

BEFORE THE CONGRESS OF THE
THE UNITED STATES OF AMERICA

Testimony AND AFFIDAVIT OF
VA POLICE OFFICER GERALD J.
RAKIECKI, AFFIANT

Re: U.S. Department of Veterans Affairs,
Mismanagement of Veterans Health Records,
Conduct and Ethics Issues, Reprisal for
Whistleblower Activity at the
V.A. Western N.Y. Healthcare System at Buffalo

I, Gerald J. Rakiecki have been invited by Congress to testify in regards to all the knowledge I have about Veterans health care at the Buffalo VA. This written document contains information about events which occurred from December 2011 through the present period of time. Some of the information was directly relayed to me by VA Buffalo HIMS Employee Mr. Leon Davis, VA Buffalo LPN Employee Patricia Morrison, VA Buffalo EMS Employee James E. Carney. The following is my statement and affidavit on this matter.

I served over two years consecutive active duty with the United States Air Force. I am a service connected (disabled) Veteran and I was honorably discharged from my military service. I am employed by the facility as a Police Officer. I have also served as a Steward and a Chief Union Steward with the Service Employees International Union, Local 200United which is the exclusive representative of the VA employees within the particular bargaining unit.

In the course of my collateral duties as Chief Steward, I represented Mr. Tracy Harrison, a VA Health Information Management Systems [HIMS] employee, who was in fact a whistleblower concerning the mismanagement of Veterans medical records. Mr. Harrison made a protected disclosure of damaged and mishandled records and was subsequently threatened by Associate Director [AD] Mr. Jason Pettl.

In December of 2011, I became aware of these allegations of mismanaged records by Mr. James E. Carney, who was also a Union Steward under my charge. Mr. Carney explained to me the four HIMS employee's allegations. Over the next month and half, I had several conversations with Mr. Carney about these allegations and at first it was hard for me to digest the magnitude of what I was being informed of. According to Mr. Carney,

approximately two-hundred and forty (240) boxes containing hundreds of patient records were wet, moldy, stuck together, out of sequence, out of order, inaccessible and unattainable.

Eventually, I informed Ms. Patricia Morrison who is also the current SEIU Divisional Chairperson, for the Buffalo Division. I relayed this information directly to her in January of 2012. In turn Ms. Morrison warned me to keep out of it. Ms. Morrison explained that AD Jason Petti confided in her (Morrison) with his plans take administrative action against the reporting HIMS employees in the form of reclassification, downgrading and possible removal from government service. It became clear to me; Ms. Morrison was placing her support as the SEIU Divisional Chairperson behind Jason Petti and the HIMS Manager Liz Kane, instead of the membership she was elected to represent.

I was aware of a subsequent meeting held between Labor and Management on this matter which took place on February 08, 2012 which proved ineffective. In fact AD Jason Petti made a CLEAR written THREAT against the four HIMS employees Mr. Leon Davis, Cathleen Manna, Pamela Hess-Wellspeak and Tracy Harrison. AD Jason Petti sent a Microsoft Outlook email in which he singled out the whistleblowers by writing "you four." AD Jason Petti also wrote that he expected the four to correct the problem during their work hours in addition to their regular duties (punishment for bringing it to light). AD Jason Petti attached the Union Chairperson Ms. Patricia Morrison to this email. This information is documented in the Agency Investigation/ OSC findings.

The four HIMS employees followed up by making a formal disclosure to the Office of Special Counsel [OSC]. In turn their disclosure resulted in an Agency investigation. As a result of that investigation, a majority of the charges were sustained in September of 2012. An OSC report of the Agency investigation was released to the public in the spring of 2013.

I represented Mr. Tracy Harrison in January 2013 through March 06, 2013 on a proposed discipline. Mr. Harrison was charged with being AWOL (absent without leave) and a Reprimand. Two forms of discipline for one incident. The fact is, Mr. Harrison requested annual leave in the VA's computer leave system. Mr. Harrison's leave was in fact approved and he took his approved leave. Ms. Liz Kane however, performed a corrected time card; reversing Mr. Harrison's approved leave so that she could impose discipline (AWOL and a Reprimand).

The evidence proved the discipline Mr. Harrison experienced, was a direct result of retaliation from HIMS Manager, Ms. Liz Kane. I successfully represented Mr. Harrison by proving to

Assistant Director; Mr. Royce Calhoun the discipline was completely unwarranted, based on the facts in my investigation. I disclosed my proof of retaliation against Mr. Harrison in writing to Assistant Director, Mr. Royce Calhoun. Mr. Calhoun had assumed Ms. Kane's managerial duties for the VA Release of Information (ROI) HIMS on or about February 25, 2013.

What I have learned throughout this entire ordeal is that there are two (2) completely different standards of Employee conduct at my facility. The average Employees is held completely accountable for his or her behavior and or misconduct. However, this standard does not apply to high level Management Employees and Senior Executive Service (SES). Evidence of this exists in the Agency's investigation of mismanaged records and the subsequent report filed by the OSC.

The Agency's investigation and OSC findings clearly proved AD Jason Petti was found to have made four (4) separate threats against four whistleblowers that did their job by reporting wrongdoing. The investigation also proved that AD Jason Petti's investigation of the "moldy records" was not accurate. I believe it is plain to see that AD Jason Petti's investigation was in fact false.

However, AD Jason Petti was not disciplined. AD Jason Petti was recognized for acting quickly. AD Jason Petti was in fact commended for doing the exact opposite of what he should have done and what he is compensated with GS15 pay (\$116,545 through 151,509) to do. Liz Kane received only counseling for her part. A verbal or written counseling is not even considered discipline.

VA Employees in the Senior Executive Service (SES) and high level Management Employees are supposed to be the pillars of integrity, morals and ethics. This entire ordeal has shown me that they are in fact, just the opposite. If an average employee were to be suspected of displaying a lack of candor. That Employee would be harshly disciplined based on a preponderance of the evidence. Which means the Employee would be suspended and or removed if Management "JUST BELIEVED" that they were not being "COMPLETELY TRUTHFUL."

Our system of accountability to our Veterans cannot work unless "EVERY" employee is held equally accountable. The fact that Veterans medical records were sent out to the retirement center wet, moldy, damaged, inaccessible and unattainable shows a clear DISREGARD FOR DUTY and serious ethical violations on the part of the Managers who were in fact "WELL AWARE."

The Managers involved displayed a total disregard for Veterans health. These Veterans depend on the VA to maintain and keep safe their records. Management failed to do so. Management attempted to cover it up, and Management congratulated itself for a job well done. DESPICABLE is the word I see fit to describe Management's conduct and how it affected our Veterans.

Veterans gave their lives in every war we fought. Veterans place their lives on the line for this county every day. We the VA are supposed to help them, treat them and keep them safe. Our Veterans should not have to put their lives on the line TWICE for their country, by seeking assistance or care from a VA Medical Center. Veterans should feel safe and most important BE SAFE, while being serviced and cared for at their local VA Medical Centers.

In closing, I will answers the questions put forth to me by Ms. Samantha Gonzalez from the Congressional Sub-Committee on Veterans Affairs. I will state for the record that due to the aforementioned medical records, and the recent report of misuse of insulin pens. No, I will not seek treatment at the VA in Buffalo. I will not reconsider seeking treatment at the Buffalo VA, until this Agency takes appropriate action concerning the responsible Management officials [RMO].

No, I do not trust the VA system. It is a system in which Managers commit wrongdoing, cover it up and get rewarded for doing so. The end result is an inability for this Agency to identify serious issues and correct them quickly in order to properly serve our Veteran Heroes. Please feel free to ask me any questions and I will do my best to answer. Thank you.

 09/03/2013

Gerald J. Rakoecki

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