

PENNSYLVANIA HUMAN RELATIONS COMMISSION

GLORIA M. JORDAN

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:

vs.

:

DOCKET NO. 532

BUREAU OF EMPLOYMENT SECURITY,  
CHESTER, PENNSYLVANIA

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REPORT OF GENERAL COUNSEL TO  
COMMISSION PURSUANT TO  
SECTION 102.05 OF REGULATIONS

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Statement of the Case

The complainant, Gloria M. Jordan, a Negro, was selected from the civil service list, hired in the Chester Office of the Bureau of Employment Security as a Clerk-Typist I on October 6, 1958, and worked in that Office as a probationary civil service employe until her separation on January 26, 1959. Complainant thereafter filed the instant complaint alleging discriminatory treatment and termination of employment on account of her race.

The case was investigated by Field Representative John W. Flamer and was reviewed by the full Commission on July 26, 1960, on which day the Commission closed the case on the ground that the charge of racial discrimination was not established. The Commission felt that the real basis for the dismissal was complainant's repeated absences from work during the period of her employment, the complainant having been absent 9 days and late for work on 7 occasions.

Thereafter, complainant, through her attorney, Charles Andre Moore, Esq., filed a written Petition for Reconsideration of Dismissal of the Complaint. On November 22, 1960, the Commission granted the prayer of this Petition on the ground that sufficient new facts were alleged to warrant re-opening of the case, and the case was then referred to General Counsel for a preliminary hearing and for reinvestigation of the facts, in accordance with Section 102.04 of the Rules and Regulations (now Section 102.05 since August 22, 1961).

Two preliminary hearings were held by General Counsel to which the complainant, her attorney, and their witnesses were invited. The first was held on December 7, 1960, in Room 1202 of the State Office Building in Philadelphia; the second was held in the same place on Monday, December 19, 1960. At the first hearing only the complainant and her attorney appeared and at the second hearing, one Edna Wiggins, a disinterested witness, was produced.

Because it was very difficult to arrive at a fair conclusion without having interviewed at least six (6) other key witnesses, General Counsel requested complainant and her attorney to produce the said witnesses, all of whom had worked or were then working in the Chester Office of the Bureau of Employment Security. The inability of complainant and her attorney to produce said witnesses has caused the long delay in reaching a decision and making a recommendation. General Counsel, on his own initiative, sought out and spoke with most of the key witnesses at their homes and by telephone.

Findings of Fact

1. Complainant, Gloria M. Jordan, pursuant to a communication from the Secretary of Labor and Industry, reported to the Chester Office of the Pennsylvania State Employment Service, Bureau of Employment Security, at No. 1101 Elsinore Place, Chester, Pennsylvania, on October 6, 1958, at 8:20 o'clock A.M., for employment as a clerk-typist. She was selected to apply to the manager of the said office, one Aloysius T. O'Donnell, for the position of Clerk-Typist I, as a probationary civil service employe.

2. The complainant waited for approximately one and one-half hours before being interviewed by the said manager, Mr. O'Donnell. During the interview, Mr. O'Donnell tried to discourage complainant from accepting the position of Clerk-Typist I in his office and urged her to accept employment elsewhere.

3. Complainant refused to decline the employment for which she had applied and was therefore assigned to work at about 2:30 o'clock P.M. of that same day, October 6, 1958, in the Employment Services Section as a Clerk-Typist I.

4. Complainant worked in the said office as a probationary civil service employe for the period October 6, 1958 through January 26, 1959, when she was discharged from employment by the manager, Aloysius T. O'Donnell, on the ground of "abandonment of position."

5. During the period of time within which complainant worked as a Clerk-Typist I in the Chester Office of the Bureau of Employment Security, the manager, Aloysius T. O'Donnell, was openly antagonistic to complainant and manifested his antagonism in the following respects:

(a) By ordering that complainant should be permitted to do filing only, whereas her duties as a Clerk-Typist I included the handling of the switchboard (which complainant was permitted to do only in cases of emergency), and the handling of what is known as "Desk B" which entails the screening of applicants for employment and their referral to the proper interviewers.

(b) By unjustly accusing complainant of using the word, "Hell" in a telephone conversation with an applicant for employment.

(c) By advising complainant, on or about October 27, 1958, that, "You will never be promoted in this office."

(d) By repeatedly standing closely behind complainant while she was at work, watching her and unjustly finding fault with her.

(e) By inducing complainant to write a second letter to Mr. Daniel Littley, District Manager of the Bureau of Employment Security (complainant had previously written to the said District Manager complaining of the unfair treatment to her by Mr. O'Donnell) to advise that she desired to withdraw her complaints, on the false promise of Mr. O'Donnell that if complainant would send such a letter, he would change his attitude toward her.

6. After discharge of complainant, the said Aloysius T. O'Donnell continued to manifest antagonism toward complainant, more particularly as follows:

(a) By altering or causing to be altered the original records of the complainant to change the word, "Absent" whenever it appeared therein to the phrase, "Absent Without Leave."

(b) By falsely asserting to at least one third party that he had seen complainant seated and drinking at an American Legion Bar in Chester, a bar frequented only by white customers.

(c) By appearing in person on or about March 30, 1959, at the Philadelphia Airport Office in which complainant was then working as a civil service employe of the City of Philadelphia, and observing her at work there.

7. The immediate apparent cause of complainant's discharge was her absence from work for the period January 5, 1959 until January 26, 1959, except for the one day, January 14, 1959. This was clearly due to complainant's illness. She contracted a severe case of bronchitis and streptococcus infection and was ill with temperature and in bed, under doctor's care, during this period of time. Beginning with January 5, 1959, complainant communicated constantly by telephone with the Chester Office of the Bureau of Employment Security, advising of her illness and inability to work. She returned to the office on January 14, 1959 but was still coughing and sneezing, as the result of which her immediate supervisor, Helen Wilson, who was also interviewed by General Counsel, suggested that complainant return home. Complainant thereupon, at about 12 o'clock noon, asked and received permission from Mr. O'Donnell to return home, who then and there told complainant to "come back when you are better." When complainant returned to work on January 26, 1959 after her illness, she was advised for the first time that Mr. O'Donnell had terminated her employment because of "abandonment of position."

8. Concerning absences from work by complainant, other than those due to complainant's illness from January 5, 1959 to January 26, 1959, the records indicate nine days of absence. Five of these were due to illnesses over a three month period; three were recorded as part of her vacation allowance; and one only was marked "AWOL". The complainant insists that on that one day, she was granted permission to be absent in order to enable her to attend the settlement of her mother's new home in the office of the Redevelopment Authority.

9. During the time that complainant worked in the Chester Office of the Bureau of Employment Security, she was tardy for work on seven occasions, because, as she claims, of the lateness of her bus on each occasion. Twelve other employes were likewise tardy for work on those same days.

10. Concerning complainant's work performance in the Chester Office, her immediate supervisor, Mrs. Helen Wilson, advised General Counsel that complainant was unusually efficient and performed very well all of the duties assigned to her.

11. On or about March 23, 1959, complainant was engaged as a probationary civil service employe by the City of Philadelphia as a Clerk-Typist I in the Department of Commerce, Division of Aviation, in the office located at the Philadelphia International Airport. She served satisfactorily her probationary period and is now working in the said position as a permanent civil service employe.

12. During the period January 26, 1959 through March 22, 1959, complainant attempted but was unable to find gainful employment. During said period she was refused the opportunity to secure Federal employment as a Clerk-Typist III because of the record of her discharge by Mr. O'Donnell.

### Discussion

There is little doubt that Mr. O'Donnell disliked complainant and did everything possible to discourage her from continuing as an employe at the Chester Office of the Bureau of Employment Security. All witnesses verified this fact. The difficult question

which General Counsel had to determine was whether such dislike and eventual discharge was because of complainant's race or because of reasons other than her race. Of course, if complainant's race was one of the reasons for her discharge from employment, this Commission erred in dismissing the complaint in the first instance.

To determine this all-important issue, it was essential to discover how other Negroes in that particular office had been treated by Mr. O'Donnell and generally, to consider the total picture in the Chester Office. New York State Commission Against Discrimination vs. Holland, 307 N.Y. 38, 45 (1954).

From the outset it should be noted that had Mr. O'Donnell discharged complainant for alleged inefficiency or for excessive absences during her period of probation, it would have been much more difficult for General Counsel to have reached his final conclusion. But the reason assigned by Mr. O'Donnell was "abandonment of position", and none of the facts pointed to an abandonment of the position by the complainant. On the contrary, she neither resigned nor abandoned the position. All of her superiors, including Mr. O'Donnell, knew of her illness and knew that that was why she was absent from the office for the period January 5th to January 26th, 1959.

More important, General Counsel is convinced that Mr. O'Donnell has treated other Negroes who worked in his Chester Office unfairly. Although none of the six Negroes with whom General Counsel spoke had been kept waiting for a long time for the initial interview, as was the complainant, a sufficient number of them claimed that Mr. O'Donnell had unjustly found fault with them and had made them feel unwanted and uncomfortable, so as to warrant the conclusion reached by General Counsel that the complainant's race was one of the reasons for her discharge on January 26, 1959. A Mr. William Maddox, a Negro, who was one of two counsellors in the Chester Office, the other being a white woman, insists that he was obliged to resign because of the unfair criticisms and charges of Mr. O'Donnell against him. He insists that he was unjustly called to task for every little incident, whereas his co-counsellor was never criticized. Another Negro, Carolyn Berry, a filing and typing clerk, was dismissed by Mr. O'Donnell for inefficiency, despite the fact that Miss Berry's immediate supervisor advised General Counsel that she "was not any more inefficient than any other filing or typing clerk there then or now."

According to one supervisor now working in the said office, only Negroes and no whites have ever been dismissed by Mr. O'Donnell during their probationary periods. Most of the Negroes who have worked there feel that Mr. O'Donnell is prejudiced against them because of their race. They all said, in effect, "It is very subtle. Even if you can't actually prove it, you can feel it and just know it."

Still another fact influenced the final decision. Each year, Mr. O'Donnell spends two full days interviewing applicants for temporary positions of from 60 to 90 days and during the past 4 or 5 years, Mr. O'Donnell has engaged approximately between 25 and 30 such temporary employes. It appears that despite the fact that sizeable numbers of Negroes apply each year, Mr. O'Donnell has not engaged any temporary Negro employes during this period of time.

#### Recommendation

General Counsel recommends that the prayer of the Petition for Reconsideration of the Dismissal of the Complaint be granted by the Commission and that the Commission reverse its Order of July 26, 1960, and enter an Order in this case that the charge of the Complaint has been established; and that the case be reassigned to staff for possible adjustment and conciliation.