

Green v. Hromatka

Case ____ - ____ RBW

Exhibit 16 of ____

WRC Exhibit 16 – Defendant’s defense 03 30 10

From: Green, Marvin E
Sent: Wednesday, March 31, 2010 4:58 PM
To: Yorke, James
Subject: RE: Freetown Overtime Issue: IMS Marvin Green

Categories: Working
Classification: UNCLASSIFIED

I will need at least another week to complete my complaint. When completed I should like to get the OIG's opinion as to the viability of my complaint.

Please assist me by detailing the most appropriate way in which I might approach the IG.
If there are multiple people in the OIG office, which individual do you recommend I approach?

This email is UNCLASSIFIED.

From: Yorke, James
Sent: Tuesday, March 30, 2010 6:21 PM
To: Green, Marvin E
Subject: FW: Freetown Overtime Issue: IMS Marvin Green

Sorry, I pushed send too soon!

From: Yorke, James
Sent: Tuesday, March 30, 2010 2:17 PM
To: Green, Marvin E
Subject: RE: Freetown Overtime Issue: IMS Marvin Green

Marvin: Before I write back to Josh, I wanted to see if you were going to write to me about this issue.

I also wanted to say that in this case I have to agree with HR/RMA. What they told Josh and Ola below ties in with the guidance on overtime:

NOTE:

After speaking with you yesterday, we later called Jeff Miller of HR/RMA/CCS and April Hartman of HR/RMA concerning this issue. They reiterated the following:

- All overtime must be approved by the supervisor;
- Employee cannot on his own volition work/claim overtime without supervisor approval;
- Overtime is covered in the A-100 ((and Specialist Orientation Program)), so employee's argument that he didn't know is invalid;
- Supervisor should advise employee to desist;
- Fraudulent claims of overtime is an OIG issue.

In particular I agree with the second bullet – an employee cannot simply decide to work overtime because s/he feels like it. The Supervisor must have determined a need for that overtime and must approve it. Not necessarily in advance, although in advance is better.

If you'd like to discuss this further with me, please feel free to contact me by e-mail or phone. Best regards, James Yorke, AFSA Labor Management

From: Hromatka, Josh J
Sent: Tuesday, March 30, 2010 1:48 PM
To: Yorke, James
Cc: Criss, Ola B; Green, Marvin E; Marcouiller, Judy
Subject: Freetown Overtime Issue: IMS Marvin Green

Mr. Yorke,

REF: Our conference call to you yesterday with Freetown MGT Officer Ola Criss, Freetown IMS Marvin Green and myself (Freetown IMO Josh Hromatka)

The Management Officer called you yesterday to ask for your advice concerning the reporting of overtime by Freetown IMS Marvin Green. Basically, the issue relates to the interpretation of what is considered valid overtime and how/when/why the overtime claim submission process should be made by the responsible employee and the responsible supervisor. You requested that Marvin and I both send you an Email outlining the issue.

IMS Green has submitted DS-3060 overtime forms requesting to be compensated for regular overtime that was approved in advance and for some irregular overtime periods that were not specifically approved in advance in most cases. When Marvin first presented his DS-3060 form to me, I asked him to explain what specific work the irregular overtime pertained to and to notate that on the form so that I would know what he was asking me to certify. I made this request to him because I was not aware of the need to perform the irregular overtime in most of the occasions that he was claiming for and did not want to sign something that was not correct. Unfortunately, he did not provide that information, has delayed the forms, and consequently, currently has numerous DS-3060 overtime forms dating back to 2008 that have not been submitted or processed in a timely manner.

Marvin claims that I have "refused to sign" his DS-3060 forms. I have always stated that I would be happy to sign the forms but that I had concerns about some of the irregular overtime claims and needed more information about them. I advised Marvin several times from the very beginning to contact Freetown MGT Officer Ola Criss and/or Regional HRO Judy Marcouiller to discuss this issue and get it resolved promptly. Marvin and I met with MGT and HR separately and together months ago but the issue has still not been resolved. Marvin insists that he should be paid for all irregular overtime that he continues to submit in addition to the regular overtime claimed.

I agree and support the fact that Marvin has unprocessed regular and some irregular overtime that he should be compensated for. However, the basis

of my concern regarding the DS-3060 forms has always been to ensure that unspecified irregular overtime claims were justified and essential. Unfortunately, Marvin has not provided specific details to support the validity of those claims. He apparently believes that he can unilaterally claim frequent irregular overtime for, among other things, time that he is present in the embassy after his normal work day--which appears to almost be a daily occurrence based on the DS-3060 forms that he is asking me to sign. The way I understand it, before I can sign the DS-3060 forms for irregular overtime I must know about the justification. Also, he argues I was responsible for filling out the DS-3060 forms in advance.

I want to resolve this issue in a fair and amicable manner and have been trying to do that for a long time. However, Marvin seems to interpret overtime regulations contrary to what MGT and HR have repeatedly advised on this issue. I have asked him numerous times if he has any overtime to submit during regular Time and Attendance (T&A) reporting periods and he would respond by saying that he was too busy to report now, was going to consolidate it or would report it later--which did not happen because of the ongoing issue with irregular overtime.

There appears to be three basic issues involved here:

- 1. Request for claimed irregular overtime without knowledge or approval of supervisor;
- 2. Failure to claim or adequately report overtime in a timely manner (same or next pay period);
- 3. Claim for irregular overtime for "downtime" (reporting to work 15 minutes prior to the beginning of shift, after shift, or even while waiting for car pool).

NOTE:

After speaking with you yesterday, we later called Jeff Miller of HR/RMA/CCS and April Hartman of HR/RMA concerning this issue. They reiterated the following:

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- Employee cannot on his own volition work/claim overtime without supervisor approval;
- Overtime is covered in the A-100 ((and Specialist Orientation Program)), so employee's argument that he didn't know is invalid;
- Supervisor should advise employee to desist;
- Fraudulent claims of overtime is an OIG issue.

After that discussion, the Management Officer instructed Marvin to review and resubmit his outstanding DS-3060 forms based on the discussions and guidance provided by the Management Officer, HR and RMA. Post would appreciate your advice and guidance to resolve this issue.

Please advise. Thank you. Josh Hromatka/IMO Freetown

SBU

This email is UNCLASSIFIED.