

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

MIKEL NEAL and RACHELLE)	
FEARS-NEAL,)	
)	Cause No. 1:15-cv-168
Plaintiffs,)	
)	
v.)	
)	
RICK BACKS,)	
)	
Defendant.)	

COMPLAINT FOR DAMAGES

I. NATURE OF CASE

1. This lawsuit seeks monetary damages against Rick Backs for injuries received by Mikel Neal (hereinafter “Mikel”) when, on February 13, 2015, Defendant Backs maliciously threw a noose to Mikel, an African-American, thereby intimidating him because of his race. Plaintiff seeks compensation pursuant to federal law pursuant to 42 U.S.C. § 1983. Plaintiff Rachelle Fears-Neal seeks loss of consortium damages.

II. JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and is based on the Fourteenth Amendment of the United States Constitution. This court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the court and division pursuant to 28 U.S.C. § 1391, because the events giving rise to this action occurred in, and the Defendant, upon information and belief, resides in Grant County Indiana, which is located in the Fort Wayne Division of the Northern District of Indiana.

4. Mikel is an adult resident of Indiana.
5. Rachelle Fears-Neal is an adult resident of Indiana.
6. Defendant Rick Backs is adult resident of Indiana and at all relevant times a fire department officer and employee of the City of Marion, Indiana.

III. FACTS

7. On February 13, 2015 Mr. Neal was on duty at Station 6 doing ropes and knots training with Engineer Jake Morrow. Also present were Captain Eddie Miller and Private Scott Snyder.
8. Deputy Chief Rick Backs came to the station towards the end of the training. Everyone was in the kitchen area.
9. Mr Neal was sitting at the table in front of the white board.
10. Engineer Jake Morrow was to his left sitting and Private Scott Snyder was sitting directly in front of him.
11. Captain Eddie Miller was standing in front of the refrigerator and Deputy Chief Rick Backs was sitting in a chair at the entrance leading to the restroom/locker room.
12. Deputy Chief Backs asked for Captain Miller's rope, and Captain Miller tossed his rope to him.
13. Captain Miller then said something to the affect "I don't think you should be doing that" and Mr. Neal looked up from his phone and noticed Deputy Chief Backs was making something with a rope but at the time Mr. Neal couldn't tell what it was.
14. Deputy Chief Backs then said "Here Mikki" as he tossed the rope to Mr. Neal, at which point Mr. Neal noticed it was a noose.
15. Mr. Neal did not look up at Deputy Chief Backs. Mr. Neal just caught the noose and set it down on the table and shook his head in shock.

16. Deputy Chief Backs then left the building.

17. Captain Miller then told Mr. Neal to give the noose to him and Captain Miller took it apart.

18. Engineer Morrow appeared upset and wanted to immediately record the incident but Mr. Neal told him no at that time.

19. Private Snyder seemed stunned and just sat with a shocked look on his face.

20. Mr. Neal has used these past few weeks really praying on how to handle this situation. Mr. Neal was unable to shake the severity of Deputy Chief Backs' actions.

21. As an African American that is supposed to have a "brotherhood" with fellow Firefighters, Mr. Neal cannot ignore this blatant act of disrespect and discrimination.

22. His fellow African American Firefighters deserve more, as well as the minorities in this community.

23. Therefore, March 5, 2015, while on duty Mr. Neal told Captain Miller he wanted to file a formal complaint on the incident.

24. As a result of Defendant's conduct, Mikel Neal and Rachelle Fears-Neal have suffered serious and permanent emotional injuries requiring time off work and multiple counseling session.

1. IV. CLAIMS

25. The conduct of Defendant Rick Backs shocks the conscious as defined by *Rochin v. California*, 342 U.S. 165 (1952), and its progeny, and therefore violates the due process clause of the Fourteenth Amendment.

26. Plaintiff Rachelle Fears-Neal brings a claim for loss of consortium for the Constitutional tort described above.

V. JURY TRIAL REQUESTED

27. Mikel Neal and Rachelle Fears-Neal request a jury trial on their claims.

VI. RELIEF REQUESTED

28. Mikel Neal and Rachelle Fears-Neal seek all relief available under the law, including compensatory damages and costs, and all other appropriate relief, including punitive damages and attorney fees as to Defendant Rick Backs.

Respectfully submitted,

/s/ Andrew P. Wirick

Andrew P. Wirick, Atty. No. 11362-49

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