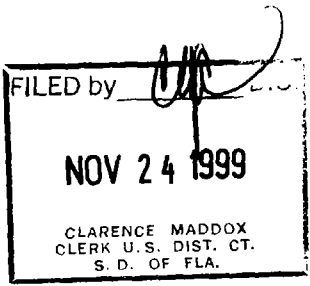


United States District Court  
Southern District of Florida  
Ft. Pierce Division

JUDGE DAVIS (MAGISTRATE JUDGE LYNCH)

Marcellus M. Mason, Jr.,	)	Case No.: 99-14027-CIV-DAVIS
	)	
Plaintiff,	)	PLAINTIFF'S MOTION FOR PRELIMINARY
	)	INJUNCTIVE RELIEF
vs.	)	
	)	
HEARTLAND LIBRARY COOPERATIVE,	)	
	)	
HIGHLANDS COUNTY HIGHLANDS COUNTY	)	
	)	
BOARD OF COUNTY COMMISSIONERS, ,	)	
	)	
HEARTLAND LIBRARY COOPERATIVE,,	)	
	)	
HARDEE COUNTY BOARD OF COUNTY	)	
	)	
COMMISSIONERS,, DESOTO COUNTY BOARD	)	
	)	
OF COUNTY COMMISSIONERS,, OKEECHOBEE	)	
	)	
COUNTY BOARD OF COUNTY COMMISSIONERS,	)	
	)	
MARY MYERS, ED KILROY, DIANE HUNT,,	)	
	)	
FRED CARINO, CARL COOL, CAROLYN	)	
	)	
HESSELINK, FRED MYERS, LESLIE WOOD,	)	
	)	
HIGHLANDS COUNTY SHERIFF,, J. ROSS	)	
	)	
MACBETH,	)	
	)	
Defendant	)	



Plaintiff, MARCELLUS M. MASON, JR., (hereinafter "MASON"), hereby files this Motion for PRELIMINARY INJUNCTIVE RELIEF against Defendants: HIGHLANDS COUNTY BOARD OF COUNTY COMMISSIONERS and HEARTLAND LIBRARY COOPERATIVE . This motion is filed pursuant to Rule 65 of the Federal Rules of Civil Procedure. In support of Plaintiff's motion, plaintiff asserts the following facts:

*Handwritten signature and number 139*

1. Plaintiff incorporates by reference the entirety of PLAINTIFF'S MOTION FOR A WRIT OF QUO WARRANTO OR PLAINTIFF'S MOTION FOR DECLARATIVE AND OR INJUNCTIVE RELIEF. [CASE # 99-14042-CIV-DAVIS]
2. Plaintiff incorporates by reference the entirety of his amended consolidated complaint 99-14027-CIV-DAVIS.
3. This court has the authority to grant preliminary injunctive relief pursuant to Title VII, 42 U.S.C. §2000e, et. seq.
4. Plaintiff has stated that he was not fired by the agency that employed him [Heartland Library Cooperative], but by the Highlands County Board of County Commissioners.
5. In DEFENDANTS', HIGHLANDS COUNTY AND HEARTLAND LIBRARY COOPERATIVE, RESPONSE TO PLAINTIFF'S MOTION FOR A WRIT OF QUO WARRANTO OR DECLARATIVE OR INJUNCTIVE RELIEF, Defendants do not argue the facts. Defendants use jurisdictional arguments. The facts as stated in PLAINTIFF'S MOTION FOR A WRIT OF QUO WARRANTO OR PLAINTIFF'S MOTION FOR DECLARATIVE AND OR INJUNCTIVE RELIEF are unassailable. This court is in possession of documents supporting the facts as stated by plaintiff.
6. This court is in receipt of evidence that makes it very likely that the plaintiff will at the very least be successful in prosecuting his claims that his constitutional rights, 5<sup>th</sup> and 14<sup>th</sup> Amendments were violated. Plaintiff was hastily fired by an organization [Highlands County Board of County Commissioners] that did not have the authority to do so. Plaintiff was hired by and should have been fired by Heartland Library Cooperative. Plaintiff was compensated by Heartland Library Cooperative. Defendant Carl Cool in his letter to MASON lied about the employer of MASON. Cool deliberately tried to deceive MASON by sending misleading information to

MASON. Further, plaintiff asserts that his consolidated amended complaint is now a prime facie case under Title VII.

7. Plaintiff has suffered and will continue to suffer irreparable harm as a result of his firing by Highlands County Board of County Commissioners. Plaintiff has endured a severe financial strain as a result of his termination from employment. In fact, plaintiff was unable to collect unemployment for the more than four months from November 25, 1998 to March 22, 1999 when plaintiff had no job or unemployment benefits. Plaintiff has a skill [Network Administration & Engineering] that makes it extremely unlikely that he will be able to find other employment in the immediate area. Plaintiff has had to search for jobs in the Orlando and Tampa area where he is most likely to find success. Given that the plaintiff has a home in Sebring, FL with a mortgage in Sebring, plaintiff's job prospects is limited to jobs that will pay enough to maintain two households. In fact, plaintiff has already had to maintain residences in both Sebring and Orlando since filing this action. Plaintiff had a temporary job that ended on September 2, 1999. Both Orlando and Tampa are at least 90 miles away from Sebring.
8. The court has ample reason to believe that retaliation has occurred in this matter. Retaliation in and of itself constitutes an irreparable injury. On October 2, Plaintiff warned defendant MYER (see exhibit 1), an agent of both Heartland Library Cooperative and Highlands County Board of County Commissioners that an EEOC complaint was imminent. Just 52 days subsequent to this warning plaintiff was fired (see exhibit 2). Prior to October 2, 1998, plaintiff had nothing but positive reviews. Prior to October 2, 1998, plaintiff had not received neither a written reprimand

nor a verbal reprimand. The effect of this retaliation will have the effect of deterring other minority employees from making complaints to the EEOC for fear of reprisal.

9. The issuance of a preliminary injunction would not be detrimental to or unduly harmful to any other person or persons. In fact, Heartland Library Cooperative would benefit from the expertise of MASON due to several reasons. Firstly, Heartland Library Cooperative has not fired MASON. Secondly, Heartland Library Cooperative has had to obtain the services of a computer consultant [ComputerLand] since MASON was terminated. ComputerLand has charged Heartland a rate which has the cumulative effect of being higher than the wage that should have been paid to MASON. Thirdly, MASON's reemployment with Heartland Library Cooperative would provide the members of the "Cooperative" with a employee who could address problems that are not cost effective to hire an outside consultant for. Lastly, and most importantly there is not one single person that would be damaged as a result of this court issuing a preliminary injunction.
10. The issuance of a preliminary injunction would serve the public interest in several ways. Firstly, this court has the opportunity and indeed the duty to send a message that retaliation is not acceptable. Secondly, this court should send a message that employees are allowed to oppose discrimination and will not be subject to any reprisal because of it. MASON has been deprived of his constitutional protections, 5<sup>th</sup> and 14<sup>th</sup> Amendments, in that he was not fired by the organization that was his employer [Heartland Library Cooperative], but by another organization [Highlands County Board of County Commissioners] that had no legal right do to fire MASON. MASON, like other employees both private and public has

a right to be fired by the organization that is his legal employer. This violation of plaintiff's constitutional rights is a continuing violation and must be addressed by this court. Restoring MASON to his job would send a message to the public that constitutional rights must be respected by employers.

In Summary, for the foregoing reasons plaintiff respectfully requests that a preliminary injunction restoring plaintiff to his job be granted. Plaintiff is cognizant of the fact that granting preliminary injunctions is a drastic step and not one taken by the courts in the "ordinary" conduct of Title VII cases, however this court is in possession of ample evidence which is a testament to the fact that this case anything but "ordinary". Plaintiff is aware that it is not the job of the courts to "micro-manage" personnel decisions and set policy, however this court is obligated to make sure whatever policy an employer uses does not violate Constitutional and Statutory protections. In effect, plaintiff is asking defendant Heartland Library Cooperative to do its' job. Granting of plaintiff's request for injunctive relief will only acknowledge that Defendant, Heartland Library Cooperative has not in fact fired MASON. In the alternative, plaintiff would ask that this court to compel defendants Highlands County Board of Directors, Heartland Library Cooperative, Cool, Carino, and Myers to produce evidence which substantiates the following: Firstly, evidence that establishes the employer of MASON. Secondly, evidence which states who has the authority to make personnel decisions for Heartland. Thirdly, that proper procedures for firing MASON was followed. Lastly, this court should compel defendant Highlands to prove that Highlands has the legal authority to fire Mason

Dated this 23<sup>rd</sup> day of November, 1999



Marcellus M. Mason  
218 Florida Drive  
Sebring, FL 33870  
Phone: 863-314-9577

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via US Mail, postage prepaid, first class, on Wednesday, November 24, 1999, to: Allen, Norton & Blue, 324 South Hyde Park Avenue, Suite 350, Tampa, Florida, 33606



Marcellus M. Mason, Jr.  
218 Florida Drive  
Sebring, FL 33870

# HEARTLAND LIBRARY COOPERATIVE

2 October 1998

Mr. Marcellus Mason  
214 Florida Dr.  
Sebring, FL 33870

RE: Employment Matters

Dear Mr. Mason:

I am writing to let you know how much everyone in the Heartland Library Cooperative are hoping for your full and speedy recovery from the medical issues with which you are faced. I just want to let you know that the employment relationship between you and the Cooperative has been gratifying and fulfilling and how happy we have been that you returned to work last week. Since you came to work for the Cooperative, in November 1996, you have achieved many important milestones and "firsts" in getting our computer network up, running, and functioning in an effective manner. You have been a loyal, dedicated, and conscientious worker and manager throughout your association with the Cooperative thus far.

I was surprised, therefore by the interactions between you and I this morning in the Sebring Library. Frankly, the loud speech and aggressive behavior you displayed during these meetings intimidate me. I can only attribute these highly emotional arguments to your ongoing medical situation, as this situation was so out of keeping with your usually courteous and cooperative manner.

Please take the time to recall that more than a month ago, you were absent from work, beginning on September 1. Everyone here was concerned about your absence and I tried to contact you several times myself between September 1 and September 15 to no avail. At last you telephoned me and related to me that you were under treatment for clinical depression and would not be able to return to work for awhile. You should recall that I was highly supportive of you on the phone and told you that I wished you a speedy and successful course of treatment and return to productive work. Despite several attempts to contact you for an update of your situation, I was unable to reach you.

Finally, you called me on the telephone and stated to me that you would be returning to work on September 21. In fact, you did not actually return to work until September 22.

Because the business necessity of keeping the network operating and functioning on a daily basis, I had to make the decision to ask volunteers for help in performing some of your job functions while you were gone.

319 West Center Avenue  
Sebring, Florida 33870  
Phone (941) 386 - 6716  
Fax (941) 386 - 6719



**HIGHLANDS COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**

November 24, 1998

Mr. Marcellus Mason  
214 Florida Drive  
Sebring, FL 33870

Re: **Employment Termination**

Dear Mr. Mason:

Your employment with Highlands County and the Heartland Library Cooperative is terminated immediately.

Your job performance has not been up to the standards required by your employer.

I have received several written statements from employees and volunteers which show concern for their personal safety and well being. I also have concerns about your professional interaction with employees of the libraries the Cooperative serves, including your unwillingness to train and advise them, as required by your job description. You have also failed to establish and maintain working relationships with peers and the general public.

In accordance with Section A-10.04.B.5 you may appeal this discharge by submitting an appeal in writing with all pertinent documentation, to the County Administrator's office within 3 working days of the time of dismissal.

Yours truly,

A handwritten signature in cursive script, appearing to read "Mary Q. Myers".

Mary Q. Myers  
Highlands County Library Director  
Heartland Library Cooperative Coordinator

cc: County Administrator  
Personnel  
File

P.O. BOX 1926 Sebring, Florida 33871 - 1926  
FAX (941) 386-6507  
(941) 386-6500



Exhibit 2