

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

DR. RACHEL TUDOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:15-CV-00324-C
)	
SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY,)	
)	
and)	
)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
)	
Defendants.)	

**PLAINTIFF DR. RACHEL TUDOR’S
OPPOSED MOTION TO SUPPLEMENT ECF No. 279**

Pursuant to Local Rule 7.1(k) Dr. Tudor moves to supplement her earlier filed motion for reconsideration of reinstatement, or, in the alternative, front pay (ECF No. 279) with materials pertinent to the reinstatement remedy which were unavailable at the time of filing.

BACKGROUND

Dr. Tudor prevailed at her jury trial on two counts of discrimination and one count of retaliation (ECF No. 262). Tudor desires to be reinstated to Southeastern Oklahoma State University (“Southeastern”) as an Associate

Professor with tenure in the English, Humanities, and Languages Department (“English Department”).

Previous requests and briefing on reinstatement. On December 11, 2017, Tudor submitted a timely motion requesting reinstatement (ECF No. 268). At the time, Tudor presented new evidence and pointed to record evidence showing that she is legally entitled to reinstatement and that there are no extreme hostilities at Southeastern precluding reinstatement.

On January 29, 2018, the Court denied Tudor’s request for reinstatement (ECF No. 275). The Order turned on findings that the Southeastern faculty as a whole will be hostile towards Tudor if she returns (*id.* at 4), that healthy relationships between Southeastern and Tudor are impossible due to this litigation (*id.* at 3), that the Southeastern faculty believe Tudor is a bad teacher (*id.* at 3), and that Tudor’s mere presence on campus is impossible because Tudor would be made to feel “unworthy” by the Southeastern faculty (*id.* at 4).

On February 9, 2018, Dr. Tudor requested that the Court reconsider reinstatement as a remedy (ECF No. 276). In her request, Tudor pointed to findings of fact inconsistent with the record (*id.* at 1–16), conflicts with binding precedent (*id.* at 16–21), and equitable considerations (*id.* at 21–25) meriting reconsideration. Therein, Tudor also advised of changes in

circumstance (*id.* at 25), including Tudor's plans to submit a proposal to present at a Southeastern conference.

On February 12, 2018, the Court denied Tudor's request for reconsideration of reinstatement (ECF No. 278). In its Order, the Court observed that Tudor's reconsideration motion did not present new arguments or evidence in support of reinstatement (*id.*).

On February 27, 2017, Tudor moved for reconsideration of reinstatement again and moved in the alternative for front pay (ECF No. 279). In that motion, Tudor presented new evidence to the Court, specifically calling attention to Tudor's successful submission of a presentation proposal for a conference at Southeastern to be held on March 10, 2018. Tudor also supplied the Court with a copy of her proposal (ECF No. 279-1) and a copy of the event program showing Tudor's scheduled presentation (ECF No. 279-2). In that motion, Tudor argued that Southeastern's warm invitation to her to present at the conference evidences an absence of extreme hostilities precluding reinstatement. Tudor also supplied a declaration attesting that she looked forward to the presentation and did not fear a return to Southeastern (ECF No. 279-3 ¶¶ (a)–(g)). Tudor also supplied a declaration from Dr. Cotter-Lynch who confirmed the import of the conference to Southeastern as well as the fact that the invitation itself is evidence of the absence of extreme hostilities (ECF No. 279-4 ¶¶ 4(a)–(f)).

RELIEF REQUESTED

Dr. Tudor wishes to supplement her earlier filed motion requesting reconsideration of reinstatement (ECF No. 279). Tudor desires to present the Court with additional evidence, not previously available, which shows that there are no extreme hostilities at Southeastern precluding reinstatement at this time.

Specifically, Tudor wishes to present the following exhibits and accompanying arguments:

Tudor Declaration. Tudor's declaration, attached hereto as **Exhibit 1**, appraises the Court of Tudor's experience attending and her well-received presentation at the March 10, 2018 conference at Southeastern. The declaration provides crucial insights into the current climate at Southeastern and other issues pertinent to reinstatement.

Among other things, the declaration evidences that: Tudor did not encounter any hostilities at Southeastern during the March 10, 2018 conference; Tudor is capable of warm and collegial interactions with a wide swath of tenured and untenured faculty at Southeastern, including members of the English Department who have not previously been deposed, offered testimony, or given statements in this matter; Tudor faced no impediments to using a multi-stall women's restroom on Southeastern's campus on March 10, 2018; Tudor and Southeastern have the capacity to collegially work together

as shown by Tudor's invited and well-received presentation on March 10, 2018; the Southeastern faculty does not find the quality of Tudor's teaching to be lacking as evidenced by Tudor's invitation to present and the faculty's reception to Tudor's presentation at the March 10, 2018 conference; this litigation has not poisoned relations between Tudor and her Southeastern colleagues as evidenced by the invitation to Tudor to present and the faculty's reception to Tudor's presentation at the March 10, 2018 conference; and Tudor does not harbor any will-ill towards Southeastern or fear returning to Southeastern.

Photographs of Tudor taken at the March 10, 2018 conference. The Order denying reinstatement (ECF No. 275) was keenly focused on supposed negative consequences for Tudor and Southeastern if Tudor were to return to campus. Specifically, the Order predicted that, based on evidence available at the time, Tudor would face opposition and extreme hostilities if she returned to the Southeastern campus.

However, photographs taken of Tudor at the March 10, 2018¹ conference evidence that there are no extreme hostilities towards Tudor on campus and that it is, in fact, possible if not likely that Tudor will be warmly welcomed back if reinstated. The first photograph (attached hereto as **Exhibit**

¹ The undersigned attests that Exhibits 2 and 3 are true and accurate copies of photographs taken by Dr. Stanley Alluisi, tenured professor and Chair of Aviation Management at Southeastern, which Dr. Alluisi publicly posted to Facebook on March 11, 2018.

2) shows Tudor smiling and enjoying herself in the middle of her presentation. The second photograph (attached hereto as **Exhibit 3**) shows Tudor conversing with Dr. Karl Finkle (a tenured Professor of Mathematics at Southeastern) and Dr. Jacque Hocking (an invited guest and tenured professor at the University of Central Oklahoma).

The two photographs put to rest the concerns raised by the Order denying reinstatement (ECF No. 275). The photographs show that Tudor's first official return to the Southeastern campus since her departure in May 2011 was totally devoid of hostilities. Indeed, the photographs show that Tudor enjoyed her time back on campus and that Southeastern faculty and broader community collegially engaged with Tudor and made her feel welcome.

DEFENDANTS' OPPOSITION

Counsel for Dr. Tudor notified counsel for Defendants about their intent to file this Motion via email on March 12, 2018 and requested Defendants' position as well as a rationale for opposition if opposed. Defendants counsel, Ms. Dixie Coffey, responded via email that same day that Defendants oppose this Motion. No rationale for Defendants' opposition was provided.

Dated: March 12, 2018

/s/ Ezra Young
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CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2018, I electronically filed a copy of the foregoing with the Clerk of Court by using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Ezra Young
Ezra Young (NY Bar No. 5283114)

Exhibit 1

DECLARATION OF DR. RACHEL JONA TUDOR

1. I still desire to be reinstated as an Associate Professor with tenure at Southeastern Oklahoma State University (“Southeastern”). Reinstatement remains my preferred remedy.
2. On March 10, 2018, I gave an invited presentation at an important Oklahoma-wide conference of the American Association of University Professors (“AAUP”) hosted by and convened on the Southeastern campus. I also attended all sessions of the conference that day and had the opportunity to repeatedly and collegially interact with Southeastern colleagues as well as other invited guests.
3. **Transportation to the conference.** I got a ride to the conference from McKinney, Texas to Southeastern’s campus in Durant, Oklahoma from Dr. Meg Cotter-Lynch. Dr. Cotter-Lynch and I continue to have a strong friendship and collegial working relationship. I very much appreciate Dr. Cotter-Lynch’s continued support and her efforts to ensure that I was able to get to the conference given my current transportation limits.
4. **Conference highlights.**
 - a. During the conference, I had opportunities to interact and speak with many members of the Southeastern faculty and community, including but not limited to: Dr. Stanley Alluisi (Chair and

tenured Professor of Aviation Management), Dr. Dan Althoff (tenured Professor of English, Humanities, and Languages), Dr. Blythe Duell (tenured Associate Professor of Behavioral Sciences), Dr. Karl Finkel (tenured Professor of Mathematics), Ms. Carolyn Fridley (instructor of English, Languages, and Humanities), Dr. William Fridley (tenured Professor of Education), Dr. Elbert Hill (emeritus tenured Professor of English, Languages, and Humanities), Ms. Marion Hill (respected Southeastern community member), Dr. Tara Hembrough (Assistant Professor of English, Humanities, and Languages), Dr. Amy Madewell (Assistant Professor of Biological Sciences), Dr. Jesse Snowden (emeritus President of Southeastern), and Dr. Doug Wood (tenured Professor of Biological Sciences). All of these interactions were warm and collegial. I at no time felt like there were hostilities or that I was unwelcome at Southeastern. Indeed, quite the opposite. It felt like each person I interacted with made an effort to let me know that I was welcome.

- b. I attended all presentations at the March 10, 2018 conference, including the thoughtful opening remarks given by President Sean Burrage. Unfortunately, Dr. Burrage had to leave the

conference immediately after his remarks, so I was unable to speak with him at length. I did, however, wave at President Burrage and he acknowledged me with a nod and smile as he arrived at the conference immediately prior to giving his remarks. I did not sense any hostilities from President Burrage.

- c. I gave my presentation entitled “The Faculty Appellate Committee’s Role in Assuring Equity in Academic Freedom and Shared Governance” as planned in the afternoon session.
- d. It felt good to be back at Southeastern teaching and sharing my expertise and experiences with my colleagues and invited guests.
- e. I have had no doubts since my separation that, if given the opportunity, that I would want to return to Southeastern. My presentation experience affirmed my deeply held belief that my return to Southeastern would be a healthy and successful reunion.
- f. I recall that, during my presentation, I felt rejuvenated and enthusiastic about both my presentation topic and about the opportunity to interact with my Southeastern colleagues once again. I recall that I repeatedly smiled during my presentation in part because I felt so comfortable and it felt so good to be back at Southeastern.

- g. My presentation was well received.
- h. During the question and answer portion of my presentation, I fielded questions and comments from Dr. Finkle, Dr. Cotter-Lynch, Dr. Fridley, Dr. Wood, and Dr. Snowden. All of the comments and questions were collegial and thought-provoking. No commentator attacked me or expressed negative feelings towards me.
- i. I would like to draw particular attention to the comments of Dr. Jesse Snowden during the question and answer session. Dr. Snowden used this opportunity to constructively remark that, he personally believed that tenure candidates should be given rationales if there is a recommendation that tenure be denied. Dr. Snowden also remarked that, during his term as interim President, he always provided rationales to candidates for his decisions. I perceived Dr. Snowden's remarks to be both respectful and collegial. Indeed, I was struck by Dr. Snowden's thoughtful contribution. I did not find Dr. Snowden's comments to be hostile.
- j. After my presentation, invited guest Dr. Jacque Hocking from the University of Central Oklahoma came up to me to praise my presentation. Among other things, Dr. Hocking expressed her

support for me and my continued efforts to return to Southeastern.

- k. Mid-day, I used a multi-stall women's restroom on the Southeastern campus without issue. This was the first time I have ever used a multi-stall women's restroom at Southeastern. I did not fear using the women's restroom at Southeastern given my understanding that Southeastern has changed its restroom rules since my departure in May 2011. As I entered the restroom I was accompanied by female English Department professor Dr. Hembrough, whom also needed to use the facilities. Dr. Hembrough and I both used the facilities without issue and then returned to the conference. Based upon my interactions with Dr. Hembrough, my use of the women's restroom was a nonissue for her.
 - l. During the conference, Dr. Alluisi took photographs. Shortly thereafter, Dr. Alluisi publicly posted his photographs to Facebook. I appear in a number of Dr. Alluisi's photographs.
5. **Transportation home from the conference.** I got a ride from the conference back to McKinney, Texas from Dr. Madewell. Dr. Hembrough also travelled with us part of the way from Southeastern's campus to her home in Durant, Oklahoma. I had a pleasant ride with

Drs. Madewell and Hembrough. Among other things, we discussed goings on in Dr. Madewell's department, Dr. Hembrough shared news about developments in the English Department and what it might look like if I am reinstated, as well as other matters. I felt very comfortable during the ride back home with Drs. Madewell and Hembrough. I did not sense any hostilities from Drs. Madewell or Hembrough.

6. **My takeaways.** Though it has been many years since I have taught at Southeastern, my experience at the conference was wonderful and affirmed my belief that my return to Southeastern would be a smooth one.

I state under penalty of perjury that the foregoing is true and correct.

Executed on (date) March 12, 2018 in (location) Plano, Texas

Rachel Tudor

Dr. Rachel Jona Tudor

Exhibit 2



Exhibit 3

