

Department of Veterans Affairs Office of Inspector General

Administrative Investigation Abuse of Authority and Preferential Treatment Charlie Norwood VA Medical Center Augusta, Georgia

Redacted



DEPARTMENT OF VETERANS AFFAIRS Office of Inspector General Washington, DC 20420

TO: Director, Veterans Integrated Service Network (10N7)

SUBJECT: Administrative Investigation – Abuse of Authority and Preferential

Treatment, Charlie Norwood VA Medical Center, Augusta, Georgia

(2008-01596-IQ-0024)

Summary

We substantiated that Ms. Rebecca Wiley, Director of the Charlie Norwood VA Medical (b)(6) Center, Augusta, Georgia, abused her authority when she improperly applied a title 38 hiring authority, against the advice of to appoint a former Congressional staff employee to a VA position. In doing so, Ms. Wiley used improper statutory authority and circumvented the competitive hiring process. In addition, the method and timing of her actions created the appearance of preferential treatment toward a days before a public ceremony, attended by Senators, Members of Congress, congressional staff, as well as local and state officials, renaming the Augusta VA Medical Center (VAMC) after the deceased Congressman.

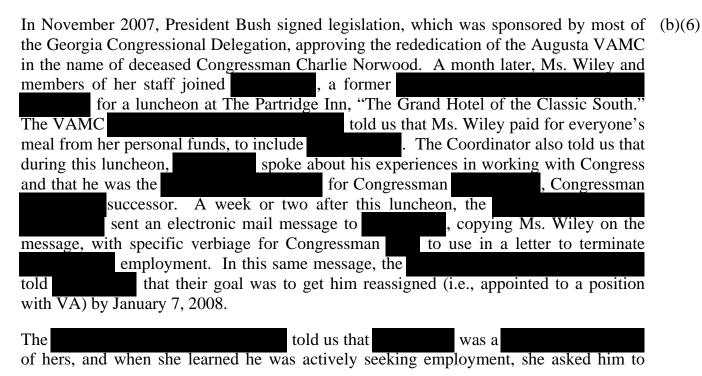
Introduction

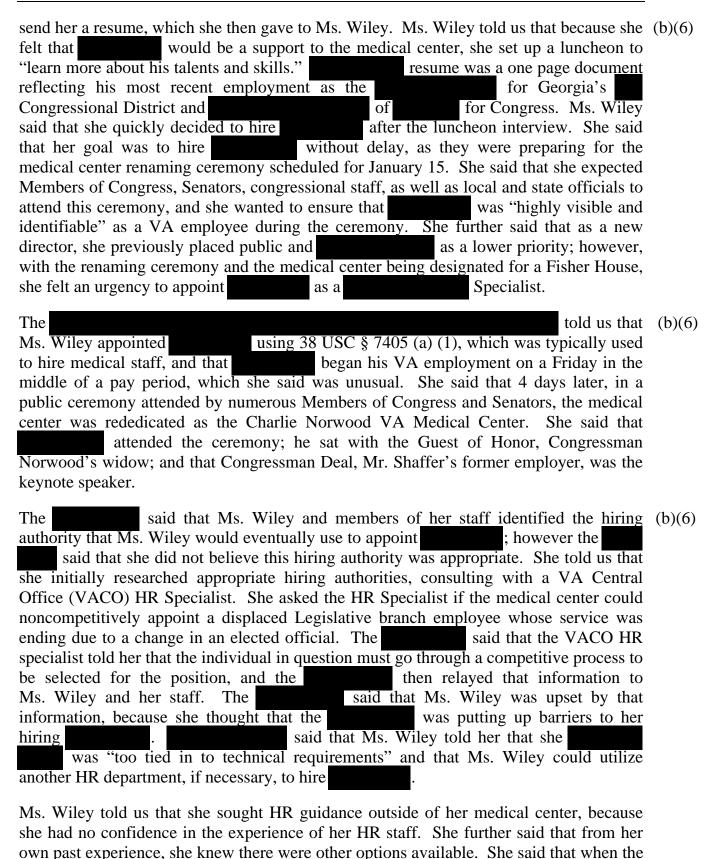
The VA Office of The Inspector General, Administrative Investigations Division, (b)(6) investigated an allegation that, as a political favor, Ms. Wiley improperly appointed a position at the Augusta VA Medical Center, which was scheduled to be renamed after . To assess this allegation, we obtained sworn testimony from Ms. Wiley, . Medical Center Quadrad members, Human Resources (HR) personnel, and other VA employees. We reviewed recruitment and personnel records, electronic mail messages, Federal laws and regulations, and VA policy. We investigated but did not substantiate allegations that abused his time and attendance and that he violated travel regulations, and they will not be discussed further in this report.

Results

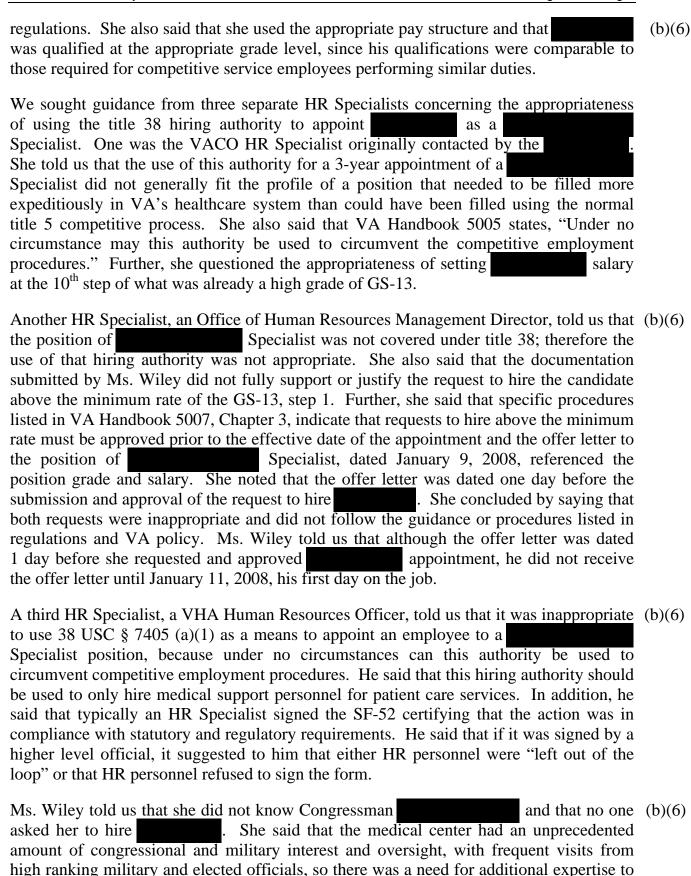
Issue: Whether Ms. Wiley Abused Her Authority When She Improperly Applied a Title 38 Hiring Authority to Appoint a Specialist (b)(6)

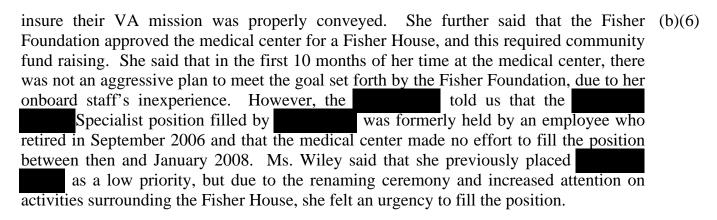
Standards of Ethical Conduct for Employees of the Executive Branch state that employees shall act impartially and not give preferential treatment to any individual. 5 CFR § 2635.101 (b)(8). Federal law requires that unless otherwise exempted, personnel recruitment into Federal jobs must be accomplished through fair and open competition in order to ensure that all receive equal opportunity. 5 USC § 2301 (b)(1). Further, the law provides that any employee, who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, and prohibits any such employee from taking or failing to take any personnel action if it violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of Title 5, United States Code. 5 USC § 2302 (b)(6) and (12). VHA policy states that title 38 employees should be assigned duties requiring clinical skills, that the utilization of title 38 employees in competitive civil service positions is prohibited, and that positions which do not require clinical skills should be placed in competitive civil service. VA Handbook 5005, Part III, Appendix N (1), (2), and (3). The Merit System Protection Board defines an "abuse of authority" as an arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain to preferred other persons. D'Elia v. Department of the Treasury, 60 M.S.P.R. 226, 232 (1993)





could not offer any hiring alternatives, she asked the Assistant Director to (b)(6) contact someone he knew with HR experience. She said that person provided VA policy regarding the use of title 38 for temporary appointments. VA Handbook 5005, Part II, Chapter 3 states that 38 USC § 7405 (a)(1) is primarily used to obtain the services of physicians, dentists, nurses; however, it may be used under certain conditions to obtain the services of medical support personnel. The person contacted by the Assistant Director, an at the VA National Center for Health Promotion and Disease Prevention and formerly VA Medical Center HR Chief, told us that the Assistant Director sought guidance on appointing a Health System Specialist, and he said that he told the Assistant Director that if the position was related to the delivery of health care, title 38 would be an appropriate hiring authority. He told us that if the Assistant Director had said that the position was for a Specialist and not a Health System Specialist he "would not be comfortable" recommending the title 38 hiring authority. He said that it would be "a real leap" to use that authority to hire someone as a Specialist. Ms. Wiley said that the was "uncertain" of using title 38; however, the (b)(6)told us that she advised Ms. Wiley against using it to appoint said that title 38 was typically used to hire direct patient care providers pending professional licensure, permanent part-time and intermittent direct patient care providers, and temporary medical support personnel. Employee pay records disclosed that between June 2006 and June 2008 the medical center hired 170 employees using this title 38 hiring authority, and all the employees were health care providers, such as nurses and physicians, with the exception of Of the 170 employees, 4 began working in the middle of a pay period, 3 physicians and told us that it was extremely rare to hire an employee in the middle of a pay period, citing an example of a cardiologist needed for emergency surgery the following week. Personnel records contained a Standard Form 52 (SF-52), Request for Personnel Action, (b)(6)signed by Ms. Wiley on January 10, 2008, as the requesting, authorizing, and approving official, appointing as a Specialist. The SF-52 reflected that this was an excepted service appointment, not to exceed 3 years, using 7405 (a)(1) of title 38. In addition, Ms. Wiley appointed as a GS-13, step 10, with an annual salary of \$100,976.00. On the SF-52, Ms. Wiley signed the signature block certifying that the information entered on the form was accurate and that the proposed action was in compliance with statutory and regulatory requirements. However, the told us that would not sign the SF-52, the commitment letter, or technical review on the minimum justification memorandum, as she did not consider this appointment compliant with statutory and regulatory requirements. Ms. Wiley signed both the SF-52 and the commitment letter, and the told us signed the justification memorandum for Ms. Wiley. that the Ms. Wiley told us that she signed the SF-52 as the approving official, because she could "legally do so" and that she "interpreted" the hiring authority to be in compliance with





Conclusion

We concluded that Ms. Wiley, as the Director of the Charlie Norwood VA Medical (b)(6) Center, abused her authority when she circumvented the competitive hiring process by improperly applying a title 38 hiring authority to appoint , a former Congressional staff employee, as a Specialist. Ms. Wiley not only made this selection against the advice of her own , but chastised her for not offering hiring alternatives and being too tied to "technical requirements." Furthermore, Ms. Wiley certified the proposed hiring action as being compliant with statutory and regulatory requirements; however, three different HR Specialists told us that applying the Specialist was not proper and two title 38 hiring authority to appoint a at the 10th step of a said that there was insufficient justification to appoint grade 13. Moreover, the Specialist position sat vacant for over a year with no urgent need to fill the position, yet Ms. Wiley suddenly felt such an urgent need, resume, that she appointed him to the position so quickly after receiving that not only did her staff provide his former employer with instructions on how to release him from service but received his VA offer letter on his first day of work, which was 4 days before the renaming ceremony.

Although we were unable to find evidence of Ms. Wiley being unduly influenced in her (b)(6) appointment of Ms. Wiley violated Federal law to get the result she desired, an illegal, non-competitive appointment. Ms. Wiley ignored accurate, competent advice from her own Human Resource department and failed to comply with Federal law and VA policy mandating competition for hiring. She not only gave the appearance of partiality, but she displayed a preference for one favored person to the detriment of others who were not given an opportunity to apply and compete for the position.

Recommendation 1. We recommend that the Director, Veterans Integrated Service	(b)(6)
Network 7, take appropriate administrative action against Ms. Wiley for circumventing	
competitive hiring processes by improperly applying a title 38 hiring authority to appoint	
to a Specialist position.	
Recommendation 2. We recommend that the Director, Veterans Integrated Service	
Network 7, ensure that immediate corrective action is taken concerning the improper	
excepted service appointment of to a Specialist position.	

Comments

The Director, Veterans Integrated Service Network 7, concurred with the recommendations, stating that Ms. Wiley will receive an appropriate administrative action and the improper excepted service appointment will be terminated. The Director's response is in Appendix A. We will follow up to ensure the actions are taken.

(original signed by:)
JAMES J. O'NEILL
Inspector General for
Investigations

Appendix A

Network Director Comments (b)(6)

Department of **Veterans Affairs**

Memorandum

Date: December 12, 2008

From: Director, VA Southeast Network (10N7)

Subj: Administrative Investigation - Abuse of Authority and Preferential Treatment, Charlie

Norwood VAMC, Augusta, GA

To: VA Inspector General for Investigations

Thru: (10N)

1. I have reviewed the Draft Administrative Investigation and concur with the recommendations. The following actions will be initiated:

- a. Recommendation 1. Concur Appropriate Administrative Action will be initiated against the Director, Augusta VAMC with VHA Management Support guidance with a target completion date of March 1, 2009.
- b. Recommendation 2. Concur The improper excepted service appointment of will be terminated with a target completion date of January 2, 2009.
- 2. Please contact Mark Anderson, Deputy Network Director, VISN 7 at 678-924-5722 for further information.

Lawrence A. Biro

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VA Form MAR 1989 2105

Network Director's Comments to Office of Inspector General's Report

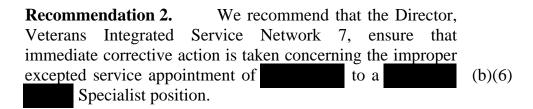
The following Network Director's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the Director, Veterans Integrated Service Network 7, take appropriate administrative action against Ms. Wiley for circumventing competitive hiring processes by improperly applying a title 38 hiring authority to appoint to a (b)(6) Specialist position.

Concur **Target Completion Date:** 03/01/2009

Appropriate Administrative Action will be initiated against the Director, Augusta VAMC with VHA Management Support guidance with a target completion date of March 1, 2009.



Concur **Target Completion Date:** 01/02/2009

The improper excepted service appointment of will be terminated with a target completion date of January 2, 2009.

Appendix B

OIG Contact and Staff Acknowledgments

OIG Contact	Linda Fournier – (202) 461-4500
Acknowledgments	William A. Tully

Appendix C

Report Distribution

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