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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 CHERYL BISHOP,

9 Plaintiff,

10 v.

11 WILLIAM BARR, Attorney General,
12 Department of Justice, Alcohol,
13 Tobacco, Firearms & Explosives,

14 Defendant.

C18-599 TSZ

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable
16 Thomas S. Zilly, United States District Judge:

17 (1) Defendant's motion for reconsideration, docket no. 58, is DENIED in part
18 and DEFERRED in part, as follows:

19 (a) With regard to whether the decision-maker who is alleged to have
20 retaliated against plaintiff knew about plaintiff's protected activity, the motion is
21 DENIED. As the non-moving party, plaintiff was entitled to have the Court draw
22 in her favor all "justifiable" inferences from the evidence. See *Anderson v. Liberty*
23 *Lobby, Inc.*, 477 U.S. 242, 255 (1986). Plaintiff has presented evidence that,
shortly after she engaged in protected activity, the decision-maker substantially
altered the terms of a proposed extended temporary duty assignment for plaintiff,
and that individuals who reported directly to the decision-maker knew about
plaintiff's protected activity. This evidence gives rise to a reasonable inference
that the decision-maker was aware of the protected activity despite his denial of
such knowledge. Thus, the Court cannot conclude that defendant had met its
burden in moving for summary judgment of establishing the requisite absence of a
genuine dispute of material fact. See Fed. R. Civ. P. 56(a).

1 (b) As to whether plaintiff could have advanced to G/S 14 during the
2 extended temporary duty assignment at issue without engaging in a competitive
3 promotion process, the motion is DENIED. Defendant devoted only a footnote to
4 this topic in his motion, and he did not specifically request summary judgment on
5 this issue. *See* Def.’s Mot. at 6 n.1 (docket no. 32). Thus, defendant fails to show
6 any error in the Court’s prior ruling. Moreover, contrary to defendant’s assertion,
7 the Memorandum of Understanding between plaintiff and the Office of Science
8 and Technology does not describe a promotion during the extended temporary
9 duty assignment, but rather a “return full-time to [plaintiff’s] position as a G/S 14
10 Special Agent in the Seattle Group IV-Intelligence Office, Seattle Division” after
11 completion of the extended temporary duty assignment. *See* Ex. 27 to Wing Decl.
12 (docket no. 43-4 at 56). Defendant does not explain how an alleged typographical
13 error concerning plaintiff’s then-applicable pay grade would support summary
14 judgment.

15 (c) With respect to plaintiff’s hostile work environment claim, the
16 motion is DEFERRED. Plaintiff is DIRECTED to file a response, not to exceed
17 ten (10) pages in length, concerning the subjects raised in Section C of defendant’s
18 motion for reconsideration, on or before **noon** on October 9, 2019. Any reply, not
19 to exceed five (5) pages in length, shall be filed by **noon** on October 11, 2019.
20 The deferred portion of defendant’s motion for reconsideration, docket no. 58, is
21 RENOATED to October 11, 2019.

22 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
23 record.

Dated this 1st day of October, 2019.

William M. McCool
Clerk

s/Karen Dews
Deputy Clerk