



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
May 12, 2016 15:05

By: JAMES L. HARDIMAN 0031043

Confirmation Nbr. 750403

CALVIN ROBINSON

CV 16 863166

vs.

Judge:

CITY OF CLEVELAND, ET AL.

HOLLIE L. GALLAGHER

Pages Filed: 8

**IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
CUYAHOGA COUNTY, OHIO**

CALVIN ROBINSON)
1361 East 120th Street)
Cleveland, Ohio 44106,)

Plaintiff)

vs.)

CITY OF CLEVELAND)
Cleveland Division of Fire)
601 Lakeside Avenue)
Cleveland, Ohio 44114,)

and)

MICHAEL McGRAFTH)
Director of Public Safety)
601 Lakeside Avenue)
Cleveland, Ohio 44114,)

and)

ANGELO CALVILLO)
Interim Fire Chief)
City of Cleveland)
1645 Superior Avenue)
Cleveland, Ohio 44114,)

Defendants.)

CASE NO. _____

JUDGE _____

COMPLAINT

A DEMAND FOR JURY TRIAL
IS ENDORSED HEREIN)

Now comes the Plaintiff, Calvin Williams and for his complaint states as follows:

INTRODUCTION

1. This is a suit authorized and instituted pursuant to Ohio Revised Code §4112.02 which prohibits unlawful discriminatory practices on the basis of race and sex and

Ohio Revised Code §4112.99 which authorizes a civil action for damages, injunctive and other appropriate relief for violations of Revised Code §4112 and the Fourteenth Amendment to the United States Constitution.

JURISDICTION AND VENUE

2. The actions which forms the basis of the present proceeding occurred within the City of Cleveland Ohio where all parties reside and conduct business and jurisdiction and venue is proper pursuant to Ohio Rules of Civil Procedure 3(B)(1)(2)(3) and (4). This Court has the jurisdiction to address this complaint because Plaintiff seeks the redress of deprivation of rights secured to him by Acts of the Ohio State Legislature as codified at Ohio Revised Code §4112.02 and §4112.99.

PARTIES

3. Plaintiff Calvin Robinson is an African American male and, as such, is a member of a protected class and a citizen of the City of Cleveland, State of Ohio. Plaintiff was employed as a fire fighter with the City of Cleveland from April 1991 until his termination on May 13, 2014.
4. Defendant City of Cleveland, ("Defendant City"), is a political subdivision and public entity operating under the laws of the City of Cleveland, State of Ohio and the United States of America and is responsible for the operation, management, and control of the Division of Fire in Cleveland, Ohio which, among other things, includes being responsible for all rules, regulations, policies and protocols for the employment, retention and termination of fire fighters employed by the Division of Fire.
5. Defendant Michael McGrafth ("Defendant McGrafth"), at all relevant times served

as the Director of Public Safety for the City of Cleveland in which capacity he has authority over the Cleveland Division of Fire and, among other duties, is authorized to appoint Fire Fighters and handle discipline in a fair, constitutional and non-discriminatory manner. He is being sued in his official capacity.

6. Interim Fire Chief Angelo Calvillo (“Defendant Calvillo”) is the Chief of the Cleveland Division of Fire and at all times relevant herein was a duly appointed and acting fire fighter, employed by Defendant City of Cleveland to have direct supervisory responsibility for all fire fighters employed by the City of Cleveland and handle discipline in a fair, constitutional and non-discriminatory manner. Defendant Calvillo is being sued in his official capacity.

Count I
CAUSE OF ACTION AGAINST
DEFENDANT CITY OF CLEVELAND

7. The allegations in paragraphs One through Six are incorporated herein as if fully re-written.
8. On or about April 1991 Plaintiff was initially hired as a fire fighter by the City of Cleveland, a position he held until his termination on or about May 13, 2014.
9. During Plaintiff’s service as a fire fighter with the City of Cleveland, he served with distinction, received recognition and commendations for his service and was never the subject of any discipline.
10. Both prior and during Plaintiff’s tenure as a fire fighter, it was a common practice for fire fighters to exchange scheduled shifts with other fire fighters which practice was recognized and accepted by the City of Cleveland and was a practice that was specifically permitted pursuant to the collective bargaining agreement between the

City of Cleveland and the International Association of Fire Fighters, Local 93, the fire fighter's union that represents fire fighters employed by the City of Cleveland and the Fair Labor Standards Act (FLSA) which recognizes the substitution of scheduled hours between similarly employed persons. 29 U.S.C. §207(p)(3)

11. For many years, with full knowledge and consent of the City of Cleveland, numerous fire fighters engaged in the practice of exchanging or substituting shifts with other fire fighters and fire fighters who were involved in the exchange were expected to repay the exchanged time.
12. The practice of exchanging shifts had been a common practice within the Cleveland Division of Fire until July 20, 2011 at which time selected City of Cleveland Fire Fighters were notified that the trading of shifts or hours was an issue and should be restricted.
13. Upon being notified that the exchanging of shifts was an issue, Plaintiff immediately complied with the restriction and terminated the practice.
14. Numerous other similarly situated, non-minority fire fighters that were employed by the City of Cleveland were also engaged in the commonly accepted practice of exchanging shifts with other fire fighters, some of whom also terminated the practice upon being notified that the practice was an issue and should end.
15. The City of Cleveland never notified Plaintiff that he was subject to termination for engaging in the shift trading arrangement and no rule or policy was in place that prohibited the practice until on or about July 20, 2011 when selected City of Cleveland Fire Fighters were put on notice that the policy was an issue and the practice should be terminated.

16. Many of the fire fighters continued to engage in the shift trading practice following the July 28, 2011 letter to selected fire fighters and were never subjected to any discipline or termination.
17. Although the City of Cleveland was well-aware of the practice of trading shifts, the City of Cleveland conducted an investigation into the shift trading arrangement among fire fighters and, for the first time, determined that selected fire fighters that were involved in the practice should be disciplined.
18. The City of Cleveland's investigation revealed that most of the similarly situated fire fighters that were involved in the shift trading arrangement were Caucasian or non-minorities and not members of any protected class.
19. Although the investigation by the City of Cleveland revealed that numerous fire fighters were involved in the shift trading arrangement over an extended period of time, only 13 fire fighters were disciplined for the practice and Plaintiff was the only minority and a member of a protected that was identified and disciplined as having participated in the practice.
20. On May 13, 2014, Plaintiff was terminated from his position as a fire fighter allegedly because he was involved in the exchange of shifts with other City of Cleveland fire fighters.
21. All of the Caucasian fire fighters that were identified as having been involved in the shift trading arrangement retained their positions as fire fighters with the City of Cleveland, most of whom are still City of Cleveland employees.
22. Plaintiff's termination by Defendant City of Cleveland for a practice that was widely accepted by the City of Cleveland while similarly situated Caucasian, non-minority

fire fighters were permitted to retain their jobs constitutes disparate treatment and racial discrimination.

Count II
CAUSE OF ACTION FOR RACIAL DISCRIMINATION

23. The allegations in paragraphs One through Twenty One are incorporated herein as if fully re-written.
24. Defendant City of Cleveland discriminated against Plaintiff, including but not limited to treating him differently than similarly situated non-minority fire fighters because of his race, in violation of Ohio Revised Code §4112.02 and §4112.99.
25. As a result of Defendant City of Cleveland's discriminatory conduct, Plaintiff has remained unemployed as a fire fighter since his termination, has lost income, pension benefits and seniority and has suffer significant financial and emotional damages as will be established at the time of trial.

Count III
CAUSE OF ACTION FOR RACIAL DISCRIMINATION
AGAINST DEFENDANT McGRATH

26. The allegations in paragraphs One through Twenty Five are incorporated herein as if fully re-written.
27. Defendant McGrath as the Director of Public Safety for the City of Cleveland maintains authority over the Cleveland Division of Fire and, among other duties, is authorized to appoint fire fighters and handle discipline in a fair, legal, constitutional and non-discriminatory manner.
28. Although Defendant McGrath had an obligation to not discriminate or permit the discrimination in the discipline of fire fighters, Defendant McGrath authorized,

conspired and/or permitted the termination of Plaintiff as a fire fighter having full knowledge that such action was discriminatory in that similarly situated, non-minority fire fighters were provided with preferential treatment and were permitted to retain their positions as fire fighters with the City of Cleveland.

29. As a result of Defendant McGrath's discriminatory conduct,. Plaintiff has remained unemployed as a fire fighter since his termination, has lost income, pension and fringe benefits, seniority and has suffered significant financial and emotional damages as will be established at the time of trial.

Count IV
CAUSE OF ACTION FOR RACIAL DISCRIMINATION
AGAINST DEFENDANT CALVILLO

30. The allegations in paragraphs One through Twenty Nine are incorporated herein as if fully re-written.
31. Defendant Calvillo is the Interim Chief of the City of Cleveland's Division of Fire and, as the Fire Chief, has administrative authority over all of the personnel employed by the City in the Division of Fire and is obligated to insure that the Division of Fire is operated in a fair, non-discriminatory manner..
32. Although Defendant Calvillo had an obligation to not discriminate or permit the discrimination of fire fighters under his command, he permitted and/or conspired with all of the other named defendants to discriminate against Plaintiff on the basis of his race.
33. As a result of Defendant Calvillo's discriminatory conduct,. Plaintiff was terminated from his employment with the City of Cleveland and has remained unemployed as a fire fighter since his termination, has lost income, pension and seniority benefits

and has suffered significant financial and emotional damages as will be established at the time of trial.

WHEREFORE, Plaintiff request that this Court:

- a. Enter a judgment finding that Defendants have violated Ohio law as set forth above;
- b. Order Plaintiff reinstated to his prior position or an equivalent position with the City of Cleveland, together with all rights of seniority, pension and fringe benefits;
- c. Order that the City of Cleveland to pay to Plaintiff all wages and benefits due and owing as a result of Defendants' discriminatory acts;
- d. Award compensatory, punitive damages to Plaintiff, in an amount to be determined at trial;
- e. Award to Plaintiff his costs and reasonable attorneys fees in this action; and
- f. Grant such other and further relief as may be just and necessary.

Respectfully submitted,

/s/ James L. Hardiman
James L. Hardiman #0031043
Attorney for Plaintiff
3615 Superior Avenue, Suite 3101-D
Cleveland, Ohio 44114
(216) 431-7811–Business
(216) 431-7644–Cell
attyjhard@aol.com

JURY DEMAND

A trial by jury is demanded by the appropriate number of jurors permitted by law.

/s/ James L. Hardiman
James L. Hardiman

SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER CLEVELAND, OHIO 44113

CASE NO.
CV16863166

D1 FX

SUMMONS NO:
29142966

Rule 4 (B) Ohio

Rules of Civil
Procedure

CALVIN ROBINSON
VS
CITY OF CLEVELAND, ET AL.

PLAINTIFF

DEFENDANT

SUMMONS

CITY OF CLEVELAND
CLEVELAND DIVISION OF FIRE
601 LAKESIDE AVENUE
CLEVELAND, OH 44114

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

JAMES L HARDIMAN
3615 SUPERIOR AVENUE

SUITE 3101-D
CLEVELAND, OH 44114-0000

Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

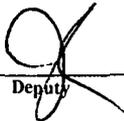
Case has been assigned to Judge:

HOLLIE L GALLAGHER
Do not contact judge. Judge's name is given for attorney's reference only.



NAILAH K. BYRD
Clerk of the Court of Common Pleas

DATE
May 13, 2016

By  Deputy

COMPLAINT FILED 05/12/2016



SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER CLEVELAND, OHIO 44113

CASE NO.
CV16863166

D2 FX

SUMMONS NO.
29142967

Rule 4 (B) Ohio

Rules of Civil
Procedure

CALVIN ROBINSON
VS
CITY OF CLEVELAND, ET AL.

PLAINTIFF

DEFENDANT

SUMMONS

MICHAEL MCGRAFTH
DIRECTOR OF PUBLIC SAFETY
601 LAKESIDE AVENUE
CLEVELAND, OH 44114

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

JAMES L HARDIMAN
3615 SUPERIOR AVENUE

SUITE 3101-D
CLEVELAND, OH 44114-0000

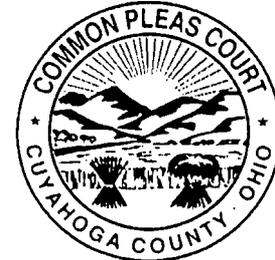
Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Case has been assigned to Judge:

HOLLIE L GALLAGHER
Do not contact judge. Judge's name is given for attorney's reference only.



NAILAH K. BYRD
Clerk of the Court of Common Pleas

DATE
May 13, 2016

By _____
Deputy

COMPLAINT FILED 05/12/2016



SUMMONS IN A CIVIL ACTION COURT OF COMMON PLEAS, CUYAHOGA COUNTY JUSTICE CENTER CLEVELAND, OHIO 44113

CASE NO.
CV16863166

D3 FX

SUMMONS NO.
29142968

Rule 4 (B) Ohio

Rules of Civil
Procedure

CALVIN ROBINSON
VS
CITY OF CLEVELAND, ET AL.

PLAINTIFF

DEFENDANT

SUMMONS

ANGELO CALVILLO
INTERIM FIRE CHIEF CITY OF CLEVELAND
1645 SUPERIOR AVENUE
CLEVELAND OH 44114

You have been named defendant in a complaint (copy attached hereto) filed in Cuyahoga County Court of Common Pleas, Cuyahoga County Justice Center, Cleveland, Ohio 44113, by the plaintiff named herein.

You are hereby summoned and required to answer the complaint within 28 days after service of this summons upon you, exclusive of the day of service.

Said answer is required to be served on:



Plaintiff's Attorney

JAMES L HARDIMAN
3615 SUPERIOR AVENUE

SUITE 3101-D
CLEVELAND, OH 44114-0000

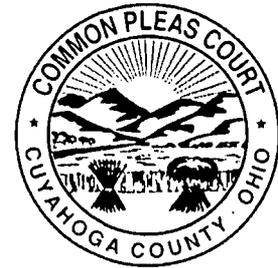
Said answer is required to be served on Plaintiff's Attorney (Address denoted by arrow at left.)

Your answer must also be filed with the court within 3 days after service of said answer on plaintiff's attorney.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the complaint.

Case has been assigned to Judge:

HOLLIE L GALLAGHER
Do not contact judge. Judge's name is given for attorney's reference only.



NAILAH K. BYRD
Clerk of the Court of Common Pleas

DATE
May 13, 2016

By _____ Deputy

COMPLAINT FILED 05/12/2016

