

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL
CIRCUIT IN AND FOR ALACHUA COUNTY, FLORIDA

KEVIN DAVIS

Plaintiff,

v.

CASE NO.: 2023-CA-0607

CLOVIS WATSON, JR., in his official capacity as
SHERIFF OF ALACHUA COUNTY,

Defendant.

COMPLAINT

COMES NOW, the Plaintiff, KEVIN DAVIS (“Plaintiff” or “DAVIS”), by and through undersigned counsel and sues Defendant, **CLOVIS WATSON, JR.**, in his official capacity as Sheriff of Alachua County, (“Defendant” or “ACSO”) and alleges as follows:

NATURE OF THE ACTION

1. This action is brought under the Florida Civil Rights Act, Fla. Stat. 760, et seq. (“FCRA”), Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, and 42 U.S.C. §1981 and the Equal Protection Clause of the 14th Amendment to the United States Constitution, actionable under 42 U.S.C. §1983.

2. This is an action for damages that exceed \$50,000.00, the minimum jurisdictional limits of this court, exclusive of interest and costs, and Plaintiff demands a trial by jury.

3. Venue is proper in this Circuit pursuant to Florida law as the claims arose in Alachua County.

4. DAVIS, at all times material hereto, was a resident of Alachua County, Florida and is otherwise sui juris.

THE PARTIES

5. At all times pertinent hereto, Plaintiff, has been a resident of the State of Florida, and was employed by Defendant. Plaintiff is a member of a protected class because of his race (Caucasian), and the fact that he reported discriminatory and retaliatory treatment.

6. At all times pertinent hereto, Defendant has been organized and existing under the laws of the State of Florida and is an “employer” as that term is used under the applicable law identified above. Defendant’s headquarters is in Alachua County, Florida.

CONDITIONS PRECEDENT

7. Plaintiff has satisfied all conditions precedent to bringing this action in that he timely filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) and the Florida Commission on Human

Relations (“FCHR”) in February 2022. He received a Notice of Determination from FCHR on or about October 7, 2022 and filed this action within 365 days of receipt. He also received a Notice of Suit Rights from the EEOC on or about January 12, 2023 and filed this action within 90 days of receipt.

STATEMENT OF THE ULTIMATE FACTS

8. DAVIS is a Caucasian male.

9. DAVIS is a law enforcement official with an overall positive record of service to the citizens of Alachua County and the Alachua County Sheriff’s Office (“ACSO”).

10. DAVIS initially worked for ACSO beginning on October 11, 1999. He resigned on August 16, 2001 to attend the University of North Florida full time. He was rehired by ACSO on March 4, 2004 as a Detention Officer, responsible for the care, custody, and control of inmates at the jail.

11. At the time of DAVIS’S rehire, Stephen Oelrich was the Sheriff of Alachua County.

12. Currently, DAVIS serves as a Sergeant in the Patrol Division. The next higher rank in the patrol division is lieutenant.

13. On January 5, 2021, Clovis Watson, a black male, became the Sheriff of Alachua County.

14. Defendant selected Joel DeCoursey, a black male, to serve as the Undersheriff.

15. Prior to Watson becoming Sheriff, DAVIS had earned many promotions within ACSO.

16. The promotion process for the ACSO for the ranks of sergeant and lieutenant requires verification of eligibility for promotion by Human Resources. All eligible sworn or certified employees may take a promotional exam and must pass a predetermined minimal competency score in order to be placed on the eligibility list.

17. The top candidates who are eligible for promotion are to be given an opportunity to interview with either the Undersheriff or Sheriff.

18. The Sheriff or his designee ultimately makes the selection for qualified, eligible candidates based on relevant experience, background, performance history, discipline history, and other job-related factors.

19. Since Defendant took office, DAVIS, and other Caucasian employees, have continuously been passed over for promotion and transfer because of their race by the Sheriff and Undersheriff.

20. On September 19, 2021, DAVIS took the lieutenant promotional exam, exceeded the minimum competency score, and became eligible for promotion to lieutenant.

21. DAVIS'S promotional eligibility is valid through September 23, 2023.

22. ACSO uses a “Rule of Five” for promotions. As it relates to DAVIS, this rule requires the consideration of the five (5) highest ranked candidates from the promotional assessment process that was completed on September 23, 2021, plus the top five (5) candidates from the 2019 assessment process. As of September 27, 2021, DAVIS was third on the 2021 list and third overall on both lists combined.

23. DAVIS made internal complaints regarding Defendant’s discriminatory practices, to no avail. Specifically, DAVIS provided an internal affairs complaint to Captain Brandon Kutner in the Office of Professional Standards, but received no response.

24. Therefore, on or about February 18, 2022, DAVIS filed a charge of discrimination with the EEOC and FCHR.

25. DAVIS reported that there was race discrimination occurring in the promotional and personnel decisions within ACSO. DAVIS reported these actions were occurring to him and others.

26. DAVIS provided the following examples of times when a minority candidate was promoted, reassigned, or otherwise selected over a Caucasian candidate, with the deciding factor being race:

- a. Darin Patterson, a black male, was reassigned from the Civil Division to New Hire Recruiter/Background Investigator, which is

- a role that was already filled by a Caucasian employee. Patterson did not request that this move be made.
- b. Denise Scott, a black female, was brought back from retirement to work as a New Hire Recruiter/Background Investigator, which was a role that was already filled by a Caucasian employee. Scott had numerous disciplinary issues prior to her retirement.
 - c. Peter King, a black male, was promoted to Sergeant on October 1, 2021. He was ranked 5th out of the top five on the Sergeant's promotional list and was the only eligible black employee. He was selected over 4 non-minority candidates and immediately assigned to the Office of Professional Standards ("OPS"). This was inconsistent with prior requirements that newly promoted Sergeants are assigned to patrol and that OPS investigators possess supervisory experience within the ACSO. As it relates to DAVIS specifically, he was not given the opportunity to serve in the OPS nor was he notified that this was available for placement.
 - d. Eric Hutchinson, a black male, was named as "acting" lieutenant from August 29, 2021-September 12, 2021. Notably, Mr. Hutchinson was not one of the top 5 candidates on the lieutenant eligibility list from either 2019 or 2021. Sgt. Hutchinson received

increased pay for this acting role despite the fact that he was not eligible for promotion to a lieutenant position at the time.

- e. Chuck McCray, a black male, was promoted to the lieutenant position that Hutchinson vacated, despite that he was not in the top five on the lieutenant promotional list for either 2019 or 2021. McCray was selected over eligible non-minority candidates.
- f. Dwight Christie, a black male, was selected for transfer to the Warrants Investigator position despite the fact that Deputy Chris Drake, a Caucasian male, scored out as the number one candidate for the position after interviews. This is an example of the pattern and practice of race discrimination within the agency.
- g. Michelle Sherfield, a black female, was hired as the Director of the Government and Community Relations Unit, despite a known criminal history and numerous racially motivated social media posts. This is again evidence of the pattern of discriminatory conduct within the ACSO.

27. As further evidence that race plays a role in Defendant's employment decisions, the Sheriff requires a photograph to be submitted with the paperwork for promotions, transfers, and special assignments. This request serves no other purpose than to confirm the race of the employee.

28. Additionally, at the direction of Defendant, HR Director Reshone Flanders removed and reassigned employees, based on the employees' race, not their experience, to the "New Hire Oral Board Committee".

29. As of April 7, 2022, DAVIS had moved to second on the 2021 promotional list.

30. On August 11, 2022, Sgt. Richard Howell and Sgt. Eric Hutchinson, both black males, were promoted from the 2021 eligibility list to the rank of lieutenant. Sgt. Hutchinson, who was 8th out of 8 eligible employees, was the only black employee eligible for promotion. Hutchinson has less experience than DAVIS, yet by passed DAVIS in being promoted to lieutenant.

31. DAVIS made a complaint to HR regarding Hutchinson's promotion and the discriminatory nature of it, but was told by HR Director that the decision was not grievable.

32. In another act of retaliation, and an effort to conceal discriminatory intent, on or around January 9, 2023, two (2) white males were promoted to Lieutenant; however, both had lower test scores and less supervisory experience than Mr. Davis.¹

¹ The actions detailed in paragraphs 30-33 are the subject of a charge of discrimination currently pending before the EEOC and FCHR. Plaintiff will amend this complaint as necessary once he has received a notice of right to sue.

33. One of the two (2) aforementioned officers had previously been promoted to Lieutenant and then later demoted. DAVIS contends that he was not promoted in retaliation for his complaints of discrimination.

34. At the beginning of January 2023, Defendant made 40+ transfers of officers, yet Mr. Davis's request to be transferred to the courthouse more than eight (8) months prior has gone without response.

35. Amongst the recent transfers are some of the internal affairs investigators and supervisors, to include a captain and two lieutenant's, who found legitimacy in DAVIS'S claims of discrimination. These supervisors have been transferred out of their respective departments.

36. DAVIS'S Captain, Caucasian, has been replaced by a black Captain, Kelvin Jenkins.

37. Simultaneously, Defendant permanently promoted a black female, Dorian Keith to the position of Major/Jail Director.

38. The aforementioned actions are the result of racial discrimination and in retaliation for Mr. Davis's complaints of discrimination.

39. Upon information and belief, 100% of the black employees who have been eligible for promotion since Watson became Sheriff have been promoted, based at least in part on their race.

40. Since Defendant took office, he has filled a majority of the ACSO command positions with black employees, positions formerly held by Caucasian employees, to include the Undersheriff, Colonel (Director of Operations), Director of Human Resources, Chief Inspector of the Office of Professional Standards (Internal Affairs), Director of the Jail, and the Technical Services Division Manager (Communications/911 Operations Center).

41. Since November 2022, Defendant has initiated two internal affairs investigations against DAVIS. These investigations are retaliatory and malicious in nature and have not been conducted in compliance with Fla. Stat. 112 or ACSO policy and procedure.

42. Plaintiff hired the undersigned to represent him in this action and Defendant should be made to pay Plaintiff's attorney's fees and costs.

COUNT I
DISCRIMINATION IN VIOLATION OF THE FLORIDA CIVIL
RIGHTS ACT, FLA. STAT. §760

43. Paragraphs 1-42 are re-alleged and reincorporated herein by reference.

44. DAVIS is Caucasian and guaranteed protection against discrimination under The Florida Civil Rights Act, Fla. Stat. §760.10.

45. Defendant and its employees were engaged in racially discriminatory conduct towards DAVIS in violation of his civil rights.

46. Defendant is an employer within the meaning of the FCRA.

47. DAVIS contends that Defendant has a pattern and practice of treating similarly situated, Black employees more favorably than Caucasian employees and he was subjected to disparate treatment as outlined herein.

48. Defendant knew, or should have known, that DAVIS was being discriminated against and treated in a manner less favorable to similarly situated black employees.

49. Despite this knowledge, Defendant failed to take any remedial action.

50. By and through the conduct described herein, Defendant permitted a pattern and practice of unlawful discrimination by permitting DAVIS to be subjected to continuing disparate treatment on the basis of race in violation of the FCRA.

51. As a result of Defendant's violations, DAVIS has suffered damages.

52. As a direct and proximate result of the intentional and discriminatory acts and practices of the Defendant, and/or its employees, DAVIS suffered in injury and continues to suffer injury including past and future loss of income and other employment benefits, emotional pain and suffering, humiliation, damage to his reputation, and other past and future pecuniary losses.

COUNT II
DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL
RIGHTS ACT OF 1964

53. Paragraphs 1-42 are re-alleged and incorporated herein by reference.

54. This is an action against Defendant for race discrimination brought

under Chapter 760, Florida Statutes and Title VII of the Civil Rights Act of 1964..

55. Plaintiff has been the subject of discrimination on the basis of his race.

56. Defendant is liable for this discrimination and for the retaliation that followed. Defendant controlled the actions and inactions of the persons making decisions affecting Plaintiff, or it knew or should have known of these actions and inactions and failed to take prompt and adequate remedial action or took no action at all to prevent the abuses to Plaintiff.

COUNT III
DISCRIMINATION IN VIOLATION OF 42 U.S.C. §1983

57. Paragraphs 1-42 are re-alleged and reincorporated herein by reference.

58. DAVIS is Caucasian and guaranteed protection against discrimination under 42 U.S.C. §1981, actionable pursuant to 42 U.S.C. §1983.

59. Defendant and its employees were engaged in racially discriminatory conduct towards DAVIS in violation of his civil rights.

60. Defendant is an employer within the meaning of 42 U.S.C. §1981

61. DAVIS contends that Defendant has a pattern and practice of treating similarly situated, Black employees more favorably than Caucasian employees and was subjected to disparate treatment as outlined herein.

62. Defendant's conduct was intentional and it knew, or should have known, that DAVIS was being discriminated against and treated in a manner less favorable to similarly situated black employees.

63. Despite this knowledge, Defendant failed to take any remedial action.

64. By and through the conduct described herein, Defendant permitted a pattern and practice of unlawful discrimination by permitting DAVIS to be subjected to continuing disparate treatment on the basis of race in violation of 42 U.S.C. §1981.

65. As a result of Defendant's violations, DAVIS has suffered damages.

66. As a direct and proximate result of the intentional and discriminatory acts and practices of the Defendant, and/or its employees, DAVIS suffered in injury and continues to suffer injury including past and future loss of income and other employment benefits, emotional pain and suffering, humiliation, damage to his reputation, and other past and future pecuniary losses.

COUNT IV
RETALIATION IN VIOLATION OF THE FLORIDA CIVIL RIGHTS ACT,
FLA. STA. §760

67. Paragraphs 1-42 are re-alleged and reincorporated herein by reference.

68. This is an action against Defendant for Retaliation brought under Chapter 760, Florida Statutes.

69. DAVIS has been subjected to retaliation because of his reporting activity made unlawful by Chapter 760, Florida Statutes.

70. Defendant is liable for this retaliation.

71. Defendant controlled the actions and inactions of the persons making decisions affecting DAVIS, or it knew or should have known of these actions and

inactions and failed to take prompt and adequate remedial action or took no action at all to prevent the abuses to DAVIS.

72. As a direct and proximate result of the intentional and retaliatory acts and practices of the Defendant, and/or its employees, DAVIS suffered in injury and continues to suffer injury including past and future loss of income and other employment benefits, emotional pain and suffering, humiliation, damage to his reputation, and other past and future pecuniary losses.

COUNT V
RETALIATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964

73. Paragraphs 1-42 are re-alleged and reincorporated herein by reference.

74. This is an action against Defendant for Retaliation brought under Title VII, 42 U.S.C. §§2000e et seq..

75. DAVIS has been subjected to retaliation because of his reporting activity made unlawful by Title VII.

76. Defendant is liable for this retaliation.

77. Defendant controlled the actions and inactions of the persons making decisions affecting DAVIS, or it knew or should have known of these actions and inactions and failed to take prompt and adequate remedial action or took no action at all to prevent the abuses to DAVIS.

78. As a direct and proximate result of the intentional and retaliatory acts

and practices of the Defendant, and/or its employees, DAVIS suffered in injury and continues to suffer injury including past and future loss of income and other employment benefits, emotional pain and suffering, humiliation, damage to his reputation, and other past and future pecuniary losses.

COUNT VI
RETALIATION IN VIOLATION OF 42 U.S.C. §1983

79. Paragraphs 1-42 are re-alleged and reincorporated herein by reference.

80. This is an action against Defendant for Retaliation brought under 42 U.S.C. §1981, actionable pursuant to 42 U.S.C. §1983.

81. DAVIS has been subjected to retaliation because of his reporting activity made unlawful by 42 U.S.C. §1981.

82. Defendant is liable for this intentional retaliation.

83. Defendant controlled the actions and inactions of the persons making decisions affecting DAVIS, or it knew or should have known of these actions and inactions and failed to take prompt and adequate remedial action or took no action at all to prevent the abuses to DAVIS.

84. As a direct and proximate result of the intentional and retaliatory acts and practices of the Defendant, and/or its employees, DAVIS suffered in injury and continues to suffer injury including past and future loss of income and other employment benefits, emotional pain and suffering, humiliation, damage to his reputation, and other past and future pecuniary losses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant for the following:

- a. that process issue and this Court take jurisdiction over this case;
- b. that this Court grant equitable relief against Defendant under the applicable counts set forth above, mandating Defendant's obedience to the laws enumerated herein and providing other equitable relief to Plaintiff;
- c. enter judgment against Defendant and for Plaintiff awarding all legally available general and compensatory damages for Defendant's violations of law enumerated herein;
- d. enter judgment against Defendant and for Plaintiff permanently enjoining Defendant from future violations of law enumerated herein;
- f. enter judgment against Defendant and for Plaintiff awarding Plaintiff attorney's fees and costs; and
- g. grant such other further relief as being just and proper under the circumstances.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues set forth herein which are so triable.

Dated this 15th day of February, 2023.

Respectfully submitted,

/s/ Tiffany R. Cruz

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