

Hon. Mariane C. Spearman
Trial Date: 12/5/16
Def's Mtn for Summary Judgment
Noted for: 12/2/16, 9:00 a.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

ALONCITA MONROE, an individual,

Plaintiff,

vs.

CITY OF SEATTLE, a municipal corporation,

Defendant.

No. 15-2-11126-4SEA

**DECLARATION OF SCOTT JENSEN
IN SUPPORT OF DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

I, SCOTT JENSEN, declare as follows:

1. I am the Safety and Health Supervisor at the Seattle Department of Transportation ("SDOT"). I am over the age of eighteen. I have personal knowledge of the facts contained in this Declaration. I am competent to testify as to the matters herein.

2. I have worked in SDOT's Safety and Health Department since 2007. In February 2013, I was a Senior Safety and Health Specialist at SDOT. Among my responsibilities was responding to SDOT supervisors and managers for assistance with the City's fit-for-duty ("FFD") procedures. Prior to 2013, I had received formal training on at least three occasions in City of Seattle FFD procedures. That training included instruction on evaluating employees, including signs and symptoms of being under influence of drugs (including illicit drugs and drugs available by

1 prescription). It also included training on recognizing signs that an employee needs urgent medical
2 attention. The training also covered procedures for FFD evaluations, including observation
3 procedures, the use of standardized forms for obtaining an employee's consent for a FFD exam,
4 contacting medical facilities who contract with the City to perform FFD exams, and more. As of
5 February 2013, I had participated in at least 12 FFD evaluations, many but not all of which resulted
6 in FFD exams.

7 3. On February 8, 2013, I received word from a co-worker in the Safety and Health
8 Department that Paul Jackson had called from SDOT's "Traffic Shop" facility at 4200 Airport Way
9 South in Seattle. Mr. Jackson requested that someone from my department respond to his request to
10 initiate FFD procedures for an employee at the Traffic Shop. I immediately left from my downtown
11 Seattle offices for the Traffic Shop. At the time, I did not know the name of the employee involved.

12 4. When I arrived at the Traffic Shop, I met with Mr. Jackson in his office. He explained
13 to me that several employees had observed Aloncita Monroe behaving strangely, had reported their
14 concerns to him, and that he had gone to Ms. Monroe's office and observed the same strange
15 behavior. I recalled meeting Ms. Monroe at an SDOT new employee Safety orientation some months
16 prior, but knew nothing about her before meeting with Mr. Jackson that day.

17 5. I made several phone calls to co-workers in the Safety and Health Department to let
18 them know that I would be starting FFD observation procedures. I also spoke with Pam Beltz, who
19 was at the time the Citywide FFD coordinator, to advise her that an FFD exam might be necessary.
20 I believe I also spoke with one or more people at SDOT's Human Resources department to let them
21 know that I would begin observing Ms. Monroe.

22 6. I asked Mr. Jackson to bring Ms. Monroe to his office. My role was to make an
23 independent evaluation of Ms. Monroe to determine if it was appropriate to ask her to undergo a

1 FFD exam, which would have involved me transporting her to an independent testing facility where
2 a medical professional would examine her and, if appropriate, conduct one or more tests for drugs
3 or alcohol. The decision move forward with an FFD exam is mine alone. Although I consider the
4 input of supervisors and others who have observed the employee, I will not ask the employee to
5 consent to an FFD exam unless I believe an exam is appropriate based on my own observations.

6 7. I explained my role in the FFD process to Ms. Monroe. As I was speaking to her, I
7 observed that she was unable to focus on me, that her eyes were glassy, that her gaze moved
8 randomly around the room, and that she often stared at the ceiling. She did not respond to some of
9 my questions and she offered strange responses to others. For example, I mentioned to her that other
10 employees had said that she was talking to herself, and she responded by saying something like "I
11 was singing with the rest of the ladies." She frequently repeated herself. My conclusion, based on
12 my own observations, was that Ms. Monroe was likely under the influence of one or more drugs. I
13 had no doubt, based on my observations, that a FFD exam was an appropriate next step. Although
14 what Mr. Jackson had stated to me about his observations and others' observations was consistent
15 with my conclusion, I would have reached the same conclusion regardless. Neither Mr. Jackson nor
16 Ms. Monroe told me anything, at any time, regarding any allegations that he had sexually harassed
17 her.

18 8. I explained to Ms. Monroe that I was requesting that she take a fit-for-duty exam, and
19 that she could either consent to the exam, in which case I would transport her to a nearby testing
20 facility, or she could refuse the exam, in which case she would be placed on administrative leave
21 immediately, and would have to arrange for transportation away from the premises, because I did
22 not believe she was in any condition to drive herself away from the Traffic Shop.

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1 9. I also advised Ms. Monroe more than once that she had the right to request that a
2 union representative assist her during the FFD procedure.

3 10. I came to the Traffic Shop with a copy of the City's "Employee Acknowledgement
4 and Medical Release for Fit for Duty Examination" form. I presented it to Ms. Monroe, offered to
5 read it to her, and she requested that I read it aloud. I read the form aloud. Attached hereto as
6 **Exhibit A** is a true and correct copy of the form that I presented to Ms. Monroe that day.

7 11. Ms. Monroe requested the opportunity to contact her union representative. I provided
8 her with the telephone number for her union, and escorted her to a vacant office next door to Mr.
9 Jackson's office so that she could use a phone in private.

10 12. After Ms. Monroe had been in the adjacent office for 15 to 20 minutes, I returned to
11 check on her. I found her holding the phone receiver in her hand, but not talking or dialing. I asked
12 her if she had made contact with a union representative, and she said that she had spoken to a union
13 receptionist, but had not reached her union representative. I told her that I would give her a few more
14 minutes to reach a representative, but that we needed to move on with the FFD process.

15 13. Ms. Monroe returned to Mr. Jackson's office. I returned to the form that I previously
16 mentioned, and asked again if she would consent to an FFD exam. She moved her pen back and
17 forth between the signature lines for consent and refusal, and finally said something like "I can't go
18 through this again," and signed the portion of the form (**Exhibit A**) for refusing the FFD exam.

19 14. While Mr. Jackson escorted Ms. Monroe to her office to collect her belongings, I
20 contacted one or more of my co-workers in the Safety Department to inform them that Ms. Monroe
21 had refused the FFD exam and had not reached a union representative. Throughout my interactions
22 with Mr. Jackson and Ms. Monroe, I had been phoning my co-workers to update them on what was
23 occurring.

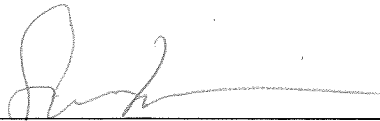
1 15. I cannot recall if Mr. Jackson returned with Ms. Monroe to his office, or if he came
2 back alone. At some point, however, she entered the women's locker room at the Traffic Shop. She
3 was there for a substantial period of time. Mr. Jackson went several times to check on her. From
4 where I was in Mr. Jackson's office, I could hear that Mr. Jackson at some point was talking outside
5 the locker room door. Although I could not hear the words he was saying, I could hear that the tone
6 of his voice did not change during the conversation.

7 16. Mr. Jackson returned to his office and told me that Ms. Monroe wanted to rescind her
8 refusal to take the FFD exam. We confirmed with people in SDOT's Human Resources department
9 that she would be allowed to take the FFD exam. We waited for her to come out of the women's
10 locker room. When she had been inside for a while, Mr. Jackson went to knock on the door. When
11 he got no response, he verified with other employees that she had left the building and that her car
12 was gone.

13 17. I am told that Ms. Monroe states that she came out of the women's locker room and
14 met Mr. Jackson in the common area between Mr. Jackson's office and the locker room. That is not
15 accurate. Mr. Jackson was with me or in my sight until we confirmed that Ms. Monroe had left the
16 Traffic Shop. We did not see Ms. Monroe, and he did not speak to her.

17 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS**
18 **TRUE AND CORRECT.**

19 DATED this 4th day of November, 2016.

20
21 
22 _____
23 SCOTT JENSEN



City of Seattle

EMPLOYEE ACKNOWLEDGMENT AND MEDICAL RELEASE FOR FIT FOR DUTY EXAMINATION

Employee's Name (Last, First, MI) <i>Monroe, Aloncita</i>	Department <i>SPOT</i>	Job Title <i>Admin Spec 1</i>	Date <i>2/8/13</i>
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EMPLOYEE ACKNOWLEDGMENT AND MEDICAL RELEASE

I understand that I have been directed to undergo a FIT FOR DUTY EXAMINATION to evaluate my ability to perform my work duties with reasonable skill or safety. *I further understand that the examining physician will decide on the appropriate medical tests to be performed during this examination based upon information submitted by my supervisor which has caused my employer to believe that I might not be fit for duty.* The medical professional may require that I provide a urine specimen and a breath sample to be used in testing for the presence of drugs and/or alcohol to assist the medical professional in making a fit for duty determination.

I understand that I may be escorted to a City-designated facility for my examination and that I will be required to present a valid driver's license or photo identification. I understand that refusing to submit to this fit for duty examination, failure to provide a specimen as directed, tampering with any specimen, providing false information, or obstructing any portion of my examination constitutes insubordination which can result in my immediate removal from duty and discipline, up to and including termination from City employment.

I understand that my medical records are protected under Federal and State confidentiality regulations and cannot be disclosed without my written permission unless otherwise provided for in such regulations. I understand that I may revoke this medical release in writing at any time, except to the extent that action has been taken in reliance on it, and that, in any event, this medical release will expire 30 days from today.

By my signature, I acknowledge receipt of this directive and I consent to this Fit for Duty Examination. In addition, I authorize the release of my examination results, regarding any medical and/or psychological condition which might impair or limit my ability to perform my job with reasonable skill or safety, on a need to know basis, which may include: the City's medical review officer, my department supervisors, City personnel responsible for administering safety programs and policies, and the law department, as necessary to resolve any issues rising from the results of my examination.

Employee Signature : _____ Date/Time: _____

I understand that I have been directed to submit to a medical examination to determine whether I am fit-for-duty. I also understand that this evaluation can include testing for the presence of drugs and/or alcohol. **I REFUSE TO SUBMIT TO THIS EXAMINATION.** I understand that my refusal to submit to this examination constitutes insubordination which will subject me to discipline, up to and including termination of my employment with the City of Seattle.

Employee Signature : *A Monroe* _____ Date/Time: *2/8/13*

*Requesting leave representative
ASU at 10:39 am.*

revised 6/15/98

on Admin leave.