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COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT

ESSEX, SS.

CIVIL ACTION NO. 1977CV00850-C

JOHN RAFFI

Plaintiff

V.

TOWN OF ROWLEY

CHIEF SCOTT DUMAS, in his Official and
Individual Capacity, CAPTAIN DAVID

SEDGWICK, SERGEANT DAVID

MACMULLEN, in Their Official and
Individual Capacity

Defendants

FILED
ESSEX SUPERIOR COURT
2019 JUN 18 A 10:36

COMPLAINT

INTRODUCTION

The Plaintiff, Officer John Raffi, brings this action seeking redress for substantial violations of his rights pursuant to the Massachusetts Civil Rights Act, M.G.L. ch. 12, §§ 11H, I and Whistleblower Acts, M.G.L. ch. 149, § 185, by retaliating against him for reporting, objecting to, and filing complaints about ongoing violations of law in the Town of Rowley, specifically by Defendants Chief Scott Dumas ("Chief Dumas"), Captain David Sedgwick ("Captain Sedgwick") and Sergeant David MacMullen ("Sgt. MacMullen") as well as violations of the common law.

PARTIES

1. The Plaintiff, John Raffi, is an individual residing in Essex County, Commonwealth of Massachusetts.

2. Defendant Town of Rowley, is a municipality duly incorporated under the laws of the Commonwealth of Massachusetts.
3. The Defendant, Chief Scott Dumas, is employed by the Rowley Police Department, with a place of business located in Essex County, Commonwealth of Massachusetts.
4. The Defendant, Captain David Sedgwick, is employed by the Rowley Police Department, with a place of business located in Essex County, Commonwealth of Massachusetts.
5. The Defendant, Sergeant David MacMullen, is employed by the Rowley Police Department, with a place of business located in Essex County, Commonwealth of Massachusetts.

FACTS

6. Plaintiff, Officer John Raffi (Hereinafter "Plaintiff" or "Officer Raffi"), is currently, and has been employed as a Police Officer for the Town of Rowley ("the Town"), for approximately 11.5 years.
7. Plaintiff is, and has always been, a dedicated, energetic and hardworking employee. He is a respected member of the Rowley Police Department and has been an active participant within his own community.
8. During the course of his employment with the Town of Rowley, Officer Raffi has been retaliated against for his objections to and refusals to engage in conduct, which he reasonably believed to be illegal, a threat to public safety and/or in violation of the Massachusetts State Ethics laws as well as Rowley Police Departmental Rules and Regulations.
9. Over the course of several months, Officer Raffi has alleged that his immediate supervisors, namely Chief Scott Dumas ("Chief Dumas"), Captain David Sedgwick ("Captain Sedgwick") and Sergeant David MacMullen, ("Sgt. MacMullen") violated Rowley Police Department Rules and Regulations, as well as other ethical violations.
10. Prior to raising these objections and complaints, the Plaintiff was, and continues to be a successfully performing employee of the Rowley Police Department.

11. Significantly, Officer Raffi first raised concerns to members of the Department and to his supervisors¹ regarding tampering and falsification of promotional examination scores by his supervisor, Defendant Sgt. MacMullen.
12. The Plaintiff objected to and refused to participate in this illegal and unethical conduct. During the promotional examination in question, Sgt. MacMullen provided examination questions to his personal friend prior to the administration of the promotional test.
13. Officer Raffi subsequently learned about the unethical, and what he reasonably believed to be illegal conduct, and reported his concerns within the Department, to union members and to his direct supervisor at the time, Sergeant Matthew Ziev ("Sgt. Ziev"). Additionally, Officer Raffi encouraged other officers with knowledge of the unethical conduct to come forward and report the information.
14. Upon information and belief, Sgt. MacMullen was not disciplined for this conduct or received minimal discipline. The Plaintiff further alleges that the Department intentionally withheld information from Town Officials regarding the actions of Sgt. MacMullen's conduct.
15. On February 8, 2018, Officer Raffi witnessed Sgt. MacMullen allowing his adult son enter the interior of the Rowley police station and utilize the Department's computer to download and print personal materials.
16. Officer Raffi objected to this and subsequently notified his supervisors that Sgt. MacMullen had allowed his adult son to use the Department's computer for personal use.
17. The concern expressed by the Plaintiff was that the police department's computer system permits access to many law enforcement search systems and obviously contains numerous highly sensitive and confidential materials, reports and information that should only have been accessed by department personnel.
18. As a result of his complaints and objections to the above actions, Officer Raffi has been subjected to multiple unwarranted disciplinary actions and investigations, which are still ongoing. These incidents include, but are not limited to the following:
19. On February 8, 2018, Sgt. MacMullen issued an unwarranted Letter of Counseling to Office Raffi, alleging that he had failed to activate his Mobile Data Terminal in his cruiser and also alleging that he had allowed his cruiser to idle.

¹ When Chief Dumas was informed of MacMullen's misconduct, he asked if anyone else knew about the leak of examination questions. When told that the Plaintiff was aware of the misconduct, Chief Dumas rolled his eyes and stated, "Let's keep this quiet."

20. Of note is the fact that this alleged minor infraction of failing to timely activate his Mobile Data Terminal occurred on January 22, 2018, a full seventeen (17) days before the issuance of the Letter of Counseling on February 8, 2018.
21. The Plaintiff avers that this disciplinary letter was issued in an effort to intimidate and silence the Plaintiff from reporting MacMullen's own misconduct regarding the examination questions.
22. On or about February 12, 2018, Officer Raffi filed a formal complaint with his supervisors that Sgt. MacMullen had violated Departmental Rules and Regulations by allowing his adult son to use the department's computer system for personal use.
23. On February 22, 2018, Sgt. MacMullen further exacerbated his retaliation toward the Plaintiff by wrongfully adding an allegation of "untruthfulness" against Officer Raffi, claiming that Officer Raffi had not been truthful when he responded to MacMullen about the Mobile Data terminal matter.
24. Sgt. MacMullen did this, knowing full well that a charge of "untruthfulness" can have devastating effects upon the career of a police officer and in many instances can be the basis for an officer to have to retire.
25. On February 27, 2018, the Plaintiff was advised that his complaint against Sgt. MacMullen was deemed "Unfounded" by Captain David Sedgwick.
26. This conclusion was made without Officer Raffi ever being interviewed as the complainant, as per Departmental policy, and without allowing Officer Raffi the opportunity to review whether an investigative report was issued.
27. On February 27, 2018, the same evening that Officer Raffi was informed that his complaint was deemed "Unfounded," Sgt. MacMullen attempted to intimidate Officer Raffi by confronting him in an angry and hostile manner. MacMullen stated that Raffi should, "file another frivolous complaint against me."
28. Officer Raffi told Sgt. MacMullen that he was attempting to intimidate and harass him and that he would report this hostile and unprofessional behavior to the Chief.
29. On February 27, 2018, Officer Raffi filed a complaint with Chief Dumas and attempted to speak to him about his frustrations concerning the lack of an interview and the nature of the findings made by the investigator. During the course of that conversation, the Plaintiff stated that, in his opinion, the "investigation" of MacMullen was a fait accompli and a bag job, given that the Plaintiff was never even interviewed.

30. This comment was made in private to Chief Dumas, was not repeated to any other member of the department and was made during what Officer Raffi believed was a "heart to heart" meeting.
31. As a result of this conversation, Chief Dumas issued another disciplinary written reprimand against the Plaintiff for allegedly being "Insubordinate" for criticizing the investigation into the conduct of Sgt. MacMullen.
32. In his written reprimand for Insubordination, Chief Dumas noted that Officer Raffi violated Rule 8.7, due to the allegation that he "displayed, on numerous occasions, disrespectful and insolent behavior toward your superiors."
33. In attempting to justify the reprimand of the Plaintiff, Chief Dumas focused primarily on the "bag job" comment made by the Plaintiff regarding the non-existent "investigation" of Plaintiff's complaint.
34. The Chief failed to identify any other additional occasions of alleged insubordination by the Plaintiff, which he described as "numerous" in his letter or identify any failure by the Plaintiff to ever obey a lawful order of a superior officer.
35. For reasons unknown, Chief Dumas subsequently issued a second letter of reprimand on April 18, 2018, for the same allegations.
36. Officer Raffi filed a grievance for the allegations of insubordination and ultimately requested a hearing before the Rowley Board of Selectmen.
37. Immediately after filing the grievance for the above unwarranted discipline, Officer Raffi was subjected to repeated threats, physical intimidation and coercion by multiple members of the Rowley Police Department.
38. Shortly after the Plaintiff filing his grievance, the Plaintiff was again issued a Written Reprimand on March 16, 2018, for an incident that had occurred eleven days earlier, on March 5, 2018.
39. On March 5, 2018, Chief Dumas was out of state and not present in the Department which left Captain Sedgwick as acting chief.
40. The temperature on that date, (March 5, 2018), became an issue because the Department had recently sent out a directive to all officers that stated, "cruisers are only to be left on and running, when the temperature is below freezing, or above 80 degrees".
41. Because the Plaintiff had recently come under strict scrutiny for his actions while on duty and fearing the potential for violating the new rule he requested clarification on the specifics of the new rule from Sgt. MacMullen. The Plaintiff

had pulled into the station parking lot at the time and observed another officer's cruiser left idling outside the station despite the temperature being above freezing.

42. Sgt. MacMullen inaccurately informed Officer Raffi that the language of the new policy was "32 (degrees) and below."
43. The Department then issued a second email that same evening, stating that the new rule was to be "32 degrees and below," rather than the stated "below freezing," as previously issued and that, "it is also apparent...that this issue arose over a misunderstanding of the original temperature range."
44. Captain Sedgwick then conducted an investigation of Officer Raffi for seeking clarification of the new rule regarding the idling of cruisers during cold weather.
45. Captain Sedgwick charged the Plaintiff with "untruthfulness" and based his claim of "untruthfulness" against Officer Raffi for stating it was thirty-two (32) degrees to Sgt. MacMullen and then allegedly stating to a fellow officer, Sgt. Ziev, that the temperature was thirty-three (33) degrees outside.
46. In his written reprimand to the Plaintiff, Captain Sedgwick conceded that the matter was "seemingly minor in nature," yet chose to include the serious charge of untruthfulness against Officer Raffi.
47. The significance of charging a police officer with "untruthfulness" cannot be understated. It is frequently utilized by Chief's of police, legitimately or otherwise, as a means to terminate a police officer regardless of the underlying factual support for the allegation.
48. Upon his return from being out of state, Chief Dumas subsequently added the additional allegation of "conduct unbecoming" against the Plaintiff for "creating a conflict" over the uncertainty of the Department's wording of the Rule.
49. The fact that the Department would seek to use an alleged discrepancy of one degree in temperature as the basis to forever brand a police officer as "untruthful" highlights the Department's retaliatory animus and behavior toward Officer Raffi.
50. To support the allegation of Conduct Unbecoming in his disciplinary letter, Chief Dumas referenced the "subtle differences in conversation ... with Sgt. MacMullen and Sergeant Ziev," as the basis for the Plaintiff's allegedly "causing conflict."
51. Chief Dumas also alleged that the Plaintiff's seeking of clarification was behavior "that which tends to indicate that the employee is unable or unfit to continue as a member of the department, or tends to impair the operation, morale, integrity, reputation or effectiveness of the department or its members."

52. Officer Raffi was subsequently interviewed by Chief Dumas and Captain Sedgwick regarding the temperature issue on March 5, 2018, and his alleged untruthfulness. The Plaintiff, with the knowledge of the Defendants, tape-recorded the interview.
53. During the interview, Officer Raffi was provided with one of two reports from Sgt. Ziev, dated March 8, 2018. The second report had been revised from a previously authored report dated on the same date.
54. In his first report, Sgt. Ziev wrote that, "I believe that Officer Raffi stated that the temperature was thirty three degrees (33) outside."
55. However, in his revised report, Sgt. Ziev claimed that he was now certain as to what was stated by the Plaintiff. In his second report, Sgt. Ziev wrote that "Officer Raffi stated that the temperature was thirty three degrees (33) outside."
56. Upon information and belief, Sgt. Ziev was ordered and/or instructed to alter his initial report so as to strengthen the potential for taking disciplinary action against Officer Raffi.
57. On June 19, 2018, Chief Dumas verbally confronted Officer Raffi while in the police station parking lot over the content of a police report.
58. The night prior, June 18, 2018, Officer Raffi had responded to a domestic disturbance involving an intoxicated male who refused to leave a residence. Based upon his training and knowledge of the law, Officer Raffi placed the male individual in protective custody (not under arrest) because the complainant stated she was in fear for her own safety and because she was unwilling to care for the intoxicated individual.
59. The following morning, the Plaintiff was confronted by Chief Dumas and questioned about the above call for service. Chief Dumas stated that because the involved party pays rent, the Plaintiff should not have placed him in protective custody. Officer Raffi stated that the law allows a police officer to remove someone from their residence if they are a danger to others, and if they cannot take care of themselves due to impairment. Chief Dumas disagreed and told the Plaintiff to change his report.
60. The following day, Chief Dumas' vehicle was parked directly to the right of Officer Raffi's cruiser in the station parking lot. As Officer Raffi exited his vehicle, Chief Dumas rolled down his driver's side window and questioned him again about the changes he had ordered him to make to his official report.
61. The Plaintiff told Chief Dumas that he had added additional language as requested by him and placed the report in the Captain's mailbox for approval. Chief Dumas again reiterated that because the involved party paid rent, Officer Raffi should not

have removed him from the house or placed him in protective custody. Officer Raffi disagreed.

62. Chief Dumas then proceeded to open his driver side door and approach him in what Officer Raffi perceived to be aggressive in nature. Chief Dumas stood inches away from Officer Raffi's face and began yelling at him for an extended period of time regarding the placement of the intoxicated individual in protective custody. The Plaintiff attempted to step back from Chief Dumas on multiple occasions, but Chief Dumas continued to stand inches from his face.
63. During the verbal assault, Officer Raffi was in fear for his own safety. The threatening and unprofessional interaction has further buttressed Officer Raffi's belief that he is being targeted as a result of his objections and complaints to what he reasonably believed to be illegal and/or unethical conduct and for grieving the previously discussed discipline imposed by Chief Dumas.
64. Subsequently, Officer Raffi has continued to be subjected to overt hostile and retaliatory conduct by the Defendants.
65. In August of 2018, Officer Raffi was investigated by Captain Sedgwick and Chief Dumas for his alleged failure to promptly respond to a call for service.
66. The call in question occurred on August 6, 2018, and was in regards to a civilian who came into the police station to complain about a Bitcoin scam.
67. At the time Officer Raffi was dispatched to return to the police department, he was on patrol on the west side of town of Rowley.
68. Departmental records reflect that Officer Raffi responded to the above non-emergency Bitcoin issue and was at the Rowley police station in six minutes and forty seconds of receiving the dispatch.
69. Despite his prompt response, Captain Sedgwick initiated an investigation into the whereabouts of Officer Raffi at the time of the call and the alleged delay in his response time. The unwarranted investigation included multiple interviews of Officer Raffi.
70. As a result of the investigation, Officer Raffi was disciplined and issued verbal counseling and a letter that still remains in his personnel file.
71. The disciplinary letter drafted by Chief Dumas reads in part:

"You stated during our inquiry interview "I respond to every call in a professional manner". While you feel your response time was "adequate for that type of call," a delayed response without explanation is not professional nor acceptable. If we are to use your time of 6 minutes and 40 seconds to respond as "adequate", isn't 5

minutes and 40 seconds better. Is your time more valuable than the citizens time that we are serving?"

72. On November 11, 2018, Officer Raffi overheard Defendant MacMullen speaking with another officer about an earlier conversation he had with Chief Dumas. When discussing detail shifts, MacMullen stated that Chief Dumas said, "who do you think you are John Raffi". Sgt. MacMullen responded with "don't compare me to that piece of shit."
73. On or about December of 2018, Defendant MacMullen placed a video camera directly above Officer Raffi's desk.
74. Defendant MacMullen did so without authority from anyone within the police department. Plaintiff avers that this action was taken to intimidate and harass the Plaintiff.
75. Massachusetts is a two party consent state and requires both parties to agree to have their conversations recorded. See M.G.L. c. 272, section 99.
76. Defendant MacMullen subsequently issued a department wide apology admitting to placing the camera above Officer Raffi's desk and stated that the camera was placed in the room as a "prank."
77. On January 16, 2019, Sgt. MacMullen sent a group email chain among Department members concerning the issuance of new uniforms. In response to Officer Raffi's inquiry about the new uniforms Sgt. MacMullen stated "...do your research before you put your foot in your mouth and I find it strange that the most unprofessional among us, is worried the most about looking unprofessional."
78. The following day, on January 17, 2019, Chief Dumas issued a directive that, "re-shuffled the deck in regards to direct reports and chain of command" and placed Plaintiff directly under the supervision of Sgt. MacMullen. As a result of the "re-shuffled deck" Sgt. MacMullen is now responsible for completing Officer Raffi's annual performance evaluations and day-to-day supervision.
79. Given the level of conflict with Sgt. MacMullen, the Plaintiff avers that this action was also retaliatory and done in an effort to intimidate him.
80. At the time of this filing, the discipline charges against Officer Raffi for his alleged untruthfulness over an alleged discrepancy of one degree in temperature remains open.
81. The disciplinary charges for alleged insubordination when Officer Raffi stated that, in his opinion, the "investigation" of MacMullen was a fait accompli and a bag job, given that the Plaintiff was never even interviewed, remains open.

82. Despite both events occurring more than a year ago, the Town and the Department continues to use the threat of discipline against the Plaintiff in an effort to retaliate against Plaintiff and coerce him from disclosing additional unethical and illegal conduct.
83. On June 7th, 2019, Officer Raffi was again disciplined by the Defendants for allegedly failing to refill the windshield washer fluid on his cruiser.
84. Officer Raffi was issued a letter of counseling signed by Captain Sedgwick which stated that the disciplinary letter will remain in his file for one year.
85. On June 10th, 2019, Officer Raffi was disciplined by Captain Sedgwick for allegedly failing to wear the correct uniform.
86. The uniform that Officer Raffi was allegedly supposed to be wearing, was recently issued by the department, and had not yet been delivered to Officer Raffi by the vendor.
87. It is patently clear that the retaliation and hostile treatment inflicted on Officer Raffi was done as a direct consequence for his complaints about and refusals to be a part of what he reasonably believed to be illegal and/or unethical conduct.

COUNT ONE - WHISTLEBLOWER (M.G.L. ch. 149, § 185)
v. TOWN OF ROWLEY

88. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.
89. Plaintiff, through various means and measures, reported, objected to, filed written complaints and reports about ongoing violations of law in the Rowley Police Department including, but not limited to, violations by defendants Dumas, Sedgwick and MacMullen.
90. The Defendant, through its agents and employees retaliated against plaintiff for disclosing, objecting to and/or refusing to participate in an activity, policy or practice which Plaintiff reasonably believed were in violation of a law and/or a rule or regulation promulgated by law, in violation of the Massachusetts Whistleblower statute, G.L.c.149 §185 (b) (3).
91. Plaintiff has been retaliated against for reporting and objecting to such actions and as a result of raising these issues was subsequently subjected to disparate treatment, a hostile work environment, retaliatory acts, and threats to terminate his employment for alleged untruthfulness.

92. As a consequence of the Defendants' actions, Plaintiff suffered and continues to suffer damages, including, but not limited to: loss of income, loss of employment benefits, other financial losses, loss of professional opportunities, loss of personal and professional reputation, loss of community standing, and emotional and mental distress.

WHEREFORE, Plaintiff demands judgment against the Defendants on Count I, plus interest and costs of this action, and reasonable attorneys' fees as provided under G.L.c.149, Section 185.

COUNT TWO – MASSACHUSETTS CIVIL RIGHTS (M.G.L. ch. 12, §§ 11H, I)
v. Defendants Dumas, Sedgwick and MacMullen in their official and individual capacities

93. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.

94. Defendants, in their official and individual capacities, and under color of law, attempted to interfere with, and did interfere with Plaintiff's exercise and enjoyment of rights secured by the Constitution and laws of the United States, and the Constitution and laws of the Commonwealth of Massachusetts, by threats, intimidation and coercion, including his right to free speech, protected right to participate in union activity, right of continued employment and Due Process of law.

95. Defendants, attempted to and did interfere with the Plaintiff's above stated rights by means of threats of discipline, unwarranted investigations, economic coercion and retaliatory intimidation in an attempt to silence the Plaintiff's rights of free speech, right to participate in union activities, rights of continued employment and Due Process of law.

WHEREFORE, Plaintiff demand judgment against the Defendant on Count II, plus interest and costs of this action, and reasonable attorneys' fees as provided under M.G.L. c. 12, Section 11I.

COUNT THREE – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
v. Defendants Dumas, Sedgwick and MacMullen in their official and individual capacities

96. The Plaintiff incorporates herein the previous allegations set forth in this Complaint.

97. The conduct of the defendants towards the plaintiff was extreme in degree and outrageous in character, resulting in the intentional and reckless infliction of emotional distress upon plaintiff.

98. Defendants intended to inflict emotional distress on plaintiff or knew or should have known that emotional distress was a likely result of defendant's conduct.

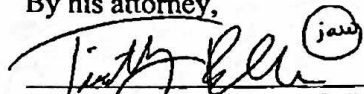
99. Defendants conduct as alleged above was extreme and outrageous, beyond all possible bounds of decency and was utterly intolerable.

100. The outrageous actions of the Defendants were the cause of plaintiff's distress and the emotional distress sustained by the Plaintiff is of a nature that no reasonable person could be expected to endure.

101. As a result of the outrageous actions of the Defendants, Plaintiff was caused to suffer emotional injuries and damages.

THE PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted,
For Plaintiff,
By his attorney,

 (Seal)

6/17/19

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