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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Donsia Strong & Stephen Warnath to Phil Lader re: EEOC Hearing (2 pages)		P5

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COLLECTION:
Clinton Presidential Records
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Stephen Warnath (Civil Rights)
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FOLDER TITLE:
[Harassment - Religious and Consolidated Guidelines]

ds76

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

~~[illegible]~~ from Bruce

Galston

Rahm

Steve Warnath

to [illegible]

THE PRESIDENT HAS SEEN
5.4.95

- **Justice May Appeal To Supreme Court In VMI Single-Gender Education Case:** By Wednesday April 26, the Justice may file for a writ of certiorari in United States v. Commonwealth of Virginia (VMI), where the 4th Circuit approved Virginia's plan to create a separate program for women at Mary Baldwin College, called the Virginia Women's Institute for Leadership. Justice will argue that offering a different type of single-gender educational program relies on impermissible stereotypes, that this remedy is at odds with Supreme Court cases prohibiting denial of opportunity based on generalizations that most women would not benefit.

- **Harassment Of Female Police In Ormond Beach, Florida.** On April 20, Justice will file United States v. City of Ormond Beach, Florida, alleging that city police have engaged in a pattern of sexual harassment and retaliation against female employees.

- **First Criminal Environmental Justice Prosecution.** In U.S. v. Herman W. Parramore, Jr., et al., on April 12, in the first criminal prosecution under the Environmental Justice Initiative, Herman W. Parramore, Jr., entered a guilty plea to two felony counts, for the knowing illegal discharge of untreated acidic substances into the Tifton Georgia Public sewer system and storage of vast quantities of hazardous wastes without a RCRA permit.

- **Dismissals Of Habeas Corpus Petitions Follow Standard In Matter of Chang.** Federal District Courts in 3 different jurisdictions recently dismissed a combined 31 habeas corpus petitions filed on behalf of Peoples' Republic of China (PRC) nationals who had based their asylum claims on China's coercive family planning policy. In all cases, the courts agreed with the decision of the Board of Immigration Appeals in Matter of Chang, which held that enforcement of China's coercive family planning policy does not form a basis for asylum unless the applicant can show that he or she was the target of enforcement on account of his or her race, religion, nationality, political opinion, or membership in a particular social group. These dismissals follow related decisions in the 5th and 4th Circuit Courts of Appeals holding that Matter of Chang is the proper standard.

Leon [illegible] to discuss this - B

- **Beer Labeling:** On April 19, the Supreme Court in Rubin v. Adolph Coors Co. held, in a unanimous opinion, that the Section of the Federal Alcohol Administration Act of 1935, which prohibits beer labels from displaying alcohol content, violates the 1st Amendment. The Court recognized that the government has a substantial interest in preventing "strength wars" among beer brewers. The Court also determined that the government's interest could be served by other means that would be less restrictive than a labeling ban, such as by limiting the alcohol content of beer. The opinion of the Court was written by Justice Thomas.

- **Mexico Seizes 10 Tons Of Marijuana.** On April 3, Mexico's Institute for Combatting Drugs (INCD), with support from the U.S. DEA, seized 10 tons of marijuana and arrested 4 defendants in Mazatlan, Mexico.

1994, Congressman Howard (Buck) McKeon and 43 other Members of Congress wrote EEOC expressing concern about the inclusion of religion in the consolidated Guidelines. Congressman Frank Wolf further expressed his concerns at the March 24, 1994, House Appropriations Subcommittee hearing on EEOC's fiscal year 1995 budget. In the Senate, Senators Howell Heflin, Charles Grassley, Orrin Hatch and Don Nickles also raised concerns about EEOC's proposed Guidelines.

During this rulemaking process, the Commission has made every effort to learn of the concerns of groups opposed to the Guidelines. Toward this end, EEOC staff met with several interest groups, including the Traditional Values Coalition, the Family Research Council, the National Association of Evangelicals, the Center for Law and Religious Freedom, the Christian Legal Society and the Civil Liberties Union on February 24, 1994. EEOC staff also has met with concerned Members of both the House and Senate and provided technical assistance briefings for staff. In addition, on March 18, 1994, Commission staff met with representatives of People for the American Way, the Baptist Joint Committee, the American Jewish Congress, and other religious groups who have stressed the importance of keeping religion in the Guidelines.

Because of the continued concerns expressed on the issue, on May 6, 1994, the Commission voted to extend the official comment period on the consolidated harassment Guidelines an additional 30 days. The notice of the extension was published in the Federal Register on May 13, 1994. To accommodate all interested parties further, the Commission voted on May 27, 1994 to accept all public comments received on the proposed guidelines from December 1, 1994 through May 12, 1994 as official comments.

Senator Howell Heflin, Chairman of the Senate Judiciary Subcommittee on Courts and Administrative Practices, held a hearing on EEOC's proposed Guidelines on June 9, 1994. Witnesses included Congressman Howard McKeon; Executive Director Douglas Gallegos, Acting Legal Counsel Elizabeth Thornton and Associate Legal Counsel Dianna Johnston of EEOC; Robert Peck on behalf of the ACLU, Rev. Louis Sheldon of the Traditional Values Coalition; Marc Stern on behalf of the American Jewish Congress; Michael Whitehead representing the Southern Baptist Convention; Douglas Laycock, noted legal scholar in the area of church/state issues, from the University of Texas School of Law; Atlanta labor attorney Dudley Rochelle; and for the business perspective, Dan Cathy, Executive Vice President for Chick-fil-A, Inc.

On May 26, 1994, and June 7, 1994, legislation was introduced expressing the sense of Congress regarding EEOC's proposed consolidated Guidelines. **House Resolution 446, Resolution Concerning Religious Harassment in Employment,** by Congressman Howard McKeon and **Senate Resolution 219, Resolution Concerning**

Administrative Guidelines Applicable to Religious Harassment, by Senator Hank Brown both urge EEOC to delete religion from its proposed Guidelines.

During the June 15, 1994, mark-up of EEOC's fiscal year 1995 budget request by the full House Committee on Appropriations, Congressman Charles Taylor (R-NC) offered an amendment to eliminate funds for EEOC related to the issuance of guidelines related to religious harassment; the amendment was defeated.

On June 16, 1994, Senators Brown and Heflin circulated a "Dear Colleague" letter to solicit support for a sense of the Congress resolution expressing that EEOC: 1) delete and treat religion separately from other categories of harassment; 2) make clear in any new guidelines that expressions of religious beliefs are not restricted; 3) hold public hearings on new proposed guidelines; and 4) receive additional public comment before issuing new guidelines. Language contained in the proposed resolution was offered in the form of an amendment to S. 1491, Federal Aviation Administration Authorization Act of 1993, during June 16 debate of the measure on the Senate floor. Following strong protest from Senator Metzenbaum, the amendment was modified to strike language deleting and treating religion as a separate category of harassment. The amendment, as modified, was approved by a vote of 94 to 0.

EEOC continues to review all comments submitted, but has not made any determinations concerning the manner in which it will deal with the Guidelines. The Commission is carefully studying this issue and all the options available to it -- from revision with clarifications to dealing with religion in a separate guidance.

LEGISLATION TO ADDRESS SUPREME COURT DECISION IN ST. MARY'S HONOR CENTER V. HICKS:

The June 25, 1993 decision of the Supreme Court in St. Mary's Honor Center v. Hicks increased the burden of proof on plaintiffs in employment discrimination cases.

The Commission and the United States submitted an amicus curiae brief in Hicks arguing that a showing in a Title VII case that the employer's explanation for its actions is not credible is sufficient to meet the plaintiff's burden of proof. The Supreme Court in Hicks rejected this position.

In a September 28, 1993 response to a request for the Commission's views on the Hicks decision from the House Committees on Education and Labor and the Judiciary, EEOC Chairman Gallegos wrote that the Commission had not changed its position on this issue, and maintained that Hicks was wrongly decided. The letter further stated that the Commission believed

the decision would have a negative effect on its enforcement efforts and, therefore, should be overridden by appropriate legislation.

The following bills introduced in the 103rd Congress would restore the standard for proving discrimination to the pre-Hicks standard:

Civil Rights Standards Restoration Act, H.R.3680/S. 1776

On November 22, 1993 Congressman Major Owens introduced H.R. 3680 in the House; the measure was jointly referred to the House Committee on Education and Labor and Committee on the Judiciary.

On the same date, Senator Howard Metzenbaum introduced the Senate companion bill, S. 1776; the bill was referred the Senate Committee on Labor and Human Resources.

Employment Discrimination Evidentiary Amendment of 1993, H.R. 2787

Introduced in the House on July 28, 1993 by Congressman David Mann, the measure was referred to the Committee on Education and Labor.

Disparate Treatment Employment Discrimination Amendment of 1993, H.R. 2867

Introduced on August 4, 1993 by Congressman Alcee Hastings, H.R. 2867 was referred to the House Committee on Education and Labor.

No further Committee actions have been scheduled on these bills.

CIVIL RIGHTS ACT OF 1991 PROVISIONS RELATING TO WARDS COVE V. ATONIO:

Justice for Wards Cove Workers Act, H.R. 1172/S.1037

This legislation amends the Civil Rights Act of 1991 to eliminate the exclusion from coverage of the Act to disparate impact cases filed before March 1, 1975 and decided after October 30, 1983 -- essentially carving out a one-case exemption for the Wards Cove case. Because the claimants in the Wards Cove case are principally Asian/Pacific Americans, this bill is of the greatest importance to the Asian/Pacific American civil rights community.

Introduced in the House on March 2, 1993 by Congressman Jim McDermott, H.R. 1172 was jointly referred to the Committee on Education and Labor and Committee on the Judiciary. The measure

was marked-up on March 17, 1993 by the House Subcommittee on Civil and Constitutional Rights.

In the Senate, S. 1037 was introduced on May 27, 1993 by Senator Patty Murray and referred to the Committee on Labor and Human Resources.

No further Committee actions have been scheduled on these bills.

LEGISLATION TO REMOVE CAPS ON DAMAGES:

Equal Remedies Act of 1993, H.R. 224/S. 17

The legislation removes the provisions in the Civil Rights Act of 1991 limiting the dollar amount of damages awarded in cases of intentional employment discrimination.

H.R. 224 was introduced in the House on January 5, 1993 by Congresswoman Barbara Kennelly and jointly referred to the Committee on Education and Labor and Committee on the Judiciary. The Senate companion bill, S. 17, was introduced on January 21, 1993 by Senator Edward Kennedy and was referred to the Senate Committee on Labor and Human Resources.

The Senate Committee on Labor and Human Resources is planning to hold hearings on the bill, but no further Committee actions have been scheduled on these bills.

LABOR LAW COVERAGE OF FOREIGN VESSELS:

Coverage of Federal Labor Laws to Foreign Vessels, Extension, H.R. 1517/S. 1855

The legislation extends coverage of the National Labor Relations Act and the Fair Labor Standards Act to certain foreign vessels transporting passengers to and from a place in the U.S.

H.R. 1517 was introduced in the House on March 30, 1993 by Congressman William Clay and was referred to the Committee on Education and Labor. The measure was marked-up by the Subcommittee on Labor Standards, Occupational Health and Safety on October 28, 1993 and approved by the full Committee on Education and Labor on April 13, 1994.

The Senate counterpart, S. 1855, was introduced on February 11, 1994 by Senator Harris Wofford and was referred to the Senate Committee on Foreign Relations. No further action has been scheduled.

SEXUAL HARASSMENT:

Sexual Harassment Prevention Act of 1993, H.R. 2829/S. 1979

This legislation requires private, federal and congressional employers to post notices concerning sexual harassment which are approved or prepared by EEOC; to provide annual notices to individual employees containing information to resolve allegations of sexual harassment; and requires that EEOC make model notices and voluntary guidelines for procedures to address sexual harassment allegations.

H.R. 2829 was introduced in the House on August 2, 1993 by Congressman George Miller and was jointly referred to the House Committees on Education and Labor, Committee on House Administration, and Committee on Post Office and Civil Service.

The Senate companion bill, S. 1979, was introduced on March 24, 1994 by Senator Patty Murray and was referred to the Senate Committee on Labor and Human Resources. No further action has been scheduled.

Harassment-Free Workplace Act, S. 1864

The bill amends Title VII of the Civil Rights Act of 1964 to prohibit sexual harassment by employers of fewer than 15 employees.

Introduced in the Senate on February 24, 1994 by Senator Dianne Feinstein, the measure was referred to the Committee on Labor and Human Resources.

Economic Equity Act of 1993

A comprehensive bill to ensure economic equity for American women and their families by promoting fairness in the workplace; creating new economic opportunities for women workers and women business owners; helping workers better meet the competing demands of work and family; and enhancing economic self-sufficiency through public and private reform and improved child support enforcement. The legislation contains the provisions of the Sexual Harassment Prevention Act and the Federal Employee Fairness Act.

Introduced in the House on July 28, 1993 by Congresswoman Pat Schroeder, the bill was jointly referred to the House Committees on Armed Services; Banking, Finance and Urban Affairs; Education and Labor; Foreign Affairs; House Administration; Natural Resources; the Judiciary; Post Office and Civil Service; Rules; Small Business; and Ways and Means. No further action has been scheduled on the bill.

SEXUAL ORIENTATION:

Civil Rights Amendments Act of 1993, H.R. 423

This bill amends the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of sexual orientation.

Introduced in the House on January 5, 1993 by Congressman Edolphus Towns, the measure was jointly referred to the Committee on Education and Labor and the Committee on the Judiciary.

Civil Rights Act of 1993, H.R. 431

H.R. 431 prohibits discrimination on the basis of sexual orientation in employment, education, credit, housing, sale or use of goods or services, or in federally assisted programs.

Introduced in the House on January 5, 1993 by Congressman Henry Waxman, the measure was jointly referred to the Committee on Education and Labor and the Committee on the Judiciary.

ALTERNATE DISPUTE RESOLUTION:

Employment Dispute Resolution Act of 1993, H.R. 2016

This bill amends Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act to provide pre-suit mediation of employment related disputes by the Federal Mediation and Conciliation Service or other mediator.

Introduced in the House on May 6, 1993 by Congressman Steve Gunderson, the measure was jointly referred to the Committee on Education and Labor and the Committee on the Judiciary.

MANDATORY ARBITRATION:

Protection from Coercive Employment Agreements Act, S. 2012

S. 2012 amends Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; and the Age Discrimination in Employment Act to prohibit employers from requiring employees to submit employment discrimination claims to mandatory arbitration.

Introduced in the Senate on April 13, 1994 by Senator Russell Feingold, the measure was referred to the Senate Committee on Labor and Human Resources.

PAY EQUITY:

Pay Equity Employment Reform Act of 1994, H.R. 3738

H.R. 3738 promotes equitable pay practices within the federal civil service and the legislative branch and requires that the executive branch gather and disseminate information concerning techniques to eliminate discriminatory wage-setting practices and wage disparities based on sex, race, or national origin. The bill authorizes an appropriation of $100 million to EEOC for each fiscal year 1995 through 1999 to strengthen enforcement of wage discrimination laws and to increase public awareness of these laws.

Introduced in the House on January 26, 1994 by Congressman Mike Andrews, the measure was jointly referred to the House Committees on Post Office and Civil Service, House Administration, Ways and Means, and Education and Labor.

PREFERENTIAL TREATMENT:

Civil Rights Restoration Act of 1993, S. 53

S. 53 amends Title VII of the Civil Rights Act of 1964 to prohibit preferential treatment with respect to selection, compensation, terms, and conditions of employment.

Introduced in the Senate on January 21, 1993 by Senator Jesse Helms, the bill was referred to the Senate Committee on Labor and Human Resources.

ATTORNEYS FEES:

Civil Rights Act of 1964, Amendment, H.R. 1215

H.R. 1215 amends Title VII of the Civil Rights Act of 1964 to require that reasonable attorney's fees be awarded to EEOC as a prevailing party.

Introduced in the House on March 4, 1993 by Congressman Robert Andrews, the measure was referred to the House Committee on Education and Labor.