

## AFFIDAVIT OF SAHAJ KHALSA

My name is Sahaj Khalsa and I am 35 years old. I have been subject to an illegal and hostile work environment at the Espanola Hospital and retaliation for reporting the same. I was employed by Presbyterian Health Services<sup>1</sup> as a Paramedic and Field Operations Supervisor from September 2001 to December 2010. I am a practicing Sikh, was born a Sikh, and have maintained all of the tenets of the Sikh faith since birth. One of the tenets of Sikhism is maintaining uncut hair, including beards. As a result, I have never shaved or cut my hair.<sup>2</sup> My hair is tied up and contained in a turban, which is also an article of my faith. All of the concerns set forth below are centered on discrimination that I faced in the work environment as a result of my sincerely held religious beliefs and Presbyterian's failure to take reasonable measures to rectify the situation, despite my numerous complaints to Human Resources.

In between 2000-2001, then Espanola Ambulance Manager, Dennis Cronin, hired multiple Sikh paramedics. Until recently, there were five bearded Sikh employees who all worked at Espanola Ambulance ("EA") for Presbyterian. Collectively, Sikh employees have served Presbyterian and the people of Northern New Mexico for over 45 years. As a group, Sikhs have an exemplary work record and have provided excellent care to the people in need. This relationship benefited patients, the Sikh employees, and Presbyterian.

Regrettably, something has changed, and Sikhs are no longer welcome as Presbyterian employees. In 2007 or 2008, former Presbyterian employee Siri Khalsa applied to be the Operations Director for EVEMS. Josh Duran, an EMT-Intermediate, told Siri Khalsa that if Siri Khalsa was hired none of the employees, except Sikh employees, would listen to him. From 2008 to 2009, David Payne, the Operations Director hired instead of Siri Khalsa, created unusual working schedules so that certain employees could avoid working with Sikh employees. And the most notable shift toward the intolerance of Sikh employees began when Brenda Romero ("Ms. Romero") replaced Derrick Yu as hospital administrator in the middle of 2009.<sup>3</sup>

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<sup>1</sup> I worked for Espanola Ambulance which is affiliated with Espanola Valley Emergency Medical Services ("EVEMS") and Espanola Hospital, but all entities are under Presbyterian Health Services and will be referred to as "Presbyterian", unless the distinction is warranted.

<sup>2</sup> With the exception that my beard was shaved once when I required surgery.

<sup>3</sup> The pattern of discrimination against Sikhs became particularly apparent when Ms. Romero became hospital administrator. Some examples follow: In October 2009 a Sikh employee was forced to resign for failing to write patient care reports, while, in stark contrast, Presbyterian afforded other non-Sikh employees who had made the same mistake the opportunity to submit patient care forms months after supervisors discovered that they too had not submitted the appropriate reports. Employees in Presbyterian's payroll department have referred to "all of the Sikhs" and "all of the Khalsas" working too much. Also, another Sikh employee's vehicle has been keyed repeatedly while it was parked at work, causing significant damage. This particular employee raised this issue with hospital administration, and the administration refused to take action. No other vehicles have suffered similar damage while parked at work. More recently, raises were provided for all EVEMS employees across the board with the exception of a small number of employees. Incredibly the only two remaining Sikhs, a female Sikh employee, Dhyana Velasco (formerly Dhyana Khalsa), and I were among the few employees who did not receive the raises.

Over the past few years, Sikh employees endured derogatory comments in the workplace about their religion, management's inattention to and facilitation of the discrimination, and management's repeated requests, turned threats for the male Sikh employees to shave their beards. In the face of this brash discrimination, one by one, the Sikh employees have either left or been forced to resign. As a result, from April 2010 to November 2010, before I was forcibly discharged, I was the lone bearded Sikh employee who worked at EA; and predictably, my experience was no different than my other Sikh former co-workers'.

I first brought my concerns about discrimination and a hostile work environment to Presbyterian Human Resource Officer, Kim Kelly ("Ms. Kelly"), in late May or early June 2009, after a staff meeting. In that discussion, I apprised Ms. Kelly of the following: some employees were unwilling to work with Sikhs and had changed their shifts to avoid Sikhs, and a previous director, David Payne, even directed a third ambulance be scheduled so individuals would not have to work with Sikh employees. I also reported that I heard that employees in the Albuquerque Human Resources and Payroll offices had made comments regarding "all the Sikhs" and "all the Khalsas"<sup>4</sup> working too much.

Instead of investigating my specific concerns as required by Presbyterian policy, Ms. Kelly merely responded by attending—along with Maria Hidalgo ("Ms. Hidalgo"), also from Human Resources—three staff meetings to remind all employees in general terms of Presbyterian's anti-discrimination policy. Since those meetings, the environment at Presbyterian continued to deteriorate.

The hostility and discrimination against me came to a head on or about February 12, 2010. While I was the supervisor on duty, a Presbyterian employee threatened, verbally abused, and physically assaulted me. The co-worker's threats included statements directed at my religion. This incident was reported via email to Dennis Martinez ("Mr. Martinez"), my supervisor, and to Ms. Kelly. I again raised the issue of a hostile work environment in this email.

Ms. Kelly did conduct an investigation of this incident. However, even though Ms. Kelly substantiated the wrongful conduct by the employee who attacked me, Presbyterian did not terminate the employee, and Ms. Kelly outrageously condoned the other employee's behavior in comments to me.

In early 2010, when Human Resources finally launched an investigation into the general allegations of a hostile work environment during which they interviewed many, if not all, of the EA employees, per Ms. Kelly, the investigation revealed that discrimination in this work environment was widespread.

As a result of the investigation, on March 26, 2010, Ms. Kelly and Ms. Romero convened a meeting with all EA employees. The supposed intent of this meeting was to "set a new day" and inform everyone that discrimination and unequal treatment of any minority would be unacceptable. However, Ms. Kelly and Ms. Romero outrageously used the "new day" to fortify

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<sup>4</sup> All of the Sikh employees at Espanola Valley Emergency Medical Services (EVEMS) share the religiously significant last name "Khalsa."

discrimination against Sikhs and retaliate against me for having made complaints of discrimination. During the meeting, many new policies were announced regarding scheduling, daily duties, acceptable behavior, and employee uniforms. The uniform policy included a provision that per OSHA policy, facial hair would no longer be allowed. After I inquired as to how the new policy on facial hair would affect me, because I knew Presbyterian had to make a reasonable attempt to accommodate my sincerely held religious beliefs and the integrity of my religious facial hair, Ms. Kelly and Ms. Romero told me to shave my beard or lose my job. This announcement was made in front of the majority of EA employees who I was expected to supervise. And again, although Ms. Kelly had substantiated instances of discrimination in the workplace, she failed to take any disciplinary actions against those employees responsible for the hostile work environment.

My co-workers were emboldened by management's ratification of discrimination against Sikhs; and after the meeting on March 26, 2010, the environment at work worsened considerably for me. Some employees clearly treated me differently, whereas others avoided speaking to me. It is little wonder, given administration's public announcement that I was no longer welcome at Presbyterian unless he shaved his beard. My sincerely held beliefs were belittled even further by Ms. Kelly when she approached two non-practicing Sikh employees, Guru Dham Khalsa and Guru Bahdur Khalsa,<sup>5</sup> and asked them about the meaning of a Sikh cutting his hair and/or shaving. Guru Dham Khalsa attempted to explain to her the religious significance of this practice, as he understood it, and Ms. Kelly responding by asking him if anything "physically" happened to Guru Dham Khalsa when he decided to cut his hair.<sup>6</sup>

In response to Ms. Kelly and Ms. Romero's March 26, 2010 ultimatum, I proposed a reasonable solution that would allow me to continue to do my work and respect my sincerely held religious beliefs by offering to wear a Positive Air Powered Respirator ("PAPR"). A PAPR is a mask that covers the face more extensively and is more conducive for a person with facial hair to use than the standard N-95 mask. At first, Ms. Kelly and Mr. Martinez refused to consider a PAPR as a solution.

I followed up with Ms. Kelly, Ms. Romero, Mr. Martinez, and Dr. Bajema (the service medical director) about the prospect of using a PAPR, and they detailed the following concerns:

1. It would take too long to put on.
2. It would require two people to put on.
3. It would prevent me from using a stethoscope while wearing it.

These concerns made it clear to me that none of them had actually seen a PAPR even though I knew that Espanola Hospital had four PAPRs abandoned in a storage space located in a garage. After I explained that their concerns were unwarranted, they eventually agreed to a test of a PAPR to see if it would provide protection and allow me to care for patients. At this time, Mr.

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<sup>5</sup> Guru Dham Khalsa and Guru Bahdur Khalsa do not abide by the Sikh practice of keeping uncut hair. Guru Bahdur Khalsa does not consider himself Sikh.

<sup>6</sup> Guru Dham Khalsa decided to shave his beard while working for EA because he felt it was the best decision for him. However, a number of employees mocked the integrity of the Sikh religion by questioning his decision to shave.

Martinez sent an email out to staff announcing that implementation of the facial hair prohibition in the uniform policy would be delayed.

I retrieved a PAPR from the storage closet and had to clean the PAPR because it was covered in dust. Administrators did not know of the existence of the four PAPRs in an Espanola Hospital storage space. In fact, very few employees knew of the existence of the PAPRs as there was never any training, planning, or instruction on the use of PAPRs in case of an emergency. I submitted to the PAPR test on April 2, 2010 in the presence of Dr. Bajema, Mr. Martinez and EVEMS employees.

Per a memo Dr. Bajema wrote immediately following the test, I was able to don the PAPR in 26 seconds, do it alone, and the PAPR did not hinder the use of a stethoscope. This memo was sent to Mr. Martinez, Ms. Kelly, Ms. Romero, and me. Given the clear efficacy of the PAPR, it seemed as if this situation had been resolved. Initially, when I informed administrators about the PAPRs in the storage space there was not a problem with my use of the on-hand PAPR and it seemed to be a perfect resolution. However, in a meeting on Thursday, April 8, 2010 Ms. Kelly again stated the policy was no facial hair and "if [Mr. Khalsa] chooses to have facial hair, he chooses not to work here."

During this period, Ms. Kelly and Ms. Romero also retaliated against me for reporting religious discrimination. On or about May 5, 2010, Mr. Martinez allegedly wrote me up for missing a meeting that had been scheduled on such short notice I did not have time to rearrange my schedule so that I could attend. Later, however, Mr. Martinez disclosed the true motivation for the write-up, explaining that Ms. Romero and Ms. Kelly had pressured him to write me up because they were angry that I sent a letter to administration detailing frustrations with the treatment of Sikhs at Presbyterian. And Mr. Martinez implied that I would have never been written up if I had not sent the letter complaining of discrimination. Mr. Martinez went on to add that he knew how I felt because he was once discriminated against at the Los Alamos Fire Department as one of the few Hispanics who worked there, and he advised me to "keep [my] head down and do [my] job and [the discrimination] would go away."

For months, I worked with the threat of termination hanging over me. Suddenly and inexplicably, management informed me that it had reversed its "no facial hair" policy, but the on-hand PAPRs were for emergency room use only, and I would have to purchase my own PAPR at a cost of at least \$800.00. This offer was made in direct contrast of what I understand OSHA policy to be, which is that an employer must provide all necessary respiratory equipment. My facial hair is fundamental to my religion and a PAPR, in this instance, is *necessary* to accommodate my beard. Although Presbyterian offered to set up a payment plan in order to assist me in the costly purchase, this offer was wholly insufficient given the remarkable history of discrimination and retaliation against me, including the recent insistence that I shave my beard, and Presbyterian's complete failure to discipline those responsible for the discrimination. This offer served as yet another insult in a long line and convinced me that Presbyterian had no intention of truly addressing religious discrimination in the workplace.

Since I put to rest the concerns surrounding the use of a PAPR it became clear that management is motivated by a discriminatory purpose rather than safety concerns. First, I was told I had to

cut my beard or lose my job. When provided with a reasonable alternative to accommodate my sincerely held religious beliefs, human resources fabricated concerns with the use of the PAPR. After demonstrating that the use of a PAPR would not impede my job duties, human resources introduced a new impediment to my continued employment and demanded that I purchase expensive equipment. I worked competently as an upstanding paramedic at Presbyterian for nine years with a beard and a respirator that was adequate for every prior administration, and it is clear that this new requirement was imposed to discriminate and retaliate against me.

Given Presbyterian management ignored numerous and ongoing disparaging remarks about Sikhs. Supervisors acknowledged religious discrimination, failed to adequately investigate complaints of religious discrimination, and took no corrective action. Management ignored vandalism of Sikh employee property and implemented policies targeting Sikh employees. Supervisors retaliated against me for reporting discrimination. And, after all of the other Sikh employees had been fired or left, Presbyterian repeatedly told me that if I did not shave my beard or purchase expensive equipment to accommodate my beard I would be terminated. The environment at Presbyterian was so intolerable that I was forced to resign.

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Signature of Affiant, Sahaj Khalsa

SUBSCRIBED and sworn to before me this 5<sup>th</sup> day of May 2011.

My Commission Expires: \_\_\_\_\_

Notary Public

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