

No. 484,697

MICA ENGLAND,
Plaintiff

v.

THE STATE OF TEXAS, THE CITY OF
DALLAS, AND MACK VINES, CHIEF OF
POLICE OF THE CITY OF DALLAS,

Defendants.

§ IN THE DISTRICT COURT
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§
§
§ OF TRAVIS COUNTY, TEXAS
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§
§
§
§
§ 200th JUDICIAL DISTRICT

AFFIDAVIT OF MICA ENGLAND

STATE OF TEXAS §
§
COUNTY OF DALLAS §

MICA ENGLAND, being duly sworn deposes and says:

"1. My name is Mica England. I am over 21 years of age, I have personal knowledge of the matters hereinafter referred to, there is no legal impediment to my making this affidavit, and I make this affidavit in support of Plaintiff's Motion for Summary Judgment.

"2. I was born in Tulsa, Oklahoma. I am now twenty-seven years old. I have one younger sister my older brother is deceased. I was raised in the Catholic religion.

"3. I graduated from the public schools in May 1982. I went on to college at Northeastern State University in Tahlequah, Oklahoma and I have 72 hours of credit. My declared major was criminal justice and the minors were psychology and sociology.

"4. I have always known that I was attracted to women. It

was very hard to understand and deal when I was growing up in the small town of Oologah, Oklahoma. I had no one to talk to when I was growing up, I knew that people would not understand. I accepted the fact that I was gay when I was 16 years old, I also made the decision that I would live that life style. I was scared at first, but no one knew I was gay but me. I had my first experience when I was a senior in high school. I can assure you that people don't choose to be gay. We are born that way. Genetics aren't just black and white there is a gray area.

"5. I never knew there were such laws as the 21.06 until I applied with the Dallas Police Department in 1989. I never dreamed that I would be labeled a criminal because of how I lived my private life. Even though there is no way to legally enforce this law I am still labeled a criminal. That bothers me very much. I am wanting to enforce the law and protect and serve the people and I have been denied my dream of becoming a police officer because the government has invaded my right to privacy. I fear prosecution under this statute and it is a constant fear. I have been jumped by fag bashers and I strongly feel that the 21.06 encourages hate crimes. By labeling gay people criminals it is okay for society to judge, hates, stereotype, make life threatening assaults, rape, murder, taughts, physical abuse, harassment from the police, alienation from the police, unfair treatment within our court system, such as in the context of child custody or criminal justice proceedings, and it is also okay to refuse us employment. I am not mentally or physically impaired because I sleep with women. The 21.06 criminalizes private adult consensual conduct, within the

privacy of my home and the many homes of other homosexuals. This is so personal that it goes to the very heart and identity of who I am and I feel emotionally harmed and it is very stressful.

"6. For many years I have wanted to pursue a career in law enforcement. I attended college with this goal in mind. In March of 1989 the Dallas Police Department came to Tulsa to recruit officers. I was living in Tulsa at this time. I filled out the application and was ready for my interview. The application had a question that asked, "Have you ever engaged in a deviant sex act?" Upon inquiry I was told by the DPD officer that being a homosexual was deviant. I freely acknowledged to the officer that I am a gay women. It was discussed by both officers of the DPD and they said it would not affect my application and I would not be discriminated against.

"7. I traveled to Dallas in July 1989 to finish the application process. During the interview, I was questioned by the same officer that I had spoken with in Tulsa only this time it was a very demeaning and humiliating manner about the intimate details of my sexuality, as well as my prior sexual experience. I again stated that I was a gay woman. She was trying to get me to say that I had only experimented sex with a woman and it seemed that experimentation would have been okay. I was then informed because of my homosexuality that I was disqualified from working with the Dallas Police Department. I was not allowed to complete the application process.

The sodomy statute contributes to the prejudice against homosexuals and inaccurate stereotypes concerning us. Because of

served at the Dallas City Police Department, 2014 Main Street, Dallas, Texas 75201.

Factual Allegations

4. Plaintiff Mica England is a 25 year old woman who for many years has wanted to pursue a career as a law enforcement officer. She attended college in Tulsa, Oklahoma, with this goal in mind. In March 1989, a Dallas Police Department (DPD) recruiter came to Tulsa, where Plaintiff lived at the time, and interviewed Plaintiff for a job as a Dallas peace officer. At that time Plaintiff was given a job application which asked whether she had ever engaged in a "deviant sex act." Upon inquiry, Plaintiff was told by the DPD recruiter that "being a homosexual was deviant."

5. Plaintiff freely acknowledged to the recruiter that she is a lesbian. At that time, the recruiter told Plaintiff that her sexual orientation would not affect her job application.

6. Based on that assurance, Plaintiff travelled to Dallas in July 1989 for an interview with the Police Department as the next step in the application process. During the interview, Plaintiff was questioned by a DPD officer in a demeaning and humiliating manner about the intimate details of her sexuality, as well as her prior sexual experience. Plaintiff again stated that she is a lesbian. Despite the representations in Tulsa, on which she had relied, Plaintiff was then informed that she was

this statute people view me as a deviant, as a criminal. My sexual orientation is not a disorder and in no way impairs me from contributing to society. I entered this lawsuit because my life has been damaged by the 21.06. I feel very strongly that it is wrong to put laws on moral issues especially a law that invades my privacy, denies me employment, and encourages hate crimes. I am emotionally and deeply hurt by the 21.06. I contend that the 21.06 interference with and infringement on my rights to exercise guaranteed under the Bill of Rights of the Texas Constitution and Texas common law concerning privacy. The Bill of Rights of Texas Constitution and Texas common law right to privacy protect the right of the individual to be free of unwarranted government intrusion into a matter as fundamentally affecting a person as the decision to engage in private sexual conduct with another consenting adult, within the privacy of the home. I wish to no longer feel outrages, shame, humiliation, or suffer from mental stress.

"BEFORE ME, the undersigned authority, appeared Mica England who has been by me duly sworn, stated under oath that she has read the above and foregoing document and that every matter stated therein is true and correct and within her personal knowledge.

Mica M. England
Mica England

SWORN TO AND SUBSCRIBED before me on this 3 day of ~~November~~^{JANUARY}, 1991.

Cynthia R. Rios
NOTARY PUBLIC - STATE OF TEXAS

My Commission Expires:

9/9/94

Cynthia R. Rios
TYPED/PRINTED NAME OF NOTARY

