

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE TOWN OF CLARKSVILLE,
INDIANA

Defendant,

CAUSE NO.

COMPLAINT

Plaintiff, United States of America, alleges:

1. The United States brings this suit against the Town of Clarksville, Indiana (“Clarksville” or “Defendant”) to enforce the statutory and regulatory provisions of Title I of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12111-17, as amended, which incorporates, through 42 U.S.C. § 12117(a), the powers, remedies, and procedures set forth in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 42 U.S.C. § 12117(a) and § 2000e-5(f), 28 U.S.C. §§ 1331 and 1345.

3. This Court has authority to grant a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202, and authority to grant equitable relief and monetary damages pursuant to 42 U.S.C. § 12117.

4. Venue is proper in this district under 28 U.S.C. § 1391 and 42 U.S.C. § 2000e-

5(f)(3) because Defendant is located in this judicial district and the events and omissions giving rise to this action occurred in this judicial district.

PARTIES

5. Plaintiff is the United States of America.
6. Defendant is a political subdivision of the State of Indiana. The Clarksville Police Department and the Clarksville Metropolitan Board of Fire, Police and Safety Commissioners are agencies of Defendant.
7. Defendant is an employer within the meaning of 42 U.S.C. §§ 12111(5), and a covered entity within the meaning of 42 U.S.C. § 12111(2) and 29 C.F.R. § 1630.2(b).

FACTS

8. Complainant is an individual with a disability within the meaning of 42 U.S.C. § 12102 because he has the human immunodeficiency virus (HIV), a physical impairment that “substantially limits immune function.” 29 C.F.R. § 1630.2(j)(3)(iii).

9. Complainant is also an individual with a disability within the meaning of the ADA because Defendant regarded Complainant as having a disability when it withdrew his conditional offer of employment based on his perceived impairment. 42 U.S.C. § 12102(3).

10. Complainant’s HIV is well-controlled with medication and his viral load is, and during all relevant times was, fully suppressed.

11. Complainant’s HIV does not present a significant risk to the health or safety of himself or others in the performance of his duties as a police officer.

12. In October 2015, Defendant gave Complainant a conditional offer of employment as a police officer.

13. At the time Complainant received the offer, he had been successfully performing

the essential duties of the job as a volunteer reserve officer for more than a year.

14. During all relevant time periods, Complainant is and has been qualified to perform the essential functions of a police officer.

15. Clarksville's offer of employment was contingent upon Complainant passing a state-mandated medical examination prescribed by the Indiana Public Retirement System.

16. At his October 26, 2015 medical examination, Complainant advised the medical examiner that he was under a physician's care for treatment of his HIV and was taking prescribed antiretroviral medications.

17. At the conclusion of the examination, the examiner noted that Complainant was taking "anti-viral medications," had "no long-term evidence of active disease" from his HIV, and had no other notable health issues.

18. Notwithstanding these findings, the examiner advised Clarksville's Police Chief that in his opinion Complainant did not meet the statewide medical standards because his HIV was a "communicable disease" that posed a "significant risk of substantial harm to the health and safety" of his colleagues and the public.

19. The medical examiner cited no objective scientific or medical evidence in support of his opinion that Complainant posed a risk to others because of his HIV.

20. The medical examiner made no individualized findings about how Complainant's HIV status affected his ability to serve as a police officer.

21. The medical examiner's determination was at odds with objective evidence showing that Complainant was physically able to perform the job of police officer.

22. On November 17, 2015, Clarksville's Police Chief recommended that the Clarksville Metropolitan Board of Fire, Police and Safety Commissioners (the "Board")

withdraw Complainant's offer of employment as a police officer and terminate him as a reserve police officer.

23. The next day, the Board sent Complainant a letter explaining that his offer was rescinded because he "did not pass the statewide baseline test" required by the Indiana Public Retirement System.

24. Complainant spent the next fifteen months appealing his erroneous disqualification, and seeking to be rehired as a Clarksville police officer.

25. Eight months after rescinding Complainant's job offer, Defendant acknowledged that Complainant was qualified by adding him back to its police officer hiring list.

26. Defendant never rehired Complainant.

27. Eventually, Complainant accepted a position as a police officer with a different police department.

28. Clarksville's actions delayed the start of Complainant's career in law enforcement and caused him significant emotional distress, including humiliation, depression, and anxiety, as well as other monetary and dignitary harms.

29. Clarksville's actions cause Complainant continuing harm because his termination leaves a gap in his law enforcement career record that is difficult to explain.

30. Complainant timely filed his charge with the U.S. Equal Employment Opportunity Commission (EEOC) on November 20, 2015, alleging that Defendant discriminated against him in violation of the ADA by withdrawing his conditional offer and discharging him as a reserve office because of his HIV diagnosis.

31. Pursuant to 42 U.S.C. § 2000e-5, incorporated by reference in 42 U.S.C. § 12117(a), the EEOC investigated Complainant's charge and found reasonable cause to believe

that his allegations of discrimination on the basis of disability were true.

32. After the EEOC's conciliation efforts failed, the EEOC referred the matter to the United States Department of Justice.

33. All conditions precedent to the filing of this suit have occurred.

CAUSE OF ACTION
Violation of Title I of the Americans with Disabilities Act

34. The foregoing paragraphs are incorporated herein.

35. Title I of the ADA, 42 U.S.C. §§ 12111-12117, and its implementing regulation, 29 C.F.R. Part 1630, prohibit covered entities, such as Defendant, from discriminating against qualified individuals on the basis of disability in regard to the discharge of employees and other terms, conditions, and privileges of employment.

36. Complainant is a qualified individual with a disability within the meaning of the ADA who during all relevant time periods could perform the essential functions of a police officer with or without accommodation. 42 U.S.C. § 12111(8); 29 C.F.R. § 1630.2(m).

37. Defendant discriminated against Complainant in violation of 42 U.S.C. § 12112(a) and 29 C.F.R. § 1630.4 by withdrawing complainant's conditional offer of employment as a police officer on the basis of his disability, HIV.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court:

A. Grant judgment in favor of the United States and declare that Defendant has violated Title I of the ADA, 42 U.S.C. §§ 12111-12117, and its implementing regulation;

B. Enjoin Defendant and its agencies, agents, employees, successors and all persons in active concert or participation with it, from engaging in discriminatory employment policies and practices that violate Title I of the ADA;

C. Require Defendant to modify its policies, practices, and procedures as necessary to bring its employment practices into compliance with Title I of the ADA;

D. Order Defendant to ensure that all employees, contractors, or other agents who conduct medical examinations or otherwise participate in hiring or personnel decisions are trained on the requirements of Title I of the ADA;

E. Order Defendant to reinstate Complainant to the position of police officer with seniority and retirement benefits as if his employment had continued on a full-time, uninterrupted, basis since the date his conditional offer was unlawfully withdrawn;

F. Award Complainant compensatory damages, including damages for emotional distress, for injuries suffered as a result of the discrimination alleged in this Complaint pursuant to 42 U.S.C. § 1981a; and

G. Order such other appropriate relief as the interests of justice require.

JURY DEMAND

The United States hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

Electronically filed on: April 25, 2022

Respectfully submitted,

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