

NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS  
AFGE LOCAL 2505  
Representing ALL of Oklahoma  
6128 E. 38<sup>th</sup> STREET, STE 200  
TULSA, OK 74135  
Tel 918-581-6379  
Fax 918-581-6380

March 24, 1999

Jack Armstrong  
Manager  
Poteau, OK SSA Office  
Poteau, OK

Dear Mr. Armstrong:

This is a grievance pursuant to Article 24, Section 9 of the AFGE/SSA National Agreement. A request for information [5 USC 7114(b)(4)] will follow.

By letter dated February 8, 1999, Area Director Ron Marshall notified Theresa McReynolds, CR in Poteau, OK that her request for a hardship transfer was denied. The reasons cited for the denial are:

1. Ms McReynolds' situation does not meet the definition of hardship;
2. A transfer would create an undue **hardship** for a SSA office (Poteau, OK);
3. Ms McReynolds resides in the Poteau commuting area (?)

The decision is deficient since no discussion of the working definition of "hardship" is given. Implied in any decision concerning "hardship" is the existence of a set of criteria against which the individual's situation is compared. The criteria, which must have been applied, should meet certain minimum requirements which allow objective evaluation of any employee's situation. The common-sense requirement for reasonably objective criteria not only aids in preventing personal, subjective considerations from entering into the decision, but also allows employees to evaluate the reasonableness of decisions affecting them personally.

Ms McReynolds has the right to know in reasonable detail how the decision was made to deny the hardship transfer. She has therefore been denied the opportunity to respond and /or supply sufficient evidence to support her assertion of hardship. It is difficult to see how clear, provable danger to her infant's health and resulting difficulties in access to medical attention and day-care do not escalate to a real hardship. But if **doubt existed**, it was incumbent on the decision maker

to have requested sufficient evidence to remove that doubt or to confirm the decision not to allow a hardship transfer. No such decision process was apparently employed. Ms McReynolds was presented with a decision that is arbitrary and capricious on its face.

The Grievant suggests that reasonable basic criteria for qualification for hardship transfer should not exceed the minimum requirements as stated on any solicitation of interest (SIN) or other official vacancy announcement which would qualify an employee for a (lateral) transfer.

In addition, criteria for the evaluation of hardship claims must be reasonably objective around certain considerations. A hardship must be found if a verifiable condition exists which causes or would cause emotional or financial stress on the employee or the employee's family, and/or if the condition causes danger to the health and well being of the employee and/or the employee's family. Provided a hardship exists, then the SSA is required to consider the person eligible for transfer regardless of any other considerations except those described above.

None of this prevents management from making a considered decision. However, the employees' right to know of conditions (in this case, hardship criteria) affecting their work lives gives rise to SSA's obligation to communicate those conditions, either by general notice or in a reasoned individual decision. It is apparent this process was not applied in Ms McReynold's case.

Office staffing is not a valid criterion. Staffing issues are the responsibility of management. The oversight or lack of expertise of the office manager to deal with a minor responsibility is no justification to adversely affect the welfare of a career employee. Although a thin discussion was made of management's staffing dilemma, there was no description of management's efforts to utilize alternative methods to alleviate the "problem", apparently because no such effort was made. In essence, Ms McReynolds was blamed for a situation over which she has no control.

Unfortunately, it appears that elements of discrimination and pretext have affected Ms McReynold's chances for a fair decision. The Poteau Office Manager admitted to the grievant that he does not decide hardship transfers. However, he on several occasions said that he would not allow her to transfer. Such remarks are unprofessional. Such behavior on the part of the Poteau manager brings suspicion that this person unilaterally lobbied the decision maker to decide the case on other than meritorious considerations, and that the decision was in fact influenced to Ms. McReynold's disadvantage.

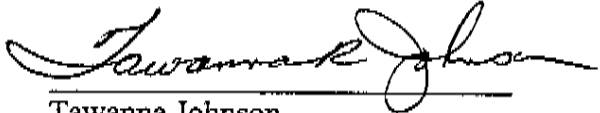
It is clear that but for management's lack of reasonable criteria for hardship transfers (that is, use of inconsistent, impermissibly subjective and not communicated criteria), the introduction of at least one criterion (office staffing) which does not relate to hardship or the individual merit of the employee, and the abuse of professional standards by at least one member of management, Ms McReynolds would have been provided a hardship transfer as originally requested.

Relief in this grievance includes, but is not limited to:

1. Immediate transfer of Ms McReynolds to Fort Smith, AR or to another acceptable location which will allow relief of the hardship.
2. In consultation with Local 2505, management prepare and distribute a notice to the Local 2505 bargaining unit. The notice will clearly describe the process used in effecting hardship transfers to non-bargaining unit offices. The notice will describe to a reasonable degree the hardship and non-hardship criteria used in making the decision.

---

Theresa McReynolds  
Grievant



---

Tawanna Johnson  
District Vice President  
AFGE Local 2505

Theresa L. McReynolds  
11 Sunset  
Fort Smith, Ar. 72901

Personnel Operations  
Suite 130  
1301 Young Street  
Dallas, TX 75202-5433

To whom this may concern,

It is with regret that I respectfully request a transfer from Poteau, Oklahoma to Fort Smith, Arkansas based on financial and emotional hardship.

It is at this time that I find myself, a single mother, unexpectedly expecting a child (due January 30, 1999) for which I will be the sole support. As a result, I am required to cut my living expenses and costs to the minimum in order to be able to meet the expenses required for this newborn child. I have found that the expenses far exceed any excess monetary funds I now have and may be greater than one-half my monthly net.

In addition, it is my wish that my position not create undue emotional trauma to her or myself by being away for excess hours as is now required because of my travel time. I can not justify being away ten or more hours a day from a child whose existence depends solely on me. Also, the forty mile distance creates an extreme hindrance in case of an emergency.

Though it is also my wish that this not cause undue hardship on the office for which I work or my fellow employees, I must place the value of my child above any desire I may have for myself or those I have so arduously worked with and for.

Thank you for your courtesy in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Theresa L. McReynolds". The signature is written in dark ink and is positioned above the typed name.

Theresa L. McReynolds



## SOCIAL SECURITY ADMINISTRATION

110 Hulsey Avenue  
Poteau OK 74953  
Telephone 918/647-9512  
Fax 918/647-9194  
5/4/99

Ms. Tawanna Johnson  
Union Representative  
AFGE Local 2505  
7 East Choctaw Suite 200  
McAlester OK 74501

Dear Ms. Johnson:

This is in response to the Step 1 grievance you filed on behalf of Ms. Theresa McReynolds regarding the denial of her request for a hardship reassignment. The relief you seek is approval of the hardship reassignment of Ms. McReynolds from the Poteau, OK office to the Fort Smith, AR office or to another acceptable location. An additional relief sought is the distribution of a notice which describes the process of hardship transfers to non-bargaining unit offices, including the criteria used in making the decision.

Since the Fort Smith, AR office is a non union office, it is not covered by the Hardship Reassignment Memo of Understanding between AFGE, Council 220 and the Social Security Administration. However, all requests for reassignments due to hardships rests with the Area Director.

I must deny the relief you seek on behalf of Ms. McReynolds. The decision for reassignment rest with the Area Director, Ron Marshall, who determined Ms. McReynolds' request does not constitute a hardship.

You may appeal this decision to the Step 2 official within 5 working days of receipt of this notice. The Step 2 official is Dorothy French, District Manager, 7 East Choctaw Suite 200, McAlester, Ok., 74501. You may also reach her at 918-423-1942.

Sincerely,

  
T. Jack Armstrong  
District Manager

JUN 10 1999

Theresa McReynolds  
11 Sunset  
Fort Smith Ar 72901

June 5, 1999

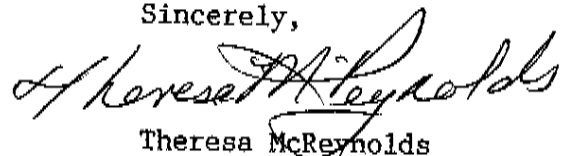
To whom it may concern:

I am at this time requesting an additional six months of leave without pay to begin on 07/05/99 and end on or before 01/05/00. It is for the following reasons that I make this request:

1. To date I have been unable to obtain adequate and appropriate childcare.
2. I have no family members in this area who would be able to assist with childcare.
3. My finances do not offer me the opportunity to obtain childcare or travel the distance to Poteau, Ok.
4. My emotional state of mind is such that I am not able to leave an infant in another city and return to work in Poteau, Ok.
5. I am waiting for approval of a hardship transfer to Fort Smith, Ar to alleviate emotional and financial stress.
6. I am in the process of seeking psychological counseling for myself and my children concerning the above.

It is my wish to return to work upon completion of the above.

Sincerely,

  
Theresa McReynolds

NATIONAL COUNCIL OF SSA FIELD OPERATIONS LOCALS  
AFGE LOCAL 2505  
6128 E. 38<sup>TH</sup> STREET, STE 200  
TULSA, OK 74135  
Tel 918-581-6379  
Fax 918-581-6380

July 12, 1999

Mr. Ron Marshall  
Area Director  
1301 Young St. Suite 400  
Dallas, Texas 75202-5433

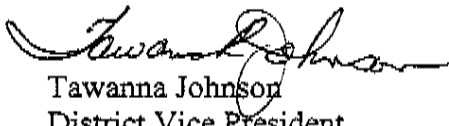
Dear Mr. Marshall:

This is in response to Dorothy French's reply on behalf of Ms. Theresa McReynolds regarding the denial of her request for a hardship reassignment. We still seek approval of the hardship reassignment of Ms. McReynold's from the Poteau, Ok office to the Ft. Smith, AR office or to another acceptable location.

As Ms. French states in her reply that the decision for all hardship reassignments rests with the Area Director we are soliciting a meeting with you to continue this grievance on behalf of Ms. Reynolds. Hopefully, a telephone conference call can be arranged with you, myself and Ms. Reynolds at a time that is acceptable to all of us.

As Ms. McReynold's is in a bargaining unit, she is covered by the Hardship Reassignment Memo of Understanding between AFGE, Council 220 and the Social Security Administration.

Sincerely,



Tawanna Johnson  
District Vice President  
AFGE Local 2505

Oct. 6, 1999

Ms. Tawanna Johnson  
Union Representative  
AFGE Local 2505  
7 East Choctaw, Suite 200  
McAlester, OK 74501

Dear Ms. Johnson:

This is in response to the 3<sup>rd</sup> stage grievance filed on behalf of Ms. Theresa McReynolds dated July 12, 1999. In the 1<sup>st</sup> stage grievance filed on March 24, 1999 you stated the grievance was being filed pursuant to Article 24, Section 9 of the AFGE/SSA National Agreement. The issue being grieved was the denial of Ms. McReynold's request for hardship transfer from the Poteau, OK field office to the Ft. Smith, AR field office. The relief sought was:

1. The immediate transfer of Ms. McReynolds to Fort Smith, AR or to another acceptable location which will allow relief of the hardship; and
2. In consultation with Local 2505, management prepare and distribute a notice to the Local 2505 bargaining unit. The notice will clearly describe the process used in effecting hardship transfers to non-bargaining unit offices. The notice will describe to a reasonable degree the hardship and non-hardship criteria used in making the decision.

As background, on Nov. 23, 1998 an SSA 4100 transfer request and letter requesting a hardship transfer to the Fort Smith, AR office, was received in the Personnel Operations Branch. This request was forwarded to my office on December 2, 1998. By letter dated Feb. 8, 1999, I informed you that the request for transfer could not be accommodated. I outlined several reasons why the request could not be approved. First, Ms. McReynolds' situation did not meet the definition of a hardship. Second, the Fort Smith office was at its authorized staffing allocation and did not have a vacancy. Finally, Ms. McReynolds' transfer from the Poteau office would create an undue hardship on the employees of that office because of staffing shortages in the office.

In the 1<sup>st</sup> stage grievance you identified two primary reasons why you felt the decision to deny Ms. McReynolds request was deficient. You stated that there was no discussion of a "working definition" of hardship and that any decision concerning "hardship" implies the existence of a set of criteria against which an individual's situation is compared.

Accordingly, you did not believe the decision to deny Ms. McReynolds request used such a process and, therefore, the decision was arbitrary and capricious on its face.

Second, you stated that the use of office staffing was not a valid criterion for denying an employee's request for hardship transfer. You further stated that, "staffing issues are the responsibility of management. The oversight or lack of expertise of the office manager to deal with a minor responsibility is no justification to adversely affect the welfare of a career employee."

On Aug. 20, 1999 a telephone conference was held between you, Ms. McReynolds and me. During that conference several issues were discussed that you and Ms. McReynolds felt contributed to her need for a hardship transfer to Fort Smith. Those issues were:

1. Ms. McReynolds was commuting 28-30 miles one way to work each day. She was a single mother and had no family support network in the area. Therefore, she would be required to transport the child to and from childcare each day. She felt transporting the child to Poteau on a daily basis posed too much of a health risk to the baby; therefore, she wanted to arrange for childcare in the Fort Smith area. However, by having the baby in a childcare facility in Fort Smith she felt this would also pose a potential health risk. Since she was working in Poteau she would be at least 30 or more minutes away from the child in the event of an emergency. Since she had decided to locate childcare in the Fort Smith area the only solution to this dilemma was to transfer to the Fort Smith office.
2. Ms. McReynolds was a single mother with a newborn child. She was the sole support for her family. The addition of a newborn child had created an additional strain on her financial resources. She was not receiving child support and, therefore, if she could reduce her commuting distance this would also reduce her living expenses.
3. Ms. McReynolds would be requesting time off from work to attend what she believed would be protracted court proceedings. Since she would be required to attend the court proceedings in Fort Smith, a transfer to Fort Smith would save her one or more round trip commutes to Poteau on those days she would have to be in court. In addition, she was scheduled to start counseling in a couple of weeks in Fort Smith. This could also cause her additional stress and expenses.
4. It is very difficult for a single parent with a newborn child. Ms. Johnson, the union representative, felt that the agency should recognize this difficulty and try to accommodate the employee, if possible.

When evaluating a request for a hardship transfer, not only must I consider the needs of the employee but I also have a duty and responsibility to consider the impact on public service and the agency. The first step is to determine if there is a qualifying hardship. For employees requesting a transfer to an office covered by the AFGE/SSA National contract,

“hardship” is defined in a Memorandum of Understanding dated July 17, 1992. In the memorandum, “hardship” is defined as, “a set of circumstances that are so severe that they jeopardize the employee’s or his/her family’s health or financial security.” For employees requesting a transfer to an office not covered by the AFGE/SSA National contract the hardship provisions of the MOU are not applicable. However, in an effort to be consistent and equitable the definition shown above is used as a guide.

Once it is determined that a qualifying “hardship” exists, then I must determine if there is an available vacancy in the geographic area to which the employee wants to be reassigned. This is done through discussions with the appropriate management officials of both the losing and gaining offices.

In considering Ms. McReynolds’ request, I had to look at a number of factors and answer the following questions. First, how had her circumstances changed and what impact did this change have on her and her family? Next, was this change so severe that it met the definition of “hardship” as defined above? Since the primary issue was commuting distance, I reviewed existing regional policies and guidelines to determine if there was a predetermined distance that applied to the definition of normal commuting area. Last, if this situation did meet the definition of a hardship was there an available vacancy in the location she had requested?

In her request, Ms. McReynolds’ indicated that the primary change in her circumstances was the birth of her baby and the resulting financial and emotional impact. In evaluating her request, I noted that she had entered on duty with SSA in July 1996. Her official duty station was the Poteau, OK field office. At the time she entered on duty she was living in Fort Smith, AR and had continued living there, commuting to and from Poteau daily. The distance between the Poteau, OK and Fort Smith, AR office was approximately 25 miles. SSA normally uses a distance of 35 miles between offices to define the normal commuting area. The distance between Fort Smith, AR and Poteau, OK falls within this 35 mile radius.

The next issue to be decided was did this change in circumstances rise to the level of a hardship as defined above? There is no question that the birth of a child to a single parent presents many challenges for the parent. However, does that event alone or in combination with other issues create a situation that meets the definition of hardship. Again, the primary issue that caused the transfer request was the commuting distance between the employee’s home and place of work. While a 28-30 mile commute may present a certain amount of inconvenience and a family challenge, it should be noted that many employees in the area and throughout the region commute at least that far to work each day. Many of these employees are single parents with small children. While I am sympathetic to Ms. McReynolds’ personal situation, I do not find that the commuting distance in question is so severe as to meet the definition of hardship as defined above. Therefore, I must deny the grievance filed on March 24, 1999.

While I do not believe Ms. McReynolds’ personal situation meets the definition of

hardship, I do believe that as a single mother with no other support network in the area, she is faced with some short-term challenges that can appear overwhelming. Therefore, in order to provide temporary relief to Ms. McReynolds and to promote the efficiency of the agency, I am detailing Ms. McReynolds to the Fort Smith, AR office for 120 days and will continue the detail in 120 day intervals. During this detail assignment she will be responsible for processing workloads for the Poteau District. In the event an authorized vacancy occurs while Ms. McReynolds is on detail assignment she will be given serious consideration for permanent reassignment to the Fort Smith, AR office.

Ron Marshall  
Area Director, Area I