

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

TANJA VIDOVIC,

Plaintiff,

v.

Case No: 8:16-cv-714-T-17TBM

CITY OF TAMPA,

Defendant.

ORDER GRANTING MOTION FOR REINSTATEMENT

Before the Court is the Motion for Miscellaneous Relief (the “**Motion**”) (Doc. No. 198) filed by the Plaintiff, Tanja Vidovic. The Defendant, City of Tampa, responded in opposition. The Court is familiar with the facts of this case, and presided over the jury trial that rendered a verdict in Ms. Vidovic’s favor on her Title VII pregnancy discrimination and retaliation claims. After review, the Motion is **GRANTED IN PART AND DENIED IN PART**.

I. The requested relief

Through the Motion, Ms. Vidovic asks this Court to “reinstate her with additional relief or, in the alternative, to award her front pay and pension benefits, and to award her injunctive relief.” *Motion*, Doc. No. 198 at 1. In her prayer for reinstatement, Ms. Vidovic asks this Court to reinstate Plaintiff as a firefighter/paramedic, with the following conditions:

1. Ms. Vidovic shall lose no seniority or time of service, and shall be reinstated within sixty days of the Court’s order;

2. Ms. Vidovic shall be reinstated as a firefighter/paramedic with credit for time of service and all of the step increases provided for in the 10/1/2013-9/30/2016 and 10/1/2016-9/30/2019 collective bargaining agreements between the Defendant and the International Association of Firefighters, Local Union No. 754;
3. Defendant shall pay Ms. Vidovic a wage rate as a firefighter/paramedic with credit for time of service and all of the aforementioned step increases, with interest;
4. Defendant shall assign Ms. Vidovic to Station 22, on A,B, or C shift or to Station 2 on A, B, or C shift;
5. Defendant shall pay for any updated licenses or certifications Ms. Vidovic needs to obtain to work as a firefighter/paramedic;
6. Defendant shall not take any retaliatory action against Ms. Vidovic;
7. Defendant shall not take any disciplinary action against Ms. Vidovic, including jerrying, for a period of five years absent review of such action by an independent source outside the City of Tampa;
8. Defendant shall not skip over Ms. Vidovic when she makes a promotional list;
9. Defendant shall provide yearly training to all Tampa Fire Rescue employees on the City's policies forbidding discrimination, retaliation and harassment in the workplace; and
10. Defendant shall discuss with the International Association of Firefighters, Local Union No. 754, including a provision in the collective bargaining

agreement that Union members can file and pursue grievances to challenge the City's policies forbidding discrimination, retaliation, and harassment in the workplace.

In the event that the Court does not order reinstatement, Ms. Vidovic asks that the Court award the Plaintiff front pay for a period of at least ten years. *Id.* at 4. Ms. Vidovic claims that she is unemployable as a firefighter with any other fire department.

In any event, Ms. Vidovic asks that Court to enter an injunction with the following forms of relief:

1. Defendant shall remove the DA-88 from Ms. Vidovic's termination from its records;
2. Defendant shall remove Ms. Vidovic's performance evaluation from the Defendant's records;
3. Defendant shall remove all career counseling forms and other disciplinary documents for Ms. Vidovic from its records from January 1, 2015 forward;
4. Defendant shall remove all other references in its employment records that Plaintiff was terminated for untruthfulness;
5. Defendant shall remove Jace Kohan's notes regarding Plaintiff from Defendant's records;
6. Defendant shall install separate bathroom facilities for women in all fire stations within five years;
7. Defendant shall eliminate all discretion from promotion decisions so that the person who ranks first on the promotion list shall receive the promotion;

8. Defendant shall prohibit supervisors accused of harassment from continuing in those roles pending the completion of an investigation;
9. Defendant shall establish a pregnancy policy that “allows women to choose either: (a) to go on light duty and keep their 24 hours on/48 hours off schedule, (b) to be fifth on an engine so they can participate in the 80% of calls that are medical related and step back on the fire or hazmat calls, or (c) to choose a 40-hour work week option;
10. Defendant shall establish a breast-feeding policy;
11. Defendant shall keep complaints of harassment or discrimination strictly confidential and address the complaints immediately;
12. Defendant shall provide a positive letter of reference for Plaintiff to future employers;
13. Defendant shall not provide any negative information concerning Ms. Vidovic to anyone; and
14. The Fire Chief shall furnish notice of the Court’s order and injunction to all officers in Tampa Fire Rescue.

The City of Tampa objects to the requested relief. First off, the City of Tampa cites to the Courts prior order on summary judgment that dismissed the Plaintiff’s sexual harassment claim. *Response*, Doc. No. 210 at 2. The City contends that the Court should deny the requested relief because the jury’s verdict did not include a specific determination that Ms. Vidovic was terminated because of her pregnancy or in retaliation for having engaged in protected activity. *Response*, Doc. No. 210 at 4. Secondly, the City of Tampa argues that the Plaintiff may not simply invite the Court to choose between

reinstatement and front pay, and instead the Court must determine if the facts necessary to support injunctive relief have been proven. *Id.* Third, the City of Tampa argues that the Motion does not consider any basis on which front pay should be considered. *Id.* at 5. Fourth, the City argues that the Motion seeks injunctive relief that is not related to any of the Plaintiff's claims, relates to a claim on which she did not prevail, and is not within the authority of the Court to grant. *Id.*

II. Reinstatement is the appropriate remedy.

In addition to back pay, prevailing Title VII plaintiffs are presumptively entitled to either reinstatement or front pay. U.S. *E.E.O.C. v. W&O, Inc.*, 213 F.3d 600, 619 (11th Cir. 2000). Reinstatement is the presumed appropriate remedy in a wrongful discharge case. *Id.*

In this case, the Court concurs with Ms. Vidovic that reinstatement is appropriate, but declines to issue much of the additional injunctive relief that she requests. While Ms. Vidovic wishes to be assigned to a specific station, the Court believes it most appropriate to leave the determination of Ms. Vidovic's shift assignment to Tampa Fire Rescue's established procedures and personnel. Of course, such a decision must be made in accordance with Title VII's prohibition against retaliation for undertaking protected activity.

Likewise, Title VII—a law successfully invoked by Ms. Vidovic in this case—already protects against retaliation from the City of Tampa, and injunctive relief is not required to protect Ms. Vidovic from any harms arising from unlawful disciplinary action. The proper remedy for unlawful discrimination already exists in Title VII. The Court is certain that after the jury's verdict in this matter, the City of Tampa shall take all necessary steps to comply with the federal law's prohibition against unlawful discrimination.

Likewise, the Court declines to award the additional requested injunctive relief delineated in the Motion. First, the Court does not believe that it has the authority to purge public records from the Defendant's control. Indeed, ordering such relief may cause the Defendant to run afoul of state public records laws. Second, the instillation of bathroom facilities for women firefighters, and policies on promotions, work-hours for female firefighters who are pregnant, and the establishment of breast-feeding policies are best left to the City of Tampa to create and implement.

While the injunctive relief requested by Ms. Vidovic is in large part denied, the Court will order that Ms. Vidovic may opt to include a copy of the jury's verdict, this order, and a copy of the final judgment in her personnel file. This action will ensure that anyone looking at Ms. Vidovic's work history with the City of Tampa will discover that a jury of her peers found in her favor, and against the City of Tampa, on her Title VII pregnancy discrimination and retaliation claims.

As the Court has ordered reinstatement, it will not order an award of front-pay.

III. **Conclusion**

Accordingly,

It is **ORDERED AND ADJUDGED** that final judgment be entered in favor of Ms. Vidovic on her pregnancy discrimination and retaliation claims in accordance with this order and the verdict of the jury. Furthermore, the Court orders as a part of the judgment that the City of Tampa reinstate Ms. Vidovic to her position as a firefighter within 60 days of today's date. Ms. Vidovic may opt, within 30 days from the date she is reinstated, to include a copy of the jury's verdict, this order, and a copy of the final judgment into her personnel file. The Clerk is **ORDERED** to enter final judgment consistent with this order and the verdict of the jury.

(ORDER CONTINUED IN CASE 16-CV-714)

DONE and ORDERED in Chambers, in Tampa, Florida this 14th day of February,
2018.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record