

RECEIVED
DEC 13 2011
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI**

FILED
DEC 13 2011
DAVID CREWS, CLERK
BY *[Signature]*
Deputy

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
H.M. GRIMMETT, SHERIFF)
OF BOLIVAR COUNTY)
(in his official capacity),)
)
Defendant.)
)

Civil Action No. 2:11-CV-244-MPM-JMV

COMPLAINT

Plaintiff, the United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.* (“Title VII”).

JURISDICTION AND VENUE

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

3. Defendant H.M. Grimmatt, the Sheriff of Bolivar County, Mississippi, (“Sheriff”) is an elected official in the State of Mississippi. The Sheriff is sued in his official capacity only.

4. The Sheriff has the responsibility for the employment of persons in the Bolivar County Regional Correctional Facility (“B.C.R.C.F.”), including the hire, promotion and termination of employees of the B.C.R.C.F.

5. The Sheriff is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer or agent of an employer within the meaning of 42 U.S.C. § 2000e(b).

6. The Equal Employment Opportunity Commission (“EEOC”) received a timely charge (EEOC Charge No. 423-2009-2320) filed by Robert E. Brown (“Mr. Brown”) on or about August 26, 2009. In his EEOC Charge, Mr. Brown alleged, *inter alia*, that he had been discharged on or about August 13, 2009 from his position with the B.C.R.C.F., which is operated by the Sheriff, because Mr. Brown had filed an earlier charge of discrimination with the EEOC. Pursuant to Section 706 of Title VII, the EEOC investigated the charge, found reasonable cause to believe that Mr. Brown was subjected to retaliation in violation Title VII, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the charge, and subsequently referred the matter to the Department of Justice.

7. All conditions precedent to the filing of suit have been performed or have occurred.

CAUSE OF ACTION

8. Mr. Brown was hired by the Sheriff as a Correction Officer for the B.C.R.C.F. in 1999. In July 2000, he was promoted to the rank of Sergeant, and in November 2000 he was again promoted to the rank of Lieutenant. Mr. Brown was promoted to the position of Chief of Security for the B.C.R.C.F. in November 2003.

9. As Chief of Security, Mr. Brown reported directly to Deputy Warden Elmore Sellers (“Deputy Warden Sellers”). Deputy Warden Sellers reports to Warden Thomas Taylor (“Warden Taylor”). Warden Taylor reports to the Sheriff, is responsible for supervising the day-to-day operations of the B.C.R.C.F., and has authority to make employment decisions with respect to B.C.R.C.F. employees.

10. In October 2006, Mr. Brown was at the Sheriff's firing range with several other B.C.R.C.F. sworn personnel for weapons training. While Mr. Brown was on the firing range's firing line, John Brister, a National Rifle Association certified instructor who assists the Sheriff with training personnel, used his foot to gain Mr. Brown's attention by making physical contact with Mr. Brown's hip area. Mr. Brown subsequently complained of Brister's action to, among others, Warden Taylor and Deputy Warden Sellers. Mr. Brown complained to Deputy Sellers that the actions on the range were motivated by race.

11. On or about July 8, 2009, Mr. Brown filed a charge of discrimination with the EEOC (Charge No. 423-2009-002606) alleging, among other things, the B.C.R.C.F. discriminated and retaliated against him, in violation of Title VII.

12. Warden Taylor was informed on or about July 8, 2009 that Mr. Brown had filed an EEOC charge. Warden Taylor has stated that he viewed Mr. Brown's July 8, 2009 EEOC charge as having been filed against him personally.

13. On or about August 10, 2009, while Warden Taylor was preparing B.C.R.C.F.'s response to the EEOC, Mr. Brown and other Sheriff employees began a week-long training course at the Sheriff's offices. The training course was led by Captain Nolette, who was informed by Warden Taylor that Mr. Brown had filed an EEOC charge.

14. During the training session, Mr. Brown told the training class, in sum or substance, that he could no longer ride his bike because he had been kicked. Mr. Brown made no reference to the incident on the firing range, nor did he make a derogatory statement about the Sheriff, Warden Taylor, or any other employee of the Sheriff.

15. On or about August 12, 2009, Warden Taylor instructed Nolette to document statements that Nolette claimed were made by Mr. Brown during the training class. The written

report that Nolette submitted to Warden Taylor alleged, among other things, that Mr. Brown told the class, "after his brutal attack on the BCRCF range by another officer that the Sheriff, Warden and all involved were encouraged to lie about the situation and the Sheriff even applauded the lies that were told by those involved."

16. On or about August 13, 2009, with the Sheriff present, Warden Taylor provided Mr. Brown with a copy of Nolette's written report alleging that Mr. Brown made derogatory comments about Warden Taylor and the Sheriff. Mr. Brown denied making the statements in Nolette's written report. Despite Mr. Brown's denial of the allegations, Warden Taylor immediately terminated Mr. Brown.

17. Prior to Mr. Brown's termination, the Sheriff did not conduct any investigation regarding Nolette's allegations against Mr. Brown, and failed to ask anyone who was present during the training session whether Nolette's allegations against Mr. Brown were true. The Sheriff also failed to follow the progressive discipline policy in place at the B.C.R.C.F; Mr. Brown never was subject to discipline before his August 2009 termination.

18. On or about August 14, 2009, *after* Warden Taylor discharged Mr. Brown, Warden Taylor arranged for all persons, including Captain Nolette, who were present in the training session to be interviewed regarding the allegations against Mr. Brown in Nolette's written report. The interviews were recorded and transcribed, and the transcripts were given to Warden Taylor on or about August 17, 2009. Warden Taylor read the transcripts upon receiving them.

19. The transcripts of the August 14, 2009 recorded interviews reflect that no witness interviewed at Warden Taylor's direction, including Captain Nolette, provided information that corroborated the allegations against Mr. Brown detailed in Nolette's written report. All

witnesses from the training session stated that Mr. Brown did not mention the Sheriff or Warden Taylor during the class. Even Captain Nolette modified his allegations, now claiming that, “I remember him saying ‘brutally assaulted’ and ‘administrators of either Bolivar County or BCRCF’ and *to me that meant* the Sheriff and the Warden. . .” (emphasis added).

20. On or about August 21, 2009, Mr. Brown appealed his discharge to the Sheriff. The Sheriff formed an appeal committee to hear Mr. Brown’s appeal and decide whether Warden Taylor’s decision to discharge Mr. Brown should be upheld.

21. On or about August 21, the Sheriff directed Warden Taylor to provide to the appeal committee information to support his decision to discharge Mr. Brown. Warden Taylor, knowing that the allegations against Mr. Brown in Nolette’s written report were false, provided the appeal committee responsible with deciding Mr. Brown’s employment fate with a copy of Nolette’s original written report only. Warden Taylor did not provide the appeal committee with a copy of the transcripts of the August 14 interviews, all of which contradicted the allegations made in Nolette’s written report.

22. On August 24, 2009, the appeal committee upheld Warden Taylor’s decision to discharge Mr. Brown.

23. The Sheriff, through the acts of Warden Thomas Taylor, has subjected Mr. Brown to discrimination in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a), among other ways, by retaliating against Mr. Brown because he engaged in activity protected under Title VII. Specifically, Mr. Brown was terminated by Warden Thomas Taylor on August 13, 2009 because Mr. Brown filed a charge of discrimination with the EEOC against the B.C.R.C.F. on July 8, 2009.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court grant the following relief:

- (a) Enjoin the Sheriff from retaliating against employees who engage in activity protected under Title VII;
- (b) Order the Sheriff to develop and implement appropriate and effective measures designed to prevent retaliation;
- (c) Award make-whole remedial relief to Mr. Brown, including back pay with interest, to compensate him for the loss he suffered as a result of the Sheriff's discriminatory conduct as alleged in this Complaint.
- (d) Award compensatory damages to Mr. Brown to fully compensate him for the injuries caused by the Sheriff's discriminatory conduct, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a; and
- (e) Award such additional relief as justice may require, together with Plaintiff's costs and disbursements in this action.

JURY DEMAND

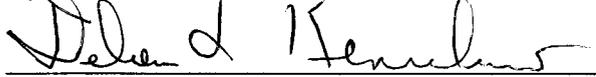
The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

Respectfully submitted,

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

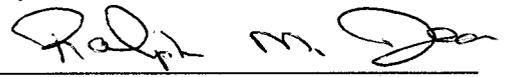
FELICIA C. ADAMS
United States Attorney
Northern District of Mississippi

By:

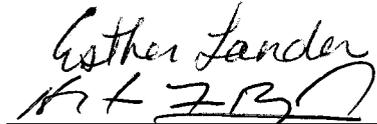


DELORA L. KENNEBREW (GA Bar No. 414320)
Chief
Employment Litigation Section
Civil Rights Division

By:



RALPH M. DEAN, III MSB 6010
Assistant United States Attorney
United States Attorney's Office
Northern District of Mississippi
Ethridge Building
900 Jefferson Avenue
Oxford, Mississippi 38655
(662) 234-3351



ESTHER G. LANDER (DC Bar No. 461316)
Deputy Chief

HECTOR F. RUIZ, JR. (TX Bar No. 24029814)
Senior Trial Attorney
Employment Litigation Section
Civil Rights Division
United States Department of Justice
950 Constitution Avenue, NW
Patrick Henry Building, Room 4036
Washington, DC 20530
(202) 514-9694
(202) 514-1005 (fax)