

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

JOHN RICHARDSON,)
)
 Plaintiff,)
)
 v)
)
 HAYWOOD COUNTY, TENNESSEE,)
 MELVIN BOND in his individual and)
 official capacities as the Sheriff of Haywood)
 County, STATE OF TENNESSEE, and)
 DRUG TASK FORCE FOR THE THIRTIETH)
 JUDICIAL DISTRICT,)
)
 Defendants.)

No. _____
JURY DEMANDED

COMPLAINT

I. JURISDICTION AND VENUE

1. This is an action under 42 U.S.C. §1983, 1988 and 28 U.S.C. § 1331, 28 U.S.C. § 2201 and 2202 for damages, declaratory and injunctive relief both preliminary and permanent, to redress the violation of rights secured by the First and Fourteenth Amendments to the United States Constitution, and under the 28 U.S.C. 2601 *et. seq.*, the Family and Medical Leave Act (herein the “FMLA”). Plaintiff further invokes the pendent and supplemental jurisdiction of this Court to hear and determine claims arising under state law, including claims under T.C.A. §50-1-304 *et. seq.*, the Tennessee Whistleblower Protection Statute (herein the “Whistleblowers Act”), T.C.A. §§ 38-8-301 *et. seq.* pertaining to the discipline of police officers, T.C.A. 4-21-401 *et. seq.*, the Tennessee Human

Rights Act (herein the “Human Rights Act”) and state common law claims, including claims for defamation of character/slander and breach of contract. All of the actions complained of herein occurred in Haywood County, Tennessee within the jurisdiction and venue of this Court.

II. PARTIES

2. Plaintiff, John Richardson, is a Caucasian resident of Crockett County, Tennessee, and was employed by Haywood County as a deputy sheriff in that department and was the Defendant Haywood County’s “employee” as that term is defined under the FMLA, the Human Rights Act and the Whistleblowers Act.

3. Defendant, Haywood County, Tennessee, is a governmental entity duly incorporated under the laws of the State of Tennessee subject to suit under 42 U.S.C. §1983 and was the Plaintiff’s “employer” as that term is defined under the FMLA, the Human Rights Act and the Whistleblowers Act.

4. Defendant, Sheriff Melvin Bond, is and was at all times mentioned in this complaint the duly elected and acting Sheriff of Haywood County, Tennessee, and was acting under color of law, to wit: under color of the statutes, charter, and ordinances, regulations, policies, customs and usages of the State of Tennessee and Haywood County, Tennessee; and is a resident of Haywood County, Tennessee. Defendant Bond is sued in his individual capacity and in his official capacity as the policy maker for Haywood County, Tennessee.

5. Defendant, State of Tennessee, is a governmental entity subject to suit under the above jurisdictional statutes and was the Plaintiff’s “employer” as that term is defined under the FMLA, the Human Rights Act and the Whistleblowers Act.

6. Defendant, Drug Task Force for the Thirtieth Judicial District, is a governmental entity duly incorporated under the laws of the State of Tennessee subject to suit under 42 U.S.C. §1983 and was the Plaintiff's "employer" as that term is defined under the FMLA, the Human Rights Act and the Whistleblowers Act.

III. STATEMENT OF FACTS

7. Plaintiff began his employment as a deputy sheriff for the Haywood County Sheriff's Department on or about May 16, 2008. At the time he was hired, he was advised by the Defendant Sheriff, Melvin Bond, that he was being hired to work as part of the Drug Task Force, that he would be making a sergeant's salary and be provided a vehicle to use. Plaintiff was not allowed to work on the Drug Task Force for several months after his hiring, was never paid a sergeant's salary and was not provided a vehicle to use as promised.

8. After Plaintiff began working on the Drug Task Force, his team leader on the task force, Joey Rhea, told him to use false and fraudulent grounds to pull drivers over on the interstate to facilitate illegal drug searches. Plaintiff refused this order and was subsequently removed from the Drug Task Force by the Defendant Haywood County, the Defendant Drug Task Force for the Thirtieth Judicial District and the State of Tennessee and demoted for his refusal to violate the law as ordered. His refusal to violate the law was also later used as a basis for his termination from the Defendant, Haywood County.

9. During the course of his employment with the Defendant Haywood County, Defendant Melvin Bond ordered Plaintiff not to pull over and arrest or cite certain individuals that he observed violating the law. When Plaintiff continued to apply the law equally to all

citizens, he was reprimanded by the Sheriff and this was used as a basis for his subsequent termination from the Defendant Haywood County.

10. During the course of his employment with the Defendant Haywood County, the Plaintiff communicated with the office of the Judge for the Haywood County General Sessions Court about assisting a fellow employee that had failed to appear in court and testify at a previously scheduled hearing. On another occasion, the Plaintiff sent a text message to a fellow employee officer expressing concern about the Defendant Sheriff's action that was critical of the Sheriff. These communications by the Plaintiff were protected speech under the First Amendment to the United States Constitution and were used as a basis for subsequent disciplinary actions as well as the basis for his termination from the Defendant, Haywood County.

11. During the course of his employment with the Defendant Haywood County, the Plaintiff was repeatedly subjected to instances of racial discrimination by the Defendants Sheriff and Haywood County. On several instances, he was singled out for disciplinary actions in a manner that indicated that African American similarly situated officers were treated in a more favorable manner. In one instance, an African American officer pulled his service revolver and pointed it at citizens, including two minor children, without provocation or reason. The Defendant Sheriff was aware of these instances but did not punish the offending officer until after it had occurred on several occasions and then only gave the officer a written reprimand, when department policy dictated that the officer be terminated for such egregious acts. On another occasion, the same officer was caught on video masturbating in his police car while

having “phone sex” with a women. The Defendant Sheriff was aware of this incident which, according to department policy, warranted the immediate termination of the employee. However, the Sheriff only suspended the officer’s employment for several days until some time later when officials of the City of Brownsville found out about the incident.

12. Upon information and belief, numerous other incidents occurred at the Defendant Haywood County, wherein, Caucasian employees were given more severe punishment than similarly situated African American employees engaging in similar conduct. The Plaintiff, on occasion, heard the Sheriff make remarks indicating a bias against Caucasian employees and favoring African American employees. Plaintiff avers that the Defendants Sheriff and Haywood County engaged in and still do engage in a pattern and practice of discriminating against Caucasian employees because of their race in violation of their rights under the Tennessee Human Rights Act.

13. Plaintiff is a qualified employee under the Family Medical Leave Act and the Defendant Haywood County is a qualified employer under the Act. On May 29, 2009, the Plaintiff followed procedure and appropriately requested a qualified leave under the Act because his wife was being hospitalized for complications from a pregnancy. Plaintiff provided the Defendant County with appropriate documentation as required by the FMLA. Plaintiff was denied his request for FMLA leave, he was demoted and disciplined as a result of his leave and his subsequent absence from work for the leave was used as a basis for the termination of his employment with the Defendant Haywood County Sheriff’s Department, in violation of his rights under the FMLA.

14. On June 16, 2009, the Plaintiff was mailed a letter from the Defendant Sheriff advising him that his employment with the Defendant Haywood County had been terminated for various disciplinary reasons, largely detailed above. Plaintiff was not provided a hearing prior to his termination and disciplinary actions, in violation of his rights under the Fourteenth Amendment to the United States Constitution and T.C.A § 38-8-301 *et. seq.*

15. Subsequent to his termination from the Defendant Haywood County, on information and belief, employees of Haywood County have knowingly, intentionally, and maliciously provided false information about the Plaintiff when contacted by potential future employers of the Plaintiff with the purpose and result of preventing the Plaintiff from obtaining employment. As a result of this, Plaintiff has been unable to obtain employment and has suffered great economic and other harms.

COUNT I

FIRST AMENDMENT CLAIMS

16. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

17. Plaintiff avers that the Defendant Haywood County and each of the named Defendants, acting separately and/or conspiring together, under color of law, in either or both their individual and/or official capacities and as policy makers for Haywood County, retaliated against the Plaintiff for engaging in speech protected by the First Amendment to the United States Constitution in violation of Plaintiff's rights under said Amendment resulting in the damages listed below.

COUNT II

FOURTEENTH AMENDMENT DUE PROCESS CLAIMS

18. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

19. Plaintiff submits that the Defendant Haywood County had in place at the time of his termination certain policies and procedures granted by Haywood County's Policies and Procedures Handbook and Haywood County Sheriff's Department's Policies and Procedures Handbook as guaranteed by Haywood County's Charter, applicable to Plaintiff, guaranteeing him the right to certain procedures pertaining to disciplinary actions, including demotions, shift changes and termination, which the Defendants failed to follow. Plaintiff further avers that the State of Tennessee had in place certain statutory laws, including but not limited to T.C.A. §38-8-301 *et. seq.* that guaranteed Plaintiff certain procedures prior and/or subsequent to any dismissals, demotions, suspensions, or transfers for punitive reasons. Plaintiff further avers that these statutes, policies, and procedures created rights enforceable under the due process clause of the Fourteenth Amendment to the United States Constitution, and that each of the Defendants acting separately and/or conspiring together, under color of law, in either or both their individual and/or official capacities and as policy makers for Haywood County, denied him procedural due process of law within the meaning of the Fourteenth Amendment to the United States Constitution, when they failed to afford him these procedures resulting in the damages listed below.

COUNT III

FAMILY AND MEDICAL LEAVE ACT

20. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

21. Plaintiff exercised his rights under the Family and Medical Leave Act and attempted to obtain a qualified leave under such Act.

22. Defendant Haywood County refused to accommodate Plaintiff's request for a qualified leave under the FMLA and instead terminated his employment.

23. In addition, the Defendants retaliated against Plaintiff due to his exercise of rights under the FMLA.

24. Defendant Haywood County was on notice that Plaintiff was taking a leave that qualified for protection under the FMLA.

25. Plaintiff has been damaged as a result of Defendants' unlawful discriminatory and retaliatory actions taken in violation of the FMLA.

26. Defendants acted in knowing, intentional, willful, and deliberate disregard of Plaintiff's rights under the FMLA.

27. Defendants violated Plaintiff's rights under the FMLA causing damage to Plaintiff.

COUNT IV

THE TENNESSEE HUMAN RIGHTS ACT

28. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

29. Plaintiff avers that the above stated acts, done by individuals acting on behalf of the Defendant Haywood County discriminated against him on the basis of his race and violated his rights under the Tennessee Human Rights Act.

30. The unlawful employment practices complained of herein were intentional and/or done with reckless indifference to his employment rights protected by the Tennessee Human Rights Act.

COUNT V

TENNESSEE WHISTLE-BLOWER'S PROTECTION ACT

31. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

32. Plaintiff avers that above stated acts of the Defendants, acting as the Plaintiff's employer was a termination of his employment in retaliation for the Plaintiff having refused to engage in or remain silent about illegal activities, in violations of his rights under T.C.A. §50-1-304 *et. seq.*

COUNT VI

SLANDER, DEFAMATION AND LIBEL

33. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

34. Plaintiff avers that above stated acts of the Defendants Haywood County and Sheriff Melvin Bond by negligently, recklessly, knowingly and/or intentionally publishing untrue statements about the Plaintiff to potential future employers has caused the Plaintiff suffer actual damages and constitutes actionable slander libel and/or defamation of character entitling the plaintiff to the compensatory and punitive damages sought herein.

COUNT VII

BREACH OF CONTRACT

35. Plaintiff incorporates by reference the factual statements contained in paragraphs 2 through 15 of the complaint.

36. Plaintiff avers that the promises of the Defendant Sheriff regarding his rate of pay, use of vehicle, and immediate placement on the Drug Task Force were the part of the consideration offered to the Plaintiff to leave his prior employment to come work for the Defendant Haywood County and the failure of the Defendants Sheriff and County to provide this promised consideration constitutes an actionable breach of contract entitling the Plaintiff to the consequential and incidental damages caused by said breach of contract.

IV. DAMAGES

37. As a direct and proximate cause of the foregoing deprivations of constitutional freedoms and statutory rights committed by Defendants, Plaintiff has suffered mental anguish, public humiliation, diminished reputation, loss of employment, benefits of employment, and has had to retain legal counsel to defend and prosecute his rights.

38. As a basis for punitive damages, Plaintiff would show that the deprivations of constitutional freedoms and statutory rights and common law claims by the Defendants were knowingly, intentionally, and maliciously done; and said acts were further an abuse of the power and trust for public officers.

V. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF RESPECTFULLY REQUESTS THAT THE COURT:

- a. Declare Defendants' actions taken against Plaintiff to be in violation of 42 U.S.C. § 1983 and in contravention of the First and Fourteenth Amendments to the United States Constitution and the laws of the State of Tennessee.
- b. Enter preliminary, and thereafter a permanent injunction enjoining Defendants from engaging in the practices in violation of the United States Constitution complained of herein.
- c. Accept jurisdiction of the pendant state claims alleged in the complaint.
- d. That Plaintiff be awarded compensatory damages against all Defendants as authorized by 42 U.S.C. § 1983, the Family and Medical Leave Act, the Tennessee Human

Rights Act, the Tennessee Whistleblower's Act and state common law in the amount to which he shows himself entitled.

e. Award Plaintiff punitive damages against the Defendants for their knowing, reckless and or intentional acts as alleged herein.

f. Award Plaintiff his costs, including a reasonable attorney's fee pursuant to 42 U.S.C. § 1988, the Family Medical Leave Act, the Tennessee Whistleblowers Act and the Tennessee Human Rights Act.

g. Award Plaintiff further relief, general and specific, to which he may be entitled to in the premises.

h. Plaintiff demands a jury be impaneled to try this cause.

Respectfully Submitted,

WEINMAN & ASSOCIATES

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