

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANTHONY HAMILTON,

Plaintiff,

v.

Case No.: 22-cv-504

**DANE COUNTY SHERIFF'S OFFICE,
SHERIFF KALVIN BARRETT,
SGT. MARK SCHROEDER, LT. KRISTA
HAYES, and LT. IRA SIMPSON** in their individual
and official capacities,

Defendants.

COMPLAINT

NOW COMES Plaintiff, Anthony Hamilton, by and through his attorneys, Hawks Quindel, S.C., by Colin B. Good and Lili C. Behm, who hereby states his Complaint as follows:

NATURE OF ACTION

1. Plaintiff, Anthony Hamilton, brings this action under 42 U.S.C. §§ 1983 and 1985 and alleges that Defendants, acting under the color of state law, deprived him of a right, privilege, property or immunity secured by the Constitution, including his interest in employment.

PARTIES

2. Plaintiff, Anthony Hamilton ("Hamilton"), is an adult resident of the State of Wisconsin residing at 5781 Derby Downs Drive, Waunakee, WI 53597. At all

material times, he has been employed by the Dane County Sheriff's Office as a Detective.

3. Defendant Dane County Sheriff's Office (the "Office") is a local government unit organized and existing under the laws of the State of Wisconsin. The Office provides for a wide range of services on behalf of its residents, including crime prevention, investigation, and response.

4. Defendant Sheriff Calvin Barrett ("Barrett") is a citizen and resident of Dane County, Wisconsin, and is employed by the Office.

5. Defendant Sergeant Mark Schroeder ("Schroeder") is a citizen and resident of Dane County, Wisconsin, and is employed by the Office.

6. Defendant Lieutenant Krista Hayes ("Hayes") is a citizen and resident of Dane County, Wisconsin, and is employed by the Office.

7. Defendant Lieutenant Ira Simpson ("Simpson") is a citizen and resident of Dane County, Wisconsin, and is employed by the Office.

JURISDICTION AND VENUE

8. The Office's sole places of business are located in this district, specifically in Dane County, Wisconsin, and the Office engages in substantial activities in Dane County and throughout Wisconsin.

9. At the time they caused injuries to Hamilton, the Office's actions were carried out within this district.

10. At the time they caused injuries to Hamilton, the actions of Barrett, Schroeder, Hayes, and Simpson were carried out within this district.

11. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

12. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL BACKGROUND

13. Hamilton has worked with the Office since 2008, and he was a member of the Office's Tactical Response Team (the "TRT") until 2021.

14. The TRT is a special unit of Office law enforcement personnel that undertakes particularly complex or risky investigations and operations.

15. Members of the TRT take on TRT duties in addition to their broader role as law enforcement personnel.

16. TRT members receive additional wages and fringe benefits, over and above what their Office colleagues receive.

17. On or around March 25, 2021, Hamilton was assigned to assist in evaluating whether the TRT should respond to a weapons violation call at the Magnuson Grand Hotel in Madison, Wisconsin.

18. On the evening of March 25, 2021, Hamilton and colleagues executed a search of several rooms at the Magnuson Grand Hotel. The Office did not, to Hamilton's knowledge, have a warrant for the search.

19. Hamilton recognized while the search was ongoing that a warrant may have been required.

20. Sergeant Mark Schroeder also participated in the search, and Hamilton believed that he had behaved inappropriately during the search.

21. Hamilton's helmet-mounted camera recorded video of the events of March 25, 2021.

22. Immediately upon clearing from the call that night, Hamilton contacted Lieutenant Chris Moore ("Moore"), also with the Office; Hamilton briefed Moore on the search and why it may have been illegal.

23. On March 26, 2021, Hamilton showed the video footage to Lieutenant Ira Simpson and discussed it with Lieutenant Krista Hayes. Hayes agreed with Hamilton that the search had been conducted in good faith based on information from a source. Hayes asked Hamilton to write a report about the March 25, 2021, search, to write a separate memo about Schroeder's actions during the search, and to provide the video recording to a colleague so that it could be placed in evidence.

24. On April 10, 2021, Simpson told Hamilton that he had been suspended from the TRT.

25. On April 12, 2021, Hamilton reviewed Schroeder's report of the March 25, 2021, Magnuson Grand Hotel response. This report misstated the facts in that Schroeder claimed, falsely, that he had instructed Hamilton to obtain a search warrant.

26. On April 19, 2021, Hamilton received a hearing notice, summoning him to an Administrative Hearing over the "unauthorized recording" he had created during the March 25, 2021, Magnuson Grand Hotel response; the sharing of that recording over a "social media application;" and Hamilton's "conduct related to the written documentation of the incident."

27. The hearing occurred on April 22, 2021, and Hamilton learned the disposition on July 7, 2021. On that day, he received a letter from Hayes calling for him to be suspended for five days without pay. The letter relied on false statements and misrepresentations of fact from Hayes.

28. On September 21, 2021, Hamilton met with Barrett and Chief Deputy Chris Nygaard (“Nygaard”). Hamilton, with his representative Roger Palek (“Palek”), informed Barrett of the likely-unlawful search and seizure as well as the false statements and misrepresentation of fact from Hayes.

29. On October 8, 2021, Hamilton met with Nygaard, at Nygaard’s request, and discussed the likely-unlawful search and seizure as well as the false statements and misrepresentation of facts from Hayes. Nygaard informed Hamilton that he was removed from the TRT based upon the information provided by Hayes. Nygaard informed Hamilton that it was Barrett’s decision to remove Hamilton from the TRT. Hamilton requested that an outside agency investigate the facts of the case.

30. On October 8, 2021, the suspension was shortened to two days without pay, and the letter was revised to exclude many of Hayes’ false and/or misleading statements.

31. Hamilton pursued a formal grievance against the Office from August 6, 2021, to March 7, 2022. Hamilton’s representative, Roger Palek, wrote that Hayes and Schroeder failed to “meet the minimal standards that should be expected for individuals serving in those positions.”

32. On June 28, 2022, Nygaard and Captain Matt Karls (“Karls”) again questioned Hamilton about the likely-unlawful search and seizure, Hayes’ false statements, Barrett’s refusal to complete a proper investigation, as well as other misconduct by Hayes and Schroeder. Nygaard informed Hamilton that Barrett was aware of Hayes’ misconduct. Karls stated that an outside agency would need to complete an investigation. Under the authority of Barrett, no action has been taken to conduct any form of a proper investigation.

33. Hamilton’s suspension from the TRT is permanent, and he will never again be able to serve Dane County in the way he found most rewarding.

34. From March 26, 2021, to July 7, 2021, the Defendant Dane County Sheriff’s Office, through the above-named law enforcement personnel, engaged in malicious, willful, or intentional acts which harmed Hamilton, for which he now seeks redress.

35. Defendants Barrett, Schroeder, Hayes, and Simpson acted in concert to retaliate against Hamilton after he shared video of a likely-unlawful search and expressed concerns about a superior officer’s misconduct.

36. Defendant Dane County Sheriff’s Office, through the actions of Barrett, Schroeder, Hayes, and Simpson, schemed to remove Hamilton from the TRT using falsified reports and disciplinary recommendations.

37. Hamilton lost his property interest in his continued membership on the TRT as a result of Defendants’ actions; consequently, Hamilton will lose wages and

fringe benefits for the rest of his employment with Defendant Dane County Sheriff's Office.

38. After the Magnuson Grand Hotel response, several members of the TRT who were present on March 25, 2021, came under investigation by the Office or had their conduct that night reviewed and reported on by the Office.

39. Upon information and belief, Hamilton is the only TRT member to be suspended without pay as result of such an investigation.

40. Upon information and belief, Hamilton is the only TRT member to be removed from the TRT during such an investigation.

41. Upon information and belief, the Office treated Hamilton differently than his similarly situated colleagues who were allowed to remain on the TRT and who were not suspended without pay, due to animosity its officials held against Hamilton personally and for his willingness to expose misconduct by superior officers.

42. As a result of these illicit or unlawful acts, Hamilton has suffered economic and non-economic damages.

**FIRST CAUSE OF ACTION:
CONSPIRACY TO DEPRIVE MR. HAMILTON OF PROPERTY INTERESTS
PURSUANT TO 42 U.S.C. § 1985
(The Office)**

43. Hamilton reincorporates and realleges herein by reference each of the preceding paragraphs as if set forth in full.

44. The Office, through its agents and officers, conspired to deprive Hamilton of his property interest in TRT membership and the wages and benefits that TRT membership entails.

45. Hamilton suffered injuries as a direct and proximate result of the conspiracy orchestrated by the Office, through its agents and officers.

**SECOND CAUSE OF ACTION:
CONSPIRACY TO DEPRIVE HAMILTON OF PROPERTY INTERESTS
PURSUANT TO 42 U.S.C. § 1985
(Barrett, Schroeder, Hayes, and Simpson in their official capacities)**

46. Hamilton reincorporates and realleges herein by reference each of the preceding paragraphs as if set forth in full.

47. Barrett, Schroeder, Simpson, and Hayes, acting in their official capacities, conspired to deprive Hamilton of his property interest in TRT membership and the wages and benefits that TRT membership entails.

48. Hamilton suffered injuries as a direct and proximate result of the conspiracy orchestrated by Barrett, Schroeder, Hayes, and Simpson.

**THIRD CAUSE OF ACTION:
CONSPIRACY TO DEPRIVE HAMILTON OF PROPERTY INTERESTS
PURSUANT TO 42 U.S.C. § 1985
(Barrett, Schroeder, Hayes, and Simpson in their individual capacities)**

49. Hamilton reincorporates and realleges herein by reference each of the preceding paragraphs as if set forth in full.

50. Barrett, Schroeder, Simpson, and Hayes, acting in their individual capacities, conspired to deprive Hamilton of his property interest in TRT membership and the wages and benefits that TRT membership entails.

51. Hamilton suffered injuries as a direct and proximate result of the conspiracy orchestrated by Barrett, Schroeder, Hayes, and Simpson.

**THIRD CAUSE OF ACTION:
EQUAL PROTECTION CLAIMS BROUGHT BY A “CLASS OF ONE”
PURSUANT TO 42 U.S.C. § 1983
(The Office)**

52. Hamilton reincorporates and realleges herein by reference each of preceding paragraphs as if set forth in full.

53. 42 U.S.C. § 1983 creates a cause of action against any person acting “under color of any statute, ordinance, regulation, custom, or usage of a State or Territory . . . [who] subjects or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.”

54. The Office, acting under the color of state law, deprived Hamilton, as a “class of one,” of a right, privilege, or immunity secured by the Constitution, including his interest in employment.

55. The Office, lacking any rational basis for doing so, deprived Hamilton of a right, privilege, or immunity under the auspices of its governing regulations, the acts of policymaking officials, and practices so persistent and widespread as to practically have the force of law.

56. The Office intentionally treated Hamilton differently than his TRT colleagues, many of whom were allowed to remain on the TRT and were not suspended without pay, and did so with a totally illegitimate animus towards him.

**FOURTH CAUSE OF ACTION:
EQUAL PROTECTION CLAIMS BROUGHT BY A “CLASS OF ONE”
PURSUANT TO 42 U.S.C. § 1983
(Barrett, Schroeder, Hayes, and Simpson in their official capacities)**

57. Hamilton reincorporates and realleges herein by reference each of preceding paragraphs as if set forth in full.

58. 42 U.S.C. § 1983 creates a cause of action against any person acting “under color of any statute, ordinance, regulation, custom, or usage of a State or Territory . . . [who] subjects or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.”

59. Barrett, Schroeder, Hayes, and Simpson, acting in their official capacities and under the color of state law, deprived Hamilton, as a “class of one,” of a right, privilege, or immunity secured by the Constitution, including his interest in employment.

60. Barrett, Schroeder, Hayes, and Simpson, acting in their official capacities and lacking any rational basis for doing so, deprived Hamilton of a right, privilege, or immunity under the auspices of its governing regulations, the acts of policymaking officials, and practices so persistent and widespread as to practically have the force of law.

61. Barrett, Schroeder, Hayes, and Simpson intentionally treated Hamilton differently than his TRT colleagues, many of whom were allowed to remain on the TRT and were not suspended without pay, and did so with a totally illegitimate animus towards him.

**FIFTH CAUSE OF ACTION:
EQUAL PROTECTION CLAIMS BROUGHT BY A “CLASS OF ONE”
PURSUANT TO 42 U.S.C. § 1983
(Barrett, Schroeder, Hayes, and Simpson in their individual capacities)**

62. Hamilton reincorporates and realleges herein by reference each of preceding paragraphs as if set forth in full.

63. 42 U.S.C. § 1983 creates a cause of action against any person acting “under color of any statute, ordinance, regulation, custom, or usage of a State or Territory . . . [who] subjects or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws.”

64. Barrett, Schroeder, Hayes, and Simpson, acting in their individual capacities and under the color of state law, deprived Hamilton, as a “class of one,” of a right, privilege, or immunity secured by the Constitution, including his interest in employment.

65. Barrett, Schroeder, Hayes, and Simpson, acting in their individual capacities and lacking any rational basis for doing so, deprived Hamilton of a right, privilege, or immunity under the auspices of its governing regulations, the acts of policymaking officials, and practices so persistent and widespread as to practically have the force of law.

66. Barrett, Schroeder, Hayes, and Simpson intentionally treated Hamilton differently than his TRT colleagues, many of whom were allowed to remain on the TRT and were not suspended without pay, and did so with a totally illegitimate animus towards him.

WHEREFORE, Hamilton claims relief against the Dane County Sheriff's Office, Sheriff Calvin Barrett, Sgt. Mark Schroeder, Lt. Krista Hayes, and Lt. Ira Simpson for an amount to be determined by a jury as well as the following:

- A. Back pay and all other compensation, including interest and benefits;
- B. Reinstatement to the Tactical Response Team;
- C. Compensatory and punitive damages for past and future losses resulting from the unlawful acts of the Defendants, including emotional pain, suffering, inconvenience, loss of enjoyment of life and property interests, and humiliation;
- D. Pre-and post-judgment interest;
- E. An award of his reasonable attorneys' fees, reasonable expert fees, and costs incurred in this action; and
- F. Such other relief as the Court deems just and proper.

PLAINTIFF DEMANDS A TRIAL BY JURY

Dated this 6th day of September, 2022.

HAWKS QUINDEL, S.C.
Attorneys for the Plaintiff, Anthony Hamilton

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