

CIRCUIT COURT OF COLE COUNTY, MISSOURI

STEPHEN BEN-NAIMAH,	)	
	)	
Plaintiff,	)	
	)	
— vs. —	)	Case №
	)	
MISSOURI DEP' T OF CORRECTIONS,	)	
	)	
Defendant.	)	

PETITION for DAMAGES

COMES NOW Plaintiff Stephen Ben-Naimah, and for his cause of action against Defendant Missouri Department of Corrections ("DOC") alleges that:

A. Jurisdiction and Venue

1. This Court has jurisdiction hereof pursuant to Mo. CONST. Art. V, § 14(a) and Mo. Rev. Stat. §§ 478.070 and 213.111.

2. Venue is proper in this Court because the discriminatory acts complained of herein occurred in Cole County.

B. Parties

3. Plaintiff Stephen Ben-Naimah is a black male from the country of Liberia, but who at all relevant times was seeking United States citizenship or had obtained such citizenship, had resided in Cole County, Missouri, and was employed by Defendant DOC.

4. Defendant DOC is an executive agency of the state of Missouri charged with housing persons convicted of criminal offenses who have been sentenced to serve terms of incarceration

therein, and to supervise such persons who have been paroled or placed on probation.

5. Pursuant to Mo. Rev. Stat. § 217.020(2), Defendant DOC is authorized to be sued.

6. At all relevant times, Defendant DOC was an "employer" as defined by the Missouri Human Rights Act ("Act"), Mo. Rev. Stat. §§ 213.010, et seq., and acted by and through its agents, servants, and employees, all within the course and scope of their agency, service, and employment.

C. Relevant Non-Parties

7. Vince Rost is a natural person who at all relevant times was employed by Defendant DOC.

8. Keith Good is a natural person who at all relevant times was employed by Defendant DOC.

9. Jake Wisdom is a natural person who at all relevant times was employed by Defendant DOC.

10. Sydney Fisher is a natural person who at all relevant times was employed by Defendant DOC.

11. Shannon Kimsey is a natural person who at all relevant times was employed by Defendant DOC.

D. Allegations of Fact Common to All Counts

12. In April, 2018, Plaintiff worked for Defendant DOC as a probation/parole assistant.

13. Plaintiff regularly worked with Vince Rost, his supervisor, who regularly told Plaintiff to "put on your African learning brain," among other things, in a derogatory tone intended as an insult based on his race and national origin.

14. Plaintiff regularly worked with Keith Good, who regularly called Plaintiff a "mass murderer," among other things, in a derogatory tone intended as an insult based on his race and national origin.

15. During the time Plaintiff was applying for United States citizenship, Rost instructed Jake Wisdom to look for and exploit any disqualifying information about Plaintiff, including whether he had a criminal record, and those two thereby actively attempted to sabotage his application because of his race and national origin.

16. If Plaintiff were to be occasionally late for work, Plaintiff would be disciplined for it because of his race and national origin, yet other white workers who were late were not disciplined.

17. Although Plaintiff regularly reported the statements and conduct of Rost, Good, and Wisdom, Defendant DOC ignored his reports and did not take any corrective action because of his race and national origin.

18. Although Plaintiff regularly reported his being treated differently if he were to be occasionally late for work, Defendant DOC ignored his reports and did not take any corrective action because of his race and national origin.

19. In March of 2019, Plaintiff applied to Sydney Fisher and Shannon Kimsey for an open position as a probation/parole officer, but Fisher and Kimsey discarded his application and never forwarded it for processing because of his race and national origin.

20. During the time Plaintiff applied for the open probation/parole officer position, Shannon Kimsey and Vince Rost ensured that he did not get the position because of his race and national origin.

21. Although Plaintiff reported Fisher's and Kimsey's conduct in interfering with his application for the open probation/parole officer position, Defendant DOC ignored his reports and did not take any corrective action because of his race and national origin.

22. During Plaintiff's tenure at Defendant DOC, he was harassed so frequently by Rost, Good, Wisdom, Fisher, and Kimsey about being black and being from Liberia that he sought a transfer to St. Louis, but Kimsey ensured that he was not transferred because of his race and national origin.

23. In September, 2019, Kimsey referred Plaintiff for counseling because, as Kimsey put it, Plaintiff appeared to be paranoid due to the harassment he suffered by being black and being from Liberia.

24. On October 1, 2019, Defendant DOC terminated Plaintiff's employment allegedly for allegedly violating unspecified department policies, where instead it was for:

- a. Being black and being from Liberia;
  - b. Reporting the statements and conduct of Rost, Good, and Wisdom;
  - c. Reporting that he was being singled out for discipline for occasionally being late for work when others were not;
- and

d. Reporting Fisher's and Kimsey's conduct in interfering with his application for the open probation/parole officer position.

E. Administrative Prerequisites to Bringing Suit

25. June 25, 2018, Plaintiff filed a charge of discrimination with the Missouri Commission on Human Rights.

26. Plaintiff promptly and diligently accommodated all administrative requests for information and fully cooperated with the investigation of his charge.

27. Upon Plaintiff's request, the Commission issued him a written notice of his right to sue on May 21, 2020, by which time the Commission had yet to conclude its investigation.

28. Plaintiff has exhausted all available administrative remedies regarding the following counts requiring the same prior to instituting this action.

F. Claims for Relief

COUNT I - RACE DISCRIMINATION

29. Pursuant to Mo. S. Ct. R. 55.12, Plaintiff incorporates into this count the foregoing allegations of fact common to all counts.

30. Defendant discriminated against Plaintiff because of his race in that:

a. Throughout his employment with Defendant DOC, Vince Rost and Keith Good regularly told him to "put on your African learning brain," among other things, and called him a "mass murderer," among other things, in a derogatory tone intended as an insult;

b. Throughout his employment with Defendant DOC, Rost and Wisdom actively attempted to sabotage his application for United States citizenship by looking for and exploiting any disqualifying information about Plaintiff, including whether he had a criminal record;

c. Throughout his employment with Defendant DOC, when Plaintiff reported the statements and conduct of Rost, Good, and Wisdom, Defendant DOC ignored his reports and did not take any corrective action;

d. Throughout his employment with Defendant DOC, when Plaintiff was occasionally late for work, Plaintiff would be disciplined for it while other white workers who were late were not disciplined;

e. Throughout his employment with Defendant DOC, when Plaintiff reported his being treated differently if he were to be occasionally late for work, Defendant DOC ignored his reports and did not take any corrective action;

f. When Plaintiff applied to Sydney Fisher and Shannon Kimsey for an open position as a probation/parole officer, Fisher and Kimsey discarded his application and never forwarded it for processing;

g. During the time Plaintiff applied for the open probation/parole officer position, Shannon Kimsey and Vince Rost ensured that he did not get the position;

h. When Plaintiff sought a transfer to St. Louis because of the foregoing, Kimsey ensured that he was not transferred;

i. Kimsey referred Plaintiff for counseling because, as Kimsey put it to the counselor, Plaintiff was paranoid when she knew he was not but was suffering from discrimination, harassment, and a hostile work environment for being black;

j. Defendant DOC terminated Plaintiff's employment allegedly for violating unspecified department policies, where instead it was for being black, among other reasons.

31. The acts described above violated Mo. Rev. Stat. § 213.055, individually or in combination, and constituted discrimination or harassment, or created a hostile work environment for Plaintiff because of his race.

32. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff experienced mental and emotional distress, humiliation, violation of his rights, outrage, indignation, and degradation.

33. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff's terms and conditions of employment were altered:

a. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff felt unsafe at work, uncertain of when he may suffer further discrimination or harassment;

b. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff was prevented from performing his work normally, free from interference, interruption, fear, or distress;

c. The discrimination and harassment were so pervasive

or severe as to create a hostile work environment for Plaintiff; and

d. Plaintiff's employment was terminated because of his race, among other things.

34. Plaintiff was injured and suffered damages from the discrimination, harassment, and hostile work environment described in this count, in that as a direct and proximate result thereof, Plaintiff experienced mental and emotional distress, humiliation, violation of his rights, outrage, indignation, and degradation, and suffered material changes in the terms and conditions of his employment in that he was terminated.

35. Defendant knew or should have known of the discrimination, harassment, and hostile work environment to which Plaintiff was subjected, because Defendant had actual knowledge from Plaintiff's complaints and constructive knowledge through its agents who perpetrated or witnessed the discrimination, harassment, and hostile work environment.

36. Defendant failed to take prompt and effective action to remedy the discrimination, harassment, and hostile work environment, because Defendant failed to take Plaintiff's complaints seriously, investigate them properly, or resolve them appropriately, and because the discrimination, harassment, and hostile work environment continued and worsened until he was terminated.

37. Defendant showed reckless indifference to Plaintiff's right to work in an environment free of discrimination, harassment, and hostility because of his race.

38. Based on the foregoing, Defendant is liable to Plaintiff



for punitive damages caused by Defendant's disregard of his rights.

**WHEREFORE**, Plaintiff prays for judgment in his favor and requests the following relief:

A. Actual damages in a fair and reasonable amount, plus interest on said sum as allowed by law;

B. Punitive damages in such amount as will achieve punishment or deterrence;

C. Plaintiffs' attorney fees;

D. For all costs; and

E. Any other relief consistent with substantial justice.

**COUNT II - NATIONAL-ORIGIN DISCRIMINATION**

39. Pursuant to Rule 55.12, Plaintiff incorporates into this count the foregoing allegations of fact common to all counts.

40. Defendant discriminated against Plaintiff because of his national origin in that:

a. Throughout his employment with Defendant DOC, Vince Rost and Keith Good regularly told him to "put on your African learning brain," among other things, and called him a "mass murderer," among other things, in a derogatory tone intended as an insult;

b. Throughout his employment with Defendant DOC, Rost and Wisdom actively attempted to sabotage his application for United States citizenship by looking for and exploiting any disqualifying information about Plaintiff, including whether he had a criminal record;

c. Throughout his employment with Defendant DOC, when

Plaintiff reported the statements and conduct of Rost, Good, and Wisdom, Defendant DOC ignored his reports and did not take any corrective action;

d. Throughout his employment with Defendant DOC, when Plaintiff was occasionally late for work, Plaintiff would be disciplined for it while other white workers who were late were not disciplined;

e. When Plaintiff applied to Sydney Fisher and Shannon Kimsey for an open position as a probation/parole officer, Fisher and Kimsey discarded his application and never forwarded it for processing;

f. During the time Plaintiff applied for the open probation/parole officer position, Shannon Kimsey and Vince Rost ensured that he did not get the position;

g. When Plaintiff sought a transfer to St. Louis because of the foregoing, Kimsey ensured that he was not transferred;

h. Kimsey referred Plaintiff for counseling because, as Kimsey put it to the counselor, Plaintiff was paranoid when she knew he was not but was suffering from discrimination, harassment, and a hostile work environment due to his national origin; and

i. Defendant DOC terminated Plaintiff's employment allegedly for violating unspecified department policies, where instead it was due to his national origin, among other reasons.

41. The acts described above violated Mo. Rev. Stat. § 213.055, individually or in combination, and constituted discrim-

ination or harassment, or created a hostile work environment for Plaintiff because of his national origin.

42. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff experienced mental and emotional distress, humiliation, violation of his rights, outrage, indignation, and degradation.

43. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff's terms and conditions of employment were altered:

a. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff felt unsafe at work, uncertain of when he may suffer further discrimination or harassment;

b. Because of the discrimination, harassment, and hostile work environment described in this count, Plaintiff was prevented from performing his work normally, free from interference, interruption, fear, or distress;

c. The discrimination and harassment were so pervasive or severe as to create a hostile work environment for Plaintiff; and

d. Plaintiff's employment was terminated because of his national origin, among other things.

44. Plaintiff was injured and suffered damages from the discrimination, harassment, and hostile work environment described in this count, in that as a direct and proximate result thereof, Plaintiff experienced mental and emotional distress, humiliation, violation of his rights, outrage, indignation, and degradation,

and suffered material changes in the terms and conditions of his employment in that he was terminated.

45. Defendant knew or should have known of the discrimination, harassment, and hostile work environment to which Plaintiff was subjected, because Defendant had actual knowledge from Plaintiff's complaints and constructive knowledge through its agents who perpetrated or witnessed the discrimination, harassment, and hostile work environment.

46. Defendant failed to take prompt and effective action to remedy the discrimination, harassment, and hostile work environment, because Defendant failed to take Plaintiff's complaints seriously, investigate them properly, or resolve them appropriately, and because the discrimination, harassment, and hostile work environment continued and worsened until he was terminated.

47. Defendant showed reckless indifference to Plaintiff's right to work in an environment free of discrimination, harassment, and hostility because of his national origin.

48. Based on the foregoing, Defendant is liable to Plaintiff for punitive damages caused by Defendant's disregard of his rights.

**WHEREFORE**, Plaintiff prays for judgment in his favor and requests the following relief:

A. Actual damages in a fair and reasonable amount, plus interest on said sum as allowed by law;

B. Punitive damages in such amount as will achieve punishment or deterrence;

C. Plaintiffs' attorney fees;

D. For all costs; and

E. Any other relief consistent with substantial justice.

**COUNT III - RETALIATORY DISCHARGE**

49. Pursuant to Rule 55.12, Plaintiff incorporates into this count the foregoing allegations of fact common to all counts.

50. Plaintiff's employment with Defendant DOC was terminated for reporting discrimination, harassment, and the existence of a hostile work environment where Plaintiff:

a. Regularly reported that Rost and Keith Good regularly told him to "put on your African learning brain," among other things, and called him a "mass murderer," among other things, in a derogatory tone intended as an insult;

b. Reported Rost's and Wisdom's conduct in actively attempting to sabotage his application for United States citizenship

c. Regularly reported his being treated differently if he were to be occasionally late for work; and

d. Reported Fisher's and Kimsey's conduct in interfering with his application for the open probation/parole officer position.

51. There was a causal relationship between Plaintiff's complaints and the retaliatory conduct.

52. Plaintiff was injured and suffered damages from the unlawful retaliation because of his complaints of discrimination, harassment, and hostile work environment, in that as a direct and proximate result of the retaliation Plaintiff experienced mental and emotional distress, humiliation, violation of his rights,

outrage, indignation, and degradation, and suffered material changes in the terms and conditions of his employment, in that he was impeded in performing his work duties, indirectly threatened, ostracized, isolated, hyperscrutinized, and eventually terminated.

53. Defendant knew or should have known of the unlawful retaliation because of his complaints of discrimination, harassment, and hostile work environment to which Plaintiff was subjected, in that Defendant had actual knowledge from Plaintiff's complaints and constructive knowledge through its agents who perpetrated or witnessed the retaliation.

54. Defendant failed to take prompt and effective action to remedy the unlawful retaliation because of his complaints of discrimination, harassment, and hostile work environment, in that Defendant failed to take Plaintiff's complaints of retaliation seriously, investigate them properly, or resolve them appropriately, and in that the retaliation continued, and in that it worsened until he was terminated.

55. Defendant showed reckless indifference to Plaintiff's right to work in an environment free of retaliation for standing up for his rights against discrimination, harassment, and hostility because of his race and national origin.

56. Defendant is therefore liable to Plaintiff for punitive damages caused by Defendant's disregard of his rights.

**WHEREFORE**, Plaintiff prays for judgment in his favor and requests the following relief:

A. Actual damages in a fair and reasonable amount, plus in-

terest on said sum as allowed by law;

B. Punitive damages in such amount as will achieve punishment or deterrence;

C. Plaintiffs' attorney fees;

D. For all costs; and

E. Any other relief consistent with substantial justice.

G. Jury Trial Demand

57. Plaintiff demands a jury trial on each count.

**HANRAHAN & NACY, P.C.**

by: /s/ William P. Nacy

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