

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

THOMAS RODDY,

Plaintiff,

VS.

KLEBERG COUNTY ATTORNEY
KIRA TALIP AND KIRA TALIP,
INDIVIDUALLY,

Defendants.

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Case No. 2:19-cv-00361

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff Thomas Roddy files this Original Complaint against Defendants Kleberg County Attorney Kira Talip and Kira Talip, Individually, and shows as follows:

PARTIES

1. The plaintiff is Thomas Roddy. He is an individual and resident of Nueces County, Texas.
2. The respective defendants are Kleberg County Attorney Kira Talip and Kira Talip, Individually. Defendant Kleberg County Attorney Kira Talip is a governmental entity located in Kleberg County, Texas. It may be served with process by personal service on Ms. Kira Talip, Kleberg County Attorney, 700 E Kleberg Ave, Kingsville, Texas 78363;

and Defendant Kira Talip, Individually, is an an individual who resides and conducts business in Kleberg County, Texas, and may be served with process by personal service at 700 E Kleberg Avenue, Kingsville, Texas 78363.

JURISDICTION

3. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331.

VENUE

4. Pursuant to 29 U.S.C. § 1132(e)(2), venue for this suit is proper in this district and division because it is the district and division where the alleged events occurred.

FACTS

5. The plaintiff served in the United States Navy after high school. He received an honorable discharge in 1979. The plaintiff then successfully completed peace officer training in the Corpus Christi Police Academy; he served as a police officer for the City of Corpus Christi for several years, first as a patrol officer and then as an investigator in the Organized Crimes Unit. The plaintiff then served as a special agent, senior special agent and supervisory special agent with the Department of Homeland Security/United States Immigrations & Customs Enforcement for 26 years, from 1987 to 2013. The plaintiff has testified in federal court relating to his work in these roles many times. His credibility is unimpeachable.

6. The plaintiff began his employment with Defendant Kleberg County Attorney Kira Talip, or its predecessor, in 2013. During his last two years of employment, the plaintiff served as Commander and/or Director of Operations for the defendants' "South Texas Specialized Crimes and Narcotics Task Force" ("Task Force"). During his 6 years' employment, the plaintiff had no disciplinary history of any kind and was well-liked and respected in the south Texas law enforcement community. He was suddenly discharged from his employment by the defendants on or about April 19, 2019. Notably, in the F-5 form they prepared and mailed, the respective defendants indicated that the plaintiff received a "General Discharge" from his employment and commission because of a disciplinary investigation or documented job performance issues. This representation to the Texas Commission on Law Enforcement is uncontrovertibly false. Indeed, it was later overturned administratively, following a challenge by the plaintiff to the Texas Commission on Law Enforcement. The plaintiff ultimately received an Honorable Discharge in an amended F-5.

7. Defendant Kleberg County Attorney Kira Talip and Kira Talip, Individually, are the highest level employees for the Kleberg County Attorney. They report to no one, except the public via elections. Defendant County Attorney Kira Talip and Kira Talip, Individually, are the final policy-makers concerning all decisions made by the Kleberg County Attorney, and specifically with respect to employment decisions. Further,

Defendant Kleberg County Attorney Kira Talip and Kira Talip, Individually, made the decision to discharge the plaintiff from his employment and communicated the decision to discharge the employment of the plaintiff directly to the plaintiff. Further, following her decision to discharge the plaintiff from his employment, Defendant Kleberg County Attorney Kira Talip and Kira Talip, Individually, made the decision to change the name of the South Texas Specialized Crimes and Narcotics Task Force, which the plaintiff formerly commanded, to the “Kleberg County Attorney’s Specialized Crimes and Narcotics Task Force.” There is no higher policy-maker for the defendants other than Defendant Kleberg County Attorney Kira Talip and Kira Talip, Individually. These are not conclusions. They are specific facts.

8. Beginning in about August 2018 and continuing through March 2019, the plaintiff spoke out against the defendants’ unbridled misuse of Chapter 59 funds. *See* TEX. CRIM. PROC. CODE § 59.06(d), *et seq.* Chapter 59 funds are funds generated from law enforcement property seizure. *See id.* They are public funds. *See id.* The plaintiff believed that the use of public funds for certain private purposes is unlawful and contrary to the use of such funds proscribed by Chapter 59. *See* TEX. CRIM. PROC. CODE § 59.06(d-1). But the plaintiff had no job duties, responsibilities or authority with respect to determining who should receive Chapter 59 funds or the actual distribution of Chapter 59 funds to any entity; this was the sole province of the defendants or other elected

officials. His opposition to the defendants' use of the funds for certain purposes was thus voiced as a citizen. The Supreme Court of the United States makes clear "that public employees do not surrender all their First Amendment rights by reason of their employment. Rather, the First Amendment protects a public employee's right, in certain circumstances, to speak as a citizen addressing matters of public concern." *Garcetti v. Ceballos*, 547 U.S. 410, 417, 126 S. Ct. 1951, 1957, 164 L. Ed. 2d 689 (2006). Undoubtedly, a public employee, such as the plaintiff, possesses First Amendment protection against retaliatory discharge when opposing the misuse of public funds, which is a matter of public concern. *See id.* at 432, 1966.

9. More specifically, during multiple discussions, the plaintiff told Defendant Kira Talip that it was worrisome to him, as a citizen, how Defendant Kira Talip, alone, and for what he believed to be for political gain, was mispending Task Force Chapter 59 funds. This is because numerous entities in Kingsville, Texas, were going directly to Defendant Kira Talip and asking for donations from the Task Force's Chapter 59 funds. Without consulting with Task Force management, Defendant Kira Talip was agreeing to make donations to entities that did not qualify and whom were not being tasked to submit application forms nor breakdowns of how the donated funds would be utilized. Defendant Kira Talip was not even consulting with Task Force management prior to making agreements for donations, but would simply call Administrator Garcia and tell

her to put the donation requests on the agenda for the County Commissioners Court. Kleberg County Judge Rudy Madrid and the commissioners would then simply rubber stamp all of her requests without scrutiny.

10. Further, during discussions, the plaintiff, as a citizen, asked Defendant Kira Talip for an explanation as to how she was making decisions concerning dollar amounts and how she was determining how the entity could legally receive the donation. The plaintiff, as a citizen, also explained to Defendant Kira Talip that no documentation was being filled out by the requesting entity so that the public and others could scrutinize the requests. During the plaintiff's discussions concerning these donations, Defendant Kira Talip admitted she should have consulted with Task Force management about her unbridled use of Chapter 59 funds; however, she never corrected this and continued taking donation requests directly through the Kleberg County Attorney Office and making all decisions concerning the amount donated and the entity being donated to. After the plaintiff began, as a citizen, complaining about Defendants Kira Talip's expenditures of the funds, she stopped providing any information to the plaintiff concerning the donations and would discuss them only with Administrator Garcia. The public remained in the dark. During the latter part of 2018 and all of 2019, the only way the plaintiff could obtain information concerning Task Force donations was when Administrator Garcia would complain to him that Defendant Kira Talip was giving

money away at an alarming rate. Even though Defendant Kira Talip was not disclosing to the plaintiff information about donations of public funds, the plaintiff continued, as a citizen, to bring up the matter when he would see Defendant Kira Talip but it always fell on deaf ears. The plaintiff was also aware that during this period, Task Force office manager Kathy Rios was also complaining to Defendant Kira Talip and Administrator Garcia about the expenditures. The amounts of the unlawful donations ranged from \$500 to \$5,000.

11. However, one very large donation was repeatedly questioned by the plaintiff to Defendant Kira Talip, and this concerned a donation of approximately \$16,000 to the King Ranch Security. The plaintiff was originally informed by Defendant Kira Talip in about January 2018, that the King Ranch Security was trying to convince the Kleberg County Sheriff's Department to give them proceeds to purchase law enforcement radios for their security units. The Sheriff's Department offered to buy the radios and then loan them to the King Ranch, and in that way, would own and control the law enforcement radios. However, the King Ranch was not satisfied with the arrangement and demanded the Sheriff's Department give them money to purchase the radios themselves. The Sheriff's Department subsequently denied the request.

12. After being turned down, the King Ranch lobbied Kleberg County. Defendant Kira Talip subsequently told the plaintiff that she decided to give the money to the King

Ranch, at which time, the plaintiff, as a citizen, vehemently protested. The plaintiff told Defendant Kira Talip that the amount of money was too large; that the Task Force never worked with the King Ranch, and so there was no justification in giving them the money; there had been no effort to research whether less expensive radios were available; and the plaintiff stated, as an interested citizen, that this had the appearance of being a political favor which is in violation of state statute concerning the expenditure or donation of Chapter 59 funds. Defendant Kira Talip told the plaintiff that the King Ranch was a valuable and powerful ally for her to have in Kingsville. The plaintiff continued to protest, as a citizen, and told Defendant Kira Talip that the gift had nothing to do with the proper use of public, Task Force funds.

13. A few weeks after these discussions and protests from the plaintiff, Defendant Talip called the plaintiff to her office at the Kleberg County Courthouse. When he arrived and entered her office, the plaintiff was greeted by Defendant Kira Talip and two officials from the King Ranch. Defendant Kira Talip explained that she was donating Chapter 59 funds to the King Ranch for police radios. The plaintiff objected, as a concerned citizen, arguing with Defendant Kira Talip, by stating that he believed there is serious legal issues with donating Chapter 59 funds to an entity like the King Ranch and reminded everyone in the room that the Task Force does not even work with the King Ranch Security, which is not a law enforcement agency under state law. At that point,

Defendant Kira Talip told the plaintiff that he was “excused” from the meeting, which then continued with the King Ranch officials. Defendant Kira Talip later admitted to the plaintiff that she wanted to give the donation because the King Ranch was a powerful, political ally for her to have in Kingsville.

14. Further, beginning in about March 2018 and continuing on and off through early 2019, the plaintiff opposed the amount of time Defendant Kira Talip spent with a particular Senior Special Agent, a law enforcement agent under the direct supervision of the plaintiff and also a subordinate of Defendant Kira Talip, during business hours and even outside of business hours, because he believed it to be sexually oriented. The plaintiff began noticing Defendant Kira Talip would seclude herself with the Senior Special Agent in his upstairs office behind closed doors for an hour or longer; he learned that Defendant Kira Talip was texting and calling the Senior Special Agent all day and into the night, and after business hours; that she was going on ride-alongs during business hours with only the Senior Special Agent and no other task force agent; that she was calling him to be her escort and drive her to meetings and luncheons; and was told of inappropriate sexual in nature conversations between Defendant Kira Talip and the Senior Special Agent occurring in front of other staff at breakfast, lunch meetings, and Task Force group events. This relationship is well-documented, in part, in phone records and in text messages.

15. Further, just before his discharge, the plaintiff was involved in an investigation of allegations of improper sexual relationships between employees of Kleberg County and the Task Force. It began when a former employee's wife reported to the plaintiff that she learned about an improper relationship between her husband, a former Task Force agent, and Kathy Rios, a current Task Force employee. It was also reported to the plaintiff by the same person that she would make public her allegations of an improper relationship between Defendant Kira Talip and a current Senior Special Agent unless Ms. Rios was discharged from the Task Force. It was further reported to the plaintiff by the same person that there were improper sexual relationships between the current Senior Special Agent and other employees of Kleberg County that she would also make public unless Ms. Rios was discharged. She further demanded that the current Senior Special Agent be disciplined or discharged because of his conduct. Therefore, the plaintiff began an investigation of improper sexual relationships in the defendants' workplace. For example, he personally interviewed witnesses who were former and existing employees of the defendants. The plaintiff also disclosed the threat of making all the allegations public to Defendant Kira Talip, as part of his internal investigation. In response, Ms. Rios was discharged from the Task Force on the defendants' instructions, which the plaintiff opposed, no action was taken against the Senior Special Agent, and the plaintiff was later discharged by the defendants, at least in part, to silence and quash further

investigation by the plaintiff of sexual harassment allegations/hostile work environment allegations based on improper sexual relationships in the workplace.

CAUSES OF ACTION

Count 1-Unlawful Retaliation for Exercising First Amendment Rights (42 U.S.C. § 1983)

16. The plaintiff incorporates within Count 1 all of the allegations set forth in paragraphs 1-15, *supra*.

17. The plaintiff was employed by the defendants, which is a county government within the state of Texas. Therefore, the defendants are a local government entity, and the plaintiff was a public employee.

18. The plaintiff voiced opposition to the defendants concerning what he believed were matters of public concern with respect to the defendants' misuse of Chapter 59, public funds. As a result of his conduct, the defendants terminated the employment of the plaintiff.

19. The plaintiff suffered an adverse employment action, (2) his speech involved a matter of public concern, (3) his interest in speaking outweighed the employer's interest in promoting efficiency in workplace, and (4) his speech motivated the defendants' adverse employment action.

20. The defendants' conduct in discharging the plaintiff from his employment caused damages to the plaintiff. By this action, the plaintiff seeks reinstatement, to recover his

lost wages and benefits in the past, his lost wages and benefits in the future, his economic and non-economic damages for mental anguish, and all of his reasonable costs and attorney's fees incurred in this matter.

Count 2–Unlawful Retaliation for Opposing/Investigating Hostile Work Environment based on Sexual Harassment/Improper Sexual Relationships

21. The plaintiff incorporates within Count 2 all of the allegations set forth in paragraphs 1-20, *supra*.

22. The plaintiff was involved in investigating allegations of improper sexual relationships involving multiple employees, including Defendant Kira Talip, and former employees. For example, when he was discharged, the plaintiff was in the beginning stages of conducting his investigation of alleged sexual misconduct by some of the defendants' employees by interviewing witnesses, who were current and former employees of the defendant. "For purposes of a Title VII retaliation claim, 'protected activity' consists of opposing any practice rendered unlawful by Title VII, including making a charge, testifying, assisting, or participating in any investigation, proceeding, or hearing under Title VII." 42 U.S.C. § 2000e-3(a); *see also Slaughter v. Coll. of the Mainland*, No. CV G-12-018, 2016 WL 4771030, at *4 (S.D. Tex. Sept. 12, 2016).

23. In response to his protected conduct, the defendants retaliated against the plaintiff by discharging him from his employment.

24. The plaintiff alleges the retaliation was knowingly done and/or intentionally done

and/or recklessly by the defendant.

25. The defendants' conduct caused damages to the plaintiff. He therefore seeks to recover his economic damages from the defendant, damages for mental anguish, and all other damages provided by law. Because of the nature of the conduct, the plaintiff also seeks to recover exemplary damages from the defendants, as provided by law. As provided by law, the plaintiff also seeks recovery of his attorney's fees.

PRAYER

26. For these reasons, Plaintiff Thomas Roddy respectfully requests that Defendants Kleberg County Attorney Kira Talip and Kira Talip, Individually, be cited to appear herein and answer, and that upon trial of this matter, have judgment against Defendants for Plaintiff's damages, economic damages, non-economic damages, mental anguish damages, exemplary damages, attorney's fees, costs, pre-judgment interest, post-judgment interest, and for such other relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

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