

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

SHARON BACA-HERRERA

Plaintiff,

vs.

No. D-202-CV-2020-04336

COUNTY OF BERNALILLO and
BERNALILLO COUNTY METROPOLITAN
DETENTION CENTER,

Defendants.

**COMPLAINT FOR VIOLATIONS
OF NEW MEXICO WHISTLEBLOWER PROTECTION ACT**

Plaintiff Sharon Baca-Herrera, by and through her counsel of record, and for her Complaint for Violations of the New Mexico Whistleblower Protection Act (hereinafter "WPA") against County of Bernalillo (hereinafter "County") and Defendant Bernalillo County Metropolitan Detention Center (hereinafter "MDC"), states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Sharon Baca-Herrera is a resident of Bernalillo County, New Mexico and former public employee for the County through MDC, as defined in NMSA 1978, § 10-16C-2.
2. Defendant County is a political subdivision of the State of New Mexico and former public employer of Plaintiff as defined in NMSA 1978, § 10-16C-2.
3. MDC is a subsidiary department of the County where Plaintiff was employed.
4. MDC and the County are vicariously liable for the actions of their employees as described herein.
5. The acts complained of herein occurred at MDC in Bernalillo County, New Mexico

COUNT I: VIOLATIONS OF WPA

6. At all times material, Plaintiff was employed by the County as a Corrections Technician at MDC.

7. On February 3, 2019, Plaintiff arrived at work when she noticed a bag of personal property in the releasing and intake office.

8. Plaintiff later discovered that the bag of personal items belonged to an inmate named Vincente Villela, who had died in MDC custody the previous day.

9. Plaintiff, believing that it was unusual for a deceased inmate's items to be sitting in the intake office, asked a colleague about whether Mr. Villela's family had been notified about the death and whether a family member would be retrieving the personal items.

10. Plaintiff was advised that the family of Mr. Villela had not been notified.

11. Plaintiff believed that it was unusual and contrary to established MDC protocols for the family to not be immediately notified of an inmate's death.

12. Later that day, Plaintiff observed surveillance footage involving the death of Vincente Villela.

13. Plaintiff observed that Mr. Villela was placed in a chokehold by two correction officers who refused to release him, despite Mr. Villela repeatedly stating that he could not breathe.

14. Plaintiff observed in the video that Mr. Villela's body eventually stopped moving and he appeared lifeless.

15. Plaintiff was highly disturbed by the video and believed that the correction officers' conduct in connection to Mr. Villela's death was wrongful and unjustified.

16. Shortly after observing the video and during Plaintiff's second shift on February 3, 2019, the same two correction officers involved in Mr. Villela's death entered the office where Plaintiff was working.

17. Plaintiff overheard the two correction officers bragging about killing Mr. Villela, stating that they almost had to "kill another inmate." The officers were laughing and joking about the death of Mr. Villela.

18. The officers indicated that the inmates at MDC were nothing but "scum," and therefore the officers believed their actions were justified.

19. Plaintiff, upon hearing these statements, confronted the correction officers about their comments.

20. The officers told Plaintiff to "mind her own business" and that she should not be working at MDC.

21. The following day, February 4, 2019, Plaintiff alerted three of her supervisors as to what had transpired with the officers in relation to the death of Mr. Villela and their threats about other inmates.

22. During these communications, Plaintiff advised her supervisors that the officers were bragging about purposely killing inmates and were threatening to harm or kill other inmates; that she was concerned about the officers' improper conduct in connection with the death of Mr. Villela after observing the video; concerned that no action by MDC had been taken to investigate the officers' actions or threats; and concerned that proper MDC protocols had not been followed with respect to notifying Mr. Villela's family members.

23. Plaintiff's supervisors indicated that they would investigate the incidents described by Plaintiff.

24. When Plaintiff observed that no action was taken regarding her concerns within the following days, Plaintiff e-mailed the Deputy Chief at MDC on February 7, 2019. Plaintiff expressed the same concerns to the Deputy Chief which she had verbally expressed to her supervisors days prior. Plaintiff also alerted the Deputy Chief that she was concerned that the supervisors had not taken any action after her reports, contrary to established MDC protocols and legal duties.

25. Plaintiff did not receive a response to her email.

26. Rather, the following day on February 8, 2019, Plaintiff was escorted to the Captain's office, where she was terminated from her position.

27. Plaintiff was advised by the terminating officers that she "was not a good fit" for MDC and she was therefore being let go.

28. When Plaintiff asked for more information regarding the reasons for her termination, she was advised by the terminating sergeant that he did not have to give her any explanation.

29. Plaintiff asked if her termination was related to her reporting concerns related to the death of Vincente Villela. The supervising officers refused to answer Plaintiff's question.

30. Plaintiff was ordered to remove her belongings and immediately leave the property.

31. Pursuant to NMSA 1978, § 10-16C-3, Plaintiff engaged in protected activity through her communications to her supervisors and the Deputy Chief of her belief that the correction officers' actions were unlawful and/or improper, and that MDC's response to their actions and Plaintiff's complaints were similarly unlawful and/or improper.

32. Plaintiff, in good faith, believed that she had witnessed unlawful and/or improper behavior, and that MDC's actions and inaction were similarly unlawful and/or improper.

33. Plaintiff suffered retaliatory action by Defendants when she was terminated.

34. Plaintiff's engaging in protected activity through her communications was the cause of the retaliatory action.

35. Defendants' actions were willful, wanton, and committed with reckless disregard for Plaintiff and her rights to be free from retaliatory action.

36. Plaintiff has suffered damages because of the retaliatory action, including lost wages, emotional distress, mental anguish, damage to reputation, and other damages allowable by law and in an amount to be proven at trial.

WHEREFORE, Plaintiff prays that the Court enter judgment in favor of Plaintiff and against Defendants, and enter an award for lost wages, double back pay, compensatory damages, punitive damages, pre- and post-judgment interest, reasonable attorneys' fees, and any other such damages as allowable by law.

Respectfully submitted:

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