was not privy to Plaintiff's tenure application packet and has admittedly never seen her teach in class. Thus, her testimony in favor of granting Plaintiff reinstatement and tenure must be measured against these facts.

Accordingly, for the reasons set forth herein, Plaintiff Dr. Rachel Tudor's Motion for Reinstatement (Dkt. No. 268) is DENIED. Plaintiff shall file any request for front pay within 15 days of the date of this Order.

IT IS SO ORDERED this 29th day of January, 2018.


ROBIN J. CAUTHRON
United States District Judge