

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

NOV 19 2020

JAMES W. MCCORMACK, CLERK
By:  CLERK

AUSTIN C. ARMSTRONG

Plaintiff,

V.

THE CITY OF LITTLE ROCK

Defendant.

Case No. 4:20cv1370-LPR

This case assigned to District Judge
and to Magistrate Judge




COMPLAINT

COMES NOW, the Plaintiff by and through his attorney Robert A. Newcomb and for his Complaint states:

1. Jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. §1331.
2. Venue is proper in this division in that the Plaintiff and Defendant are residents of Pulaski County, Arkansas, which is located in the Central Division of the Eastern District of Arkansas.
3. This is an action to enforce rights granted to the Plaintiff by the Americans with Disabilities Act as amended.

FACTS

1. The Plaintiff has a disability within the meaning of the American with Disabilities Act of 1990 as amended in that he has Autism. This affects certain major life activities.
2. The Defendant is an employer within the meaning of the American with Disabilities Act of 1990 as amended and has more than 300 employees.

3. The Plaintiff was hired as a Firefighter by the Defendant on or about March 4th, 2019 and was employed such until December 18th, 2019 when he was discharged.
4. The Plaintiff successfully completed all of his job requirements prior to his termination. He had passed the Section I test on December 3rd.
5. The Plaintiff requested a reasonable accommodation of being moved to a different Captain because of discrimination based on his disability of autism.
6. The Defendant said he could not be moved to a different Captain at a different station and that he was being discharged for his work performance. When in fact his work performance was satisfactory.
7. The Plaintiff successfully completed the Little Rock Fire Department Training academy, which was six months long.
8. The Defendant required the passing of test during the Training Academy, all of which the Plaintiff successfully passed.
9. The Plaintiff successfully completed the State of Arkansas Test for Firefighter I and II.
10. The Plaintiff passed the National Emergency Medical Technician Test, passing on his first attempt.
11. As an example of the City being unwilling to accommodate the Plaintiff because of his Autism, the Plaintiff explained to his Captain that if he learned a term for something he learned that term as initial told to him. For example, he was criticized for calling a, '4x4 bandages' that he

learned to be an, 'absorbent bandage.' The Plaintiff was criticized for not responding when he was asked for a, '4x4 bandage,' even though he had explained to his Captain that he had learned the term, 'absorbent bandage,' and that because of his disability relearning was difficult.

12.The Plaintiff's Captain claimed that he could not perform the job, which was a false statement made because of the Captain's view toward the disability of Autism.

13. The Complaints made by his Captain where reviewed with the Plaintiff by his acting Captain and jobs were successfully completed.

14.While assigned to Station 9 derogatory comments were made by coworkers, including supervisors such as, "Shrek," "Private Pyle," which is a dimwitted soldier that goes on a killing spree in a movie entitled, "Full Metal Jacket."

15.The American with Disabilities paperwork that the Plaintiff submitted to the Little Rock Human Resource Department was passed around his fire station to non-supervisors.

16.At the station in the presence of the supervisor who recommended his termination Firefighters would say that they wouldn't take the Plaintiff hunting with them because he could not be trusted with a gun.

17.The Captain would make comments to the Plaintiff such as, "I hate you," and, "I can't wait to be on vacation."

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. The Plaintiff was terminated on December 18th, 2019 and filed EEOC Charge number 493-2020-00528 on March 6th, 2020. A copy of which is attached hereto as Exhibit A.
19. The Plaintiff received a Notice of Suit Rights on or about August 26, 2020 a copy of which is attached hereto as Exhibit B.
20. The Plaintiff has filed this action within 90 days of the receiving of the Notice of suit Rights.

LEGAL CLAIMS

21. The Plaintiff was terminated from the City of Little Rock because he was disabled within the meaning of the American's with Disabilities Act of 1990 because he was diagnosed on the Autism Spectrum. Which the City of Little Rock was aware of at the time of his termination.
22. The City of Little Rock did not have an interactive process with him concerning his disability and in fact told him his request for a transfer to a difference Captain was not going to be considered because it would not occur.
23. The Plaintiff believes based upon what he has heard that the City of Little Rock has transferred other probationary employees from one fire station to another.

RELIEF REQUESTED

24.Plaintiff requests that the Court Order the City of Little Rock to reinstate him as a Firefighter with the City of Little Rock at the same pay that he would have had if he had not been terminated.

25.The Court should award back pay from the date of termination to the date of reinstatement.

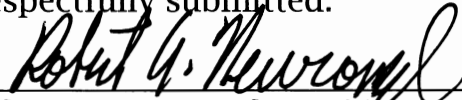
26.The Court should award emotional damages of an amount to be determined by a Jury for the emotional injury that the Plaintiff has suffered.

27.The Court should Order the City of Little Rock to pay pre-judgment interest.

28.The Court should Order the City of Little Rock to pay attorney's fees and litigation costs.

WHEREFORE, it is respectfully prayed that this Court will grant the relief the Plaintiff requests.

Respectfully submitted:



Robert A. Newcomb, # 73087

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CIVIL COVER SHEET 4:20-cv-01370-LPR

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Austin C. Armstrong

(b) County of Residence of First Listed Plaintiff Pulaski (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert A. Newcomb

DEFENDANTS

The City of Little Rock

County of Residence of First Listed Defendant Pulaski (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Personal Injury, Property Damage, Labor, and Social Security.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §12101

Brief description of cause:

Plaintiff has been discriminated against by the City of Little Rock because of his Autism.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 11/19/20

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Robert A. Newcomb

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

MAG. JUDGE