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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re)
))
 JOY HORTON,))
))
 Complainant.))
_____)

Joy Horton ("Complainant") brings this complaint against the Clerk of the Court, United States District Court, Western District of Washington in Seattle and employees of the Clerk's Office under the Judiciary Equal Employment Opportunity Plan.¹ Upon discovering her disability, Complainant asserts that the Clerk's Office failed to accommodate or to transfer her to another federal position. Because the complaint was filed against Bruce Rifkin who is the Clerk of the Court and the Equal Employment Opportunity Coordinator, this matter is presently before the Honorable Carolyn R. Dimmick, Chief Judge.

FACTS

Joy Horton, having been selected from a pool of employees of overstuffed courts, transferred from the United States Bankruptcy Court, Middle District of Pennsylvania, to the United

¹ Complainant is not represented by an attorney, but lists Edward D. Campbell, Esq. as a consultant.

FINDINGS AND CONCLUSIONS - 1

1 States District Court, Western District of Washington, in
2 Seattle.² Complainant was employed as a Jury/Financial
3 Assistant.

4 The record reflects Ms. Horton did not respond adequately
5 to the training offered and was unable to perform the functions
6 required of the position. Complainant was informed of her
7 unsatisfactory performance on June 15, 1994, and in lieu of
8 termination, she was placed on administrative leave until the
9 results of her previously scheduled physical and psychological
10 tests became available.

11 The pertinent findings from Ms. Horton's neuropsychological
12 tests were reported as follows:

13 At this point, [Ms. Horton] does not learn very
14 quickly through reading or listening. The
15 difficulties she exhibits are certain to interfere
16 with job performance, particularly when she has to
17 adapt to new situations, rules, and people. Her
18 difficulties with immediate memory and attention
19 undoubtedly cause her to appear less capable than she
20 actually is. If a job situation places demands on her
21 areas of weakness, she is at serious risk of failure.
22 . . . It is recommended that she be considered for
23 disability or receive job rehabilitation training
24 commensurate with her slow processing of information
25 and the ability patterns described above.

20 Based on these test results, an Agency Certification of
21 Reassignment and Accommodation Efforts Report dated August 12,
22 1994 was filed by Bruce Rifkin as Clerk of the Court, concluding
23 that:

24 _____
25 ² Under the equalization plan, Ms. Horton was awarded \$4,089
26 bonus to offset moving expenses and cost of living increase. The
amount is determined by a percentage of Complainant's salary. The
Clerk's Office is not requesting a return of this bonus.

FINDINGS AND CONCLUSIONS - 2

1 Ms. Horton's neuropsychological abnormalities would
2 affect her ability to successfully learn and perform
3 in any position in the Clerk's office. There is no
4 reason to believe that her training experience for any
5 position would be any more successful than the six
6 weeks of training she received for the Jury/Financial
7 backup position. There are no vacant positions in
8 Seattle with the same grade and tenure as the position
9 Ms. Horton held.

6 In bringing this complaint against the Clerk's Office,
7 Complainant asserts that she was "refused rehabilitative/
8 vocational retraining or a possible solution to continue my
9 federal service". Complainant is seeking:

- 10 (1) Reinstatement of her position with rehabilitative/
11 vocational training and back pay to 7/8/94, plus costs
12 and legal fees, or
13 (2) Reinstatement in another federal service position with
14 back pay to 7/8/94, plus costs and legal fees.

14 The Respondent argues that:

- 15 (1) "[U]nknown to us at the time of her hiring, Joy is
16 learning disabled and her impairments fall squarely
17 into the kind of work required by this position."
18 (2) The Jury/Financial Assistant position requires the
19 ability to scan large numbers of juror qualification
20 forms and the ability to work with numbers.
21 (3) John Sweeney's staff trained Complainant for six weeks
22 following the training approach provided by the
23 Federal Judicial Center ("FJC").
24 (4) "The training provided to Joy involved reading and
25 listening, followed by actual doing, with close
26 monitoring and follow-up".³

24 ³As the trainers in the Clerk's Office are unprepared to train
25 the learning disabled, the Court Education Division of the FJC was
26 contacted to investigate additional resources for specialized
training for Complainant. It was found that the FJC does not
provide the individual, or remedial training, Ms. Horton would
need.

1 (5) The specialized rehabilitative training the
2 Complainant requires, is not "a resource the judiciary
3 possesses, nor is this a service the judiciary is
4 required to provide."

5 FINDINGS AND CONCLUSIONS

6 Having considered the materials presented by the parties,
7 including the results of the neuropsychological tests, and
8 having determined that a hearing is unnecessary, the Court finds
9 and concludes that:

10 1. Complainant has learning disabilities that impacted
11 her ability to be trained and function in the Jury/Financial
12 Assistant position;

13 2. Complainant had been given sufficient training that
14 would normally prepare an employee to function as a
15 Jury/Financial Assistant;

16 3. The neuropsychological tests reveal Complainant's
17 disability is such that further training as a Jury/Financial
18 Assistant would be unsuccessful;

19 4. Complainant's "inability to learn very quickly through
20 reading and listening" and difficulty in processing numbers
21 would impact any Clerk's Office position;

22 5. To place Complainant in another federal position that
23 requires reading, listening, and normal processing of
24 information would ensure probable failure;

25 6. On June 15, 1994, Complainant was placed on
26 administrative leave to await the results of prescheduled tests;

1 7. On July 10, 1994, Complainant was placed on sick leave
2 to afford her time to apply for disability;

3 8. On August 14, 1994, Complainant was given the option
4 of being terminated or delaying termination and remaining as a
5 judiciary employee until such time as a decision was made on her
6 application for disability;

7 9. Complainant chose to await the disability
8 determination and by using her sick and annual leave, has
9 received full pay since the date she was placed on
10 administrative leave (June 15, 1994);

11 10. On November 3, 1994, Complainant exhausted all unused
12 leave and was placed on leave without pay status;

13 11. John Sweeney, Administrative Supervisor, and/or his
14 staff did not discriminate against Complainant;

15 12. Bruce Rifkin, Court of the Clerk, did not discriminate
16 against Complainant; and

17 13. While Complainant awaited test results and applied for
18 disability benefits, Bruce Rifkin, Clerk of the Court,
19 accommodated the Complainant by investigating (though
20 unsuccessfully) specialized training and by selecting the option
21 most financially beneficial to the Complainant.

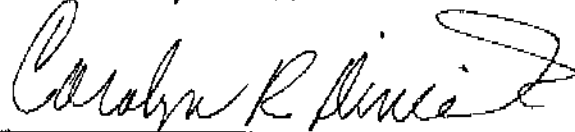
22 Based on the above findings and conclusions, the Court
23 finds that the Clerk of the Court and employees of the Clerk's
24 Office (1) did not discriminate against Joy Horton because of
25 her handicap; (2) nor would it be feasible for the Clerk's
26 Office to reinstate Complainant as a Jury/Financial Assistant;

FINDINGS AND CONCLUSIONS - 5

1 or (3) place her in another federal job position with her
2 learning disabilities. Therefore, this claim is DISMISSED.

3 The Clerk Office is directed to send copies of this Order
4 to Joy Horton, Complainant and Bruce Rifkin, Clerk of the Court.

5 DATED this 16th day of November, 1994.

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8 Carolyn R. Dimmick
9 Chief Judge

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