



Lieutenant accused of extortion after harassment complaint

Type: Mediated Settlement

Amount: \$1,650,000

State: Michigan

Venue: Federal

Court: U.S. District Court for Eastern District of Michigan, MI

Injury Type(s): • *mental/psychological* - post-traumatic stress disorder

Case Type: • *Government* - Counties
• *Employment* - Retaliation; Hostile Work Environment; Disability Discrimination

Case Name: Tommy J. Schuette v. Steven P. Rand, in his individual and official capacities, and Jackson County, No. 2:18-cv-10497

Date: May 30, 2023

Plaintiff(s): • Tommy J. Schuette, (Male, 39 Years)

Plaintiff Attorney(s): • James K. Fett; Fett & Fields, P.C.; Ann Arbor MI for Tommy J. Schuette

Plaintiff Expert (s): • Donald C. Jones M.D.; Family Medicine; Jackson, MI called by: James K. Fett
• Judith Schorsch L.M.S.W.; Social Work; Jackson, MI called by: James K. Fett
• Rodney W. Durgin Ph.D.; Vocational Rehabilitation; Toledo, OH called by: James K. Fett
• Teresa Fulimeni; Economics; Ann Arbor, MI called by: James K. Fett

Defendant(s): • Jackson County
• Steven P. Rand

Defense Attorney(s):

- Bonnie G. Toskey; Cohl, Stoker & Toskey, P.C.; Lansing, MI for Jackson County

Defendant Expert(s):

- Robert W. Lamson Ph.D.; Psychology/Counseling; Grand Rapids, MI called by: for Bonnie G. Toskey

Insurers:

- Michigan Municipal Risk Management Authority

Facts:

In October 2016, plaintiff Tommy Schuette, 39, a lieutenant with the Jackson County Sheriff's Office, allegedly began to experience increased harassment from his supervisor, Sheriff Steven Rand. Schuette, who has significant hearing loss, claimed that Rand called him "special needs," deaf and dumb" and a slur used to refer to mentally disabled people.

In September and October 2017, Schuette began secretly recording Rand using derogatory language, including sexist, racist and homophobic slurs, during weekly command meetings. Schuette would later claim he developed post-traumatic stress disorder as a result of Rand's actions.

On Jan. 17, 2018, Schuette presented his recordings to the county's administrator and human resources director. The county administrator then filed a confidential complaint with the Michigan State Police accusing Schuette of extortion. The complaint alleged that Schuette had threatened to make his recordings public unless the county gave into his demands for three years of pension credit and wages. When the state police questioned Schuette regarding the extortion complaint, Schuette denied the allegations and offered his own lie detector test.

Schuette sued Rand and Jackson County. Schuette claimed that Rand created a hostile work environment and the county was liable for Rand's actions. Schuette further contended that Rand violated the Americans with Disabilities Act and Michigan's Persons with Disabilities Civil Rights Act. The lawsuit also alleged the county retaliated against Schuette by accusing him of extortion.

The judge dismissed Rand from the case before it resolved. Rand finished out his term as sheriff in December 2021.

Plaintiff's counsel contended that the county failed to properly respond to Rand's behavior. Counsel contended that, even after Schuette presented his recordings of Rand, no investigation was done into the sheriff's actions and Rand was not reprimanded. Plaintiff's counsel argued that Rand would have likely curbed his behavior if the county had investigated him or questioned him about it.

Plaintiff's counsel concluded that, once Schuette presented his report, the county should have placed Schuette on fully paid leave and looked into Schuette's allegations. Instead, Schuette was placed on short-term disability leave, which does not provide the same

benefits that paid leave does.

Plaintiff's counsel further contended that the county should have transferred Schuette to another department so he no longer had to work with Rand. Schuette noted that another lieutenant was transferred from the sheriff's department to a civilian job.

The defense argued that Schuette was placed on paid leave and the county could not be held liable for Rand's actions because Schuette never filed a complaint under the county's harassment policy. Consequently, the defense argued, the county did not know about Schuette's complaints until he played his recordings to the county's administrator and human resources director.

The defense further maintained that a county has no legal ability to investigate or discipline an elected sheriff. Per counsel, the only actions the county could have taken were to reduce the sheriff's fringe benefits and to formally ask the governor to remove Rand from office, and the county did both of these things immediately.

Plaintiff's counsel pointed to laws stating that if an employer requires managers/supervisors to report harassment and that reporting is not done, then the employer is liable for the harassment even if the employer does not know about it. According to plaintiff's counsel, Jackson County policy required supervisors to immediately report harassment to human resources. Counsel claimed that six different supervisors were aware of Rand's offensive statements prior to Jan. 17, 2018, yet failed to report them.

The defense further argued that filing a police report about Schuette's alleged extortion threat did not constitute retaliation. The defense claimed that Schuette did release the recordings to the media after the county declined to meet his supposed demands. The defense also contended that Schuette's lie detector test was not evidence of innocence and could not have been admitted into evidence under Michigan law.

Injury:

Schuette was diagnosed with PTSD that he said was caused by Rand's actions. Schuette began counseling briefly and took medications.

Schuette went on Family and Medical Leave Act (FMLA) leave for 12 weeks. He was then put on short-term disability, which lasted for about six months.

Schuette never went back to his job because his therapist did not clear him to return to work with Rand. Schuette remained out of work and unpaid until 2021.

In June 2021, the newly elected sheriff offered in writing to either reinstate Schuette to his prior position or accept his application for disability retirement based on severe hearing impairment. Schuette never responded to the offer because he did not want to return to his old job under the administrator and human resources director who had filed the police report and who still worked for the county. Schuette thus opted for the retirement and started getting disability pension payments in November 2021. The judge ruled that the county would get no deduction for the disability pension payments because of the "collateral source" rule.

Schuette sought recovery of past and future lost wages and benefits. He also sought damages for past and future pain and suffering.

The defense's psychology expert examined Schuette and determined he did not have PTSD or suffer any emotional distress. The defense also argued that Schuette received the maximum amount of disability payments available to him during his initial leave.

Result:

The parties negotiated a pretrial settlement. The county agreed to directly pay Schuette \$900,000, and the county's insurer agreed to pay an additional \$750,000, for a total of \$1.65 million. The negotiations were mediated by Kathleen Bogas.

The county also agreed to pay Schuette \$333,600.82 for his disability pension. This money came from the county's pension fund for deputies and was not part of the \$1.65 million settlement.

Tommy Schuette

Trial Information:**Judge:**

Linda V. Parker, Kathleen Bogas

Trial Length: 0

**Trial
Deliberations:** 0

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel and defense counsel for Jackson County. Additional information was gleaned from court documents. Rand's counsel was not asked to contribute.

Writer Melissa Siegel

Former Black female police detective claimed discrimination

Type: Verdict-Mixed

Amount: \$575,001

State: Michigan

Venue: Federal

Court: U.S. District Court for the Eastern District of Michigan, Southern Division, MI

Case Type:

- *Civil Rights* - Title VII; 42 USC 1983; Civil Rights Act of 1964
- *Employment* - Sexual Harassment; Race Discrimination; Workplace Harassment; Gender Discrimination; Constructive Discharge; Hostile Work Environment
- *Constitutional Law* - Fourteenth Amendment
- *Worker/Workplace Negligence* - Negligent Training

Case Name: DeSheila C. Howlett v. City of Warren; Lawrence Gardner; Shawn Johnson; Dawn McLane; Barbara Byer; Michael Sauger; and Anwar Khan, No. 4:17-cv-11260-TGB-RSW

Date: May 04, 2023

Plaintiff(s):

- DeSheila C. Howlett, (Female, 0 Years)

Plaintiff Attorney(s):

- Leonard Mungo; The Mungo Law Firm, PLC; Detroit MI for DeSheila C. Howlett
- Leonard "Brandyn" Mungo; The Mungo Law Firm, PLC; Detroit MI for DeSheila C. Howlett

Plaintiff Expert (s):

- Barry Grant C.P.A.; Economics; Southfield, MI called by: Leonard Mungo, Leonard "Brandyn" Mungo
- Aldona Valivonis Ph.D.; Psychology/Counseling; Birmingham, MI called by: Leonard Mungo, Leonard "Brandyn" Mungo
- Andrew P. Nay Ph.D.; Vocational Rehabilitation; Lansing, MI called by: Leonard Mungo, Leonard "Brandyn" Mungo
- Gerald A. Shiener M.D.; Psychiatry; Birmingham, MI called by: Leonard Mungo, Leonard "Brandyn" Mungo

Defendant(s):

- Anwar Khan
- Dawn McLane
- Barbara Byer
- City Of Warren
- Shawn Johnson
- Michael Sauger
- Lawrence Garner

Defense Attorney(s):

- Raechel M. Badalamenti; Kirk, Huth, Lange & Badalamenti, PLC; Clinton Township, MI for City Of Warren, Lawrence Garner, Shawn Johnson, Anwar Khan
- Chad L. Riddle; Kirk, Huth, Lange & Badalamenti, PLC; Clinton Township, MI for City Of Warren, Lawrence Garner, Shawn Johnson, Anwar Khan
- Elizabeth P. (Roberts) Morris; Kirk, Huth, Lange & Badalamenti, PLC; Clinton Township, MI for City Of Warren, Lawrence Garner, Shawn Johnson, Anwar Khan

Defendant Expert(s):

- Harvey G. Ager M.D.; Psychiatry; Southfield, MI called by: for Raechel M. Badalamenti, Chad L. Riddle, Elizabeth P. (Roberts) Morris

Facts:

In August 2006, plaintiff DeSheila Howlett, a Black female, was hired as a police officer for the city of Warren. She was the first Black officer ever hired by the city. Howlett claimed she was subjected to race and gender discrimination during her career with the city's police department. She said that the discrimination created a hostile work environment and led to her constructive discharge.

Howlett sued the city of Warren and numerous employees within the police department. The individual defendants included officers Anwar Khan, a man of Middle Eastern descent; Lawrence Garner, a white male; and Shawn Johnson, a white male. An office clerk, Barbara Byer, was initially sued, as well. Garner's last name was initially misspelled as "Gardner" on the case caption.

Byer was dismissed early in the litigation. Other individual defendants were let out on summary judgment. The only defendants still in the case at the time of the trial were the city of Warren, Khan, Garner and Johnson.

At trial, Howlett alleged that the four defendants violated her civil rights guaranteed by 42 USC Section 1983. She specifically claimed that they violated the Equal Protection Clause of the Fourteenth Amendment. Howlett further claimed that the city violated Title VII of the Civil Rights Act of 1964 by subjecting her to a hostile work environment.

Howlett alleged that Khan made disparaging comments about women. She contended that Khan told her women should not work and should definitely not be police officers. Howlett claimed that Khan, who served as her Field Training Officer, also unjustifiably failed her and forced her to repeat her training.

Howlett claimed that Khan also discriminated against her when he pulled her over for

speeding while she was on duty. She said that Khan only stopped her because she was a female officer. Howlett also claimed that Khan was mean to her during the stop and then reported the speeding incident to Howlett's supervisor.

The claim against Johnson at trial solely involved alleged racial discrimination. Howlett contended that Johnson repeatedly made discriminatory comments about her. Howlett specifically alleged that Johnson compared her to a slave and a gorilla. Johnson also allegedly spoke to her in a mocking accent, characterized her dress style as "Black thang" and made stereotypical comments about her lunches. For instance, Howlett alleged that Johnson would refer to her Chinese food lunch as "fried chicken" since the latter food is stereotypically associated with Blacks.

Howlett further alleged that Garner subjected her to discrimination when he moved Howlett's desk next to Johnson's. Howlett maintained that she had wanted to be kept away from Johnson due to his allegedly offensive comments.

Howlett further contended that she felt ostracized and singled out as the only Black officer in the department. She said this created a hostile work environment. Her counsel argued that the city was liable for failing to train the police department on matters of diversity.

Howlett specifically pointed to an incident that led to her departure from the police department. On the date in question, Byer was talking to a sex offender who was at the front desk. The sex offender started yelling at Byer. As he walked away from Byer, Byer allegedly used a racial slur to refer to him. Howlett said that she heard the slur as she entered the room and that she walked off the job that day and never returned.

Khan denied making disparaging comments about Howlett or women in general. He noted that his wife works and that he has daughters.

The defense further noted that Howlett admitted she was speeding when she was pulled over by Khan. Defense counsel also contended that Howlett was in an unmarked vehicle at the time and that Khan had no way of knowing who she was when he initiated the traffic stop. Khan additionally maintained that policy required him to report the stop to Howlett's supervisor.

Johnson, meanwhile, claimed that the allegedly discriminatory comments he made were taken out of context. He said that he was good friends with Howlett, and that they often talked cordially about race and gender topics. Johnson said that he did not intend to embarrass Howlett or be mean to her when he made the subject remarks.

Garner claimed that Howlett's desk was moved so she could sit closer to the people with whom she worked. Garner stated that Howlett did not complain about sitting next to Johnson when her desk was initially moved and that Howlett had told him she had no

issues sitting next to Johnson.

The defense also disputed the hostile work environment/failure to train claim against the city. Defense counsel maintained that the police department did have annual training sessions, but the city did not have specific paperwork evidence demonstrating which topics were covered during the sessions.

Injury:

A few months after walking off her job, Howlett moved to Georgia. She underwent some counseling over the next few years. Howlett claimed she will need this counseling for the rest of her life.

Howlett said that she was so traumatized by her experience with the city of Warren that she is unable to return to work. Her treating psychologist similarly testified that Howlett can no longer work.

Plaintiff's counsel retained a psychiatry expert who opined that Howlett had some features of post-traumatic stress disorder. However, both the expert and the treating psychologist admitted that Howlett does not actually have PTSD. The expert also said that Howlett has depression, but admitted that this condition may not be completely related to the harassment and discrimination Howlett allegedly faced at work.

Howlett stated that, even if she does return to work, she will not be able to earn as much money as she did when she worked for the city. Her counsel retained an economics expert who determined that Howlett's front and back pay damages totaled \$6.5 million.

Howlett sought recovery of past and future medical expenses, front and back pay damages, future lost earnings, past and future noneconomic damages and punitive damages. Her counsel asked the jury to award \$14.5 million.

The defense noted that Howlett was not diagnosed with PTSD. Defense counsel retained a psychiatry expert who opined that Howlett does not have any conditions that limit her ability to work.

The defense similarly noted that the plaintiff's vocational rehabilitation expert admitted that Howlett should be seeking other job opportunities even if she did not want to return to police work. The plaintiff's expert also admitted that he had never seen a person claim an inability to work after a non-violent incident.

Defense counsel further claimed there were errors in the calculations made by the plaintiff's economics expert. The defense specifically argued that the plaintiff's expert inflated Howlett's prior earnings.

Result:

The jury determined that Johnson violated the Equal Protection clause of the Fourteenth Amendment by discriminating against Howlett based on her race or sex. The jury also determined that the city of Warren failed to properly train its employees, which violated the Equal Protection clause. However, the jury concluded that Garner and Khan did not violate the Fourteenth Amendment. The jury additionally determined that the city did not violate Title VII.

The jury further concluded that Johnson was constructively discharged from her employment. While the jury said that Howlett was entitled to back pay, the jury did not award any front pay or lost future earnings.

The jury determined that the city caused Howlett to suffer damages and awarded her \$525,000 in compensatory damages. The jury additionally concluded that Johnson's individual actions did not cause damage to Howlett and awarded Howlett \$1 in nominal damages.

The jury also determined that Johnson acted with reckless or callous indifference to Howlett's federally protected rights. The jury awarded Howlett \$50,000 in punitive damages from Johnson, but concluded that Garner and Khan did not owe any punitive damages.

A final judgment was entered in favor of Khan and Garner. The court also entered a judgment in favor of the city on the Title VII/hostile work environment claim.

The court issued a judgment in favor of Howlett on the Fourteenth Amendment claims against Johnson and the city. The court ordered the city to pay \$525,000 and Johnson to pay \$50,001.

DeSheila Howlett

\$ 50,000 punitive damages against Johnson

\$ 502,000 back pay

\$ 20,000 past and future non-economic damages

\$ 1 nominal damages against Johnson

\$ 3,000 past and future medical expenses

\$ 575,001 Plaintiff's Total Award

Trial Information:

Judge: Terrence G. Berg

Trial Length: 13 days

**Trial
Deliberations:** 1 days

**Jury
Composition:** 3 male, 4 female; 1 Black, 6 white

Post Trial: Plaintiff's counsel has filed a notice of appeal. Defense counsel has filed for fees and costs on behalf of Khan and Garner. Garner and Khan were subsequently awarded \$5,702.12 in costs.

**Editor's
Comment:** This report is based on information that was provided by defense counsel. Additional information was gleaned from court documents. Plaintiff's counsel did not respond to the reporter's phone calls.

Writer Melissa Siegel

White bus driver lost out on promotion due to race: lawsuit

Type:	Verdict-Plaintiff
Amount:	\$305,280
State:	Michigan
Venue:	Federal
Court:	U.S. District Court for the Eastern District of Michigan, Southern Division, MI
Injury Type(s):	<ul style="list-style-type: none">• <i>mental/psychological</i> - anxiety; depression
Case Type:	<ul style="list-style-type: none">• <i>Civil Rights</i> - Title VII; Civil Rights Act of 1964• <i>Employment</i> - Race Discrimination; Reverse Discrimination
Case Name:	Gayann Miller v. Suburban Mobility Authority, for Regional Transportation, No. 2:20-cv-11122-GAD-KGA
Date:	January 18, 2024
Plaintiff(s):	<ul style="list-style-type: none">• Gayann Miller, (Female, 0 Years)
Plaintiff Attorney(s):	<ul style="list-style-type: none">• James B. Rasor; Rasor Law Firm; Royal Oak MI for Gayann Miller• Amanda G. Washburn; Rasor Law Firm; Royal Oak MI for Gayann Miller
Plaintiff Expert (s):	<ul style="list-style-type: none">• Larry J. Baylis D.O.; Family Medicine; Clarkston, MI called by: James B. Rasor, Amanda G. Washburn• Melissa F. McCurley L.P.C.; Psychology/Counseling; Clarkston, MI called by: James B. Rasor, Amanda G. Washburn
Defendant(s):	<ul style="list-style-type: none">• Suburban Mobility Authority for Regional Transportation

**Defense
Attorney(s):**

- Heidi D. Hudson; Zausmer, P.C.; Farmington Hills, MI for Suburban Mobility Authority for Regional Transportation
- Cameron R. Getto; Zausmer, P.C.; Farmington Hills, MI for Suburban Mobility Authority for Regional Transportation

Facts:

In July 2019, plaintiff Gayann Miller, a bus driver for Suburban Mobility Authority for Regional Transportation (SMART), learned her promotion application had been denied. Miller had applied for the promotion to road supervisor a month earlier. The promotion instead went to a Black male.

An interview panel was responsible for the hiring decision. Miller's supervisor, a Black female, was a member of that panel. Miller alleged she was passed over for the promotion because she is white.

Miller sued SMART. Miller claimed SMART violated the Elliott-Larsen Civil Rights Act and Title VII of the Civil Rights Act of 1964.

Plaintiff's counsel argued that Miller's supervisor -- the superintendent of transportation -- was the leading member of the hiring panel. Miller's counsel argued that the superintendent had an undisclosed bias in favor of Black employees and that her agenda influenced the other members of the panel. To support this theory, plaintiff's counsel presented testimony from another supervisor. The supervisor claimed she heard the superintendent say the "white girl" -- a reference to Miller -- will not get promoted under her watch. Plaintiff's counsel alleged that the superintendent did promote less qualified Blacks, but did not promote any whites.

Plaintiff's counsel specifically said that the Black male who received the promotion to road supervisor was not qualified for the job. According to counsel, the Black male was involved in an accident in fall 2018, yet left the scene without reporting the incident. Counsel also claimed the Black male caused a second accident in June 2019 when he fell asleep behind the wheel and initially blamed this crash on a trainee. Plaintiff's counsel further maintained that the superintendent knew about this 2019 incident, but did not disclose it to the rest of the interview panel.

The defense argued that race had nothing to do with the interview panel's decision. The defense contended that the panelists opted against promoting Miller because they believed Miller did not have the judgment and leadership necessary for the road supervisor position. The defense additionally contended that the entire panel made the promotion decision together, and any bias from the superintendent did not influence the other panelists.

The defense further maintained that the superintendent was not biased against whites. The defense argued that the superintendent could have fired Miller years earlier when Miller was involved in a minor accident, but instead allowed Miller to keep her job.

The defense also argued that Miller's actions after she was denied the promotion justified the panel's decision. The defense accused Miller of failing to complete one of her routes. Plaintiff's counsel countered that Miller did complete the route in question and that SMART violated its own policies when obtaining the video of the route.

Injury:

At the time of trial, Miller still worked for SMART. She claimed the ordeal caused her to develop major depressive disorder and anxiety. She treated these conditions with medications and therapy.

Miller sought recovery of past and future lost earnings and damages for past and future pain and suffering.

The defense argued that Miller's anxiety and depression were unrelated to her experiences at work and stemmed from a 2018 house fire.

Result:

The jury determined that race was one of the motives or reasons that made a difference in SMART's decision to not promote Miller. It awarded Miller \$305,280.40.

Gayann Miller

\$ 84,180.40 Past Lost Earnings

\$ 160,700 Past Pain Suffering

\$ 30,200 future pain and suffering for 2024

\$ 30,200 future pain and suffering for 2025

\$ 305,280.40 Plaintiff's Total Award

Trial Information:

Judge: Gershwin A. Drain

Trial Length: 6 days

**Trial
Deliberations:** 5 hours

Jury Vote: 6-2

**Jury
Composition:** 2 male, 6 female; 8 white

**Editor's
Comment:** This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Defense counsel did not respond to the reporter's phone calls.

Writer Melissa Siegel

Restaurant sexually harassed female workers: EEOC

Type:	Settlement
Amount:	\$200,000
State:	Michigan
Venue:	Federal
Court:	U.S. District Court for the Western District of Michigan, MI
Case Type:	<ul style="list-style-type: none">• <i>Civil Rights</i> - Title VII; Civil Rights Act of 1964• <i>Employment</i> - Retaliation; Sexual Harassment; Workplace Harassment; Gender Discrimination; Hostile Work Environment
Case Name:	Equal Employment Opportunity Commission v. Georgina's LLC d/b/a Georgina's Taqueria, No. 1:18-cv-00668
Date:	February 04, 2021
Plaintiff(s):	<ul style="list-style-type: none">• Equal Employment Opportunity Commission
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Kenneth L. Bird; Equal Employment Opportunity Commission; Indianapolis IN for Equal Employment Opportunity Commission• Omar Weaver; Equal Employment Opportunity Commission; Detroit MI for Equal Employment Opportunity Commission• Miles L. Uhlar; Equal Employment Opportunity Commission; Detroit MI for Equal Employment Opportunity Commission
Defendant(s):	<ul style="list-style-type: none">• Georgina's LLC
Defense Attorney(s):	<ul style="list-style-type: none">• Matthew D. Vermetten; Pezzetti, Vermetten & Popovits, P.C.; Traverse City, MI for Georgina's LLC

Facts: On Feb. 7, 2016, claimant Jessica Werthen was terminated from her job as a sous chef at Georgina's Taqueria, in Traverse City. She claimed that she was fired due to retaliation after she complained of sexual harassment.

Plaintiff Equal Employment Opportunity Commission sued the restaurant's owner, Georgina's LLC. The EEOC alleged that the restaurant violated Title VII of the Civil Rights Act of 1964.

The EEOC asserted that Georgina's owner repeatedly made lewd sexual comments to Werthen. According to the EEOC, other female employees were subjected to offensive conduct by the owner, including inappropriate touching, being kissed without consent and being subjected to continuous comments about how he wanted to have sex with them.

The EEOC contended that when Werthen complained to a manager about the harassment, the owner stripped her of authority in the kitchen and changed her schedule, and then fired her 10 minutes later. The EEOC maintained that Georgina's violated Title VII by taking adverse action against Werthen and subsequently terminating her employment in retaliation for complaining about harassment and the hostile environment.

The defense maintained that no violation of Werthen's constitutional rights had occurred.

Injury: The EEOC sought to recover back pay and unspecified amounts in compensatory and punitive damages. The EEOC further sought to have Georgina's institute anti-discrimination policies and provide training on employee rights under Title VII.

Result: Prior to trial, Georgina's agreed to entry of a consent judgment to settle the suit. Pursuant to the terms of the judgment, the restaurant was liable for the intentional, malicious and unlawful employment practices. The judgment awarded \$200,000 in back pay, plus compensatory and punitive damages, to Werthen. A permanent injunction and order were also entered against Georgina's, requiring all of its employees, including Georgina's owner, to receive two hours of interactive training on sexual harassment and retaliation.

Trial Information:

Trial Length: 0

Trial Deliberations: 0

Editor's Comment: This report is based on information that was provided by the Equal Employment Opportunity Commission. Defense counsel did not respond to the reporter's phone calls.

Writer Aaron Jenkins

Black cop said he faced retaliation after making complaint

Type: Verdict-Plaintiff

Amount: \$150,001

State: Michigan

Venue: Federal

Court: U.S. District Court for the Eastern District of Michigan, Southern Division, MI

Injury Type(s):

- *other* - soft tissue
- *wrist*
- *mental/psychological* - post-traumatic stress disorder

Case Type:

- *Government* - Police; Municipalities; Excessive Force
- *Employment* - Retaliation
- *Civil Rights* - 42 USC 1983; Police as Defendant; Civil Rights Act of 1964

Case Name: Johnny Strickland v. City of Detroit, City of Detroit Police Department, James Craig, Mark Bliss, Rodney Ballinger, Steven Murdock, Casey Schimeck, Deanna Wilson, and John Does 1 through 20, No. 2:18-cv-12640-NGE-APP

Date: December 05, 2022

Plaintiff(s):

- Johnny Strickland , (Male, 0 Years)

Plaintiff Attorney(s):

- Daniel S. Korobkin; American Civil Liberties Union of Michigan; Detroit MI for Johnny Strickland
- Mark Fancher; American Civil Liberties Union of Michigan; Detroit MI for Johnny Strickland
- Syeda F. Davidson; American Civil Liberties Union of Michigan; Detroit MI for Johnny Strickland

Plaintiff Expert (s):

- Aldona Valivonis Ph.D.; Clinical Psychology; Birmingham, MI called by: Daniel S. Korobkin, Mark Fancher, Syeda F. Davidson
- Lamaurice Gardner Psy.D.; Psychology/Counseling; Southfield, MI called by: Daniel S. Korobkin, Mark Fancher, Syeda F. Davidson

Defendant(s):

- Mark Bliss
- James Craig
- Deanna Wilson
- Casey Schimeck
- City of Detroit
- Steven Murdock
- Rodney Ballinger
- City of Detroit Police Department

Defense Attorney(s):

- Letitia C. Jones; City of Detroit Law Department; Detroit, MI for City of Detroit, Casey Schimeck
- LaKena T. Crespo; City of Detroit Law Department; Detroit, MI for City of Detroit, Casey Schimeck

Facts:

On Jan. 22, 2017, plaintiff Johnny Strickland, a city of Detroit police officer, arrived at a gas station on East Jefferson Avenue in Detroit. He was off-duty and had come to the gas station to make a purchase at the mini-market within the station. A short time earlier, a possible hand grenade had been located near one of the gas pumps at the station. Several police officers were investigating the potential crime scene. It was dark and foggy outside, so Strickland could not see the officers.

As Strickland approached the scene, the officers told him to leave. When Strickland did not do so, Officer Rodney Ballinger put him in handcuffs. Ballinger put another officer, Casey Schimeck, in charge of watching Strickland.

Eventually, the precinct's supervisor on duty, Mark Bliss, arrived at the scene and confirmed Strickland was a police officer. Strickland was then released. As a result of the incident, Strickland, who is Black, filed a racial discrimination complaint with the police department's Equal Employment Opportunity unit (EEO). Strickland was subsequently the subject of an investigation by the police department.

Strickland sued the city of Detroit, along with multiple officers, including Ballinger, Schimeck and Bliss. Strickland claimed that he was subjected to excessive force when he was placed in handcuffs. Strickland also said that he faced retaliation after filing the EEO complaint.

The lawsuit initially included multiple other claims. At the time of trial, the only remaining claims were the retaliation claim against the city and the excessive force claim against Schimeck.

Strickland maintained that he did not knowingly walk into the crime scene. He said that the officers failed to properly secure the scene when they failed to put up any caution tape, and that the responding emergency vehicles were parked several blocks away from the gas station.

Strickland also contended that the officers starting yelling and cursing at him before putting him in handcuffs. Strickland said that, since the officers were shouting at him, they did not identify themselves as officers. Strickland said that he had no way of knowing who they were until Ballinger emerged from the fog and put the handcuffs on Strickland. Strickland claimed that he repeatedly told the officers he was a cop, and that he was put in handcuffs anyway.

Strickland said that he was continually berated while he was in the handcuffs. He also maintained that he repeatedly complained to Schimeck that the handcuffs were too tight, but Schimeck failed to loosen them. This was the basis for the excessive force claim.

For the retaliation claim, Strickland alleged that he was warned not to report the Jan. 22 incident. Strickland specifically claimed that when Bliss arrived at the gas station on the night in question, he told Strickland not to file a complaint or make a fuss about the night's events.

Strickland said that, once he made the complaint, the city then retaliated against him by investigating him. Strickland alleged that the city secretly filmed him while he was at the gym and also that the police department tricked him into sitting down for an interview. Strickland contended that when he was asked to do the interview, he was told that he was not the subject of the investigation, although that was not true.

Strickland was charged internally with four violations, three of which were dismissed. He was found guilty of a violation stemming from his attempt to obtain video footage of the Jan. 22 incident and was suspended for three days.

Strickland maintained that the violations were purely pretext and that he was really being punished for making the EEO complaint. As evidence, Strickland stated that one of the dismissed charges he faced involved his failure to complete an activity log. His counsel contended that a white officer also failed to fill out his log, but was not charged with a violation.

The defense maintained that the crime scene was properly secured prior to Strickland's arrival. Schimeck further claimed that once Strickland complained about the tight cuffs, her partner loosed them. Strickland, however, said that he complained directly to Schimeck about the tight cuffs and that she refused to address it. Plaintiff's counsel alleged that Schimeck's partner only loosened the cuffs after Schimeck left the area.

The defense also argued that Strickland's counsel did not sufficiently state its retaliation case.

Injury: Strickland suffered minor soft-tissue injuries to his wrist due to the handcuff compression. He received minimal treatment and the injuries resolved on their own. Strickland was also diagnosed with post-traumatic stress disorder for which he received psychological treatment.

Strickland stated that he suffers from nightmares, and that he still has to deal with emotional triggers at work. He claimed that his symptoms will continue for the rest of his life.

Strickland sought recovery of actual damages for both claims. He also sought punitive damages for the excessive force claim.

Result: The jury ruled in favor of Strickland on the excessive force and retaliation claims. It awarded Strickland \$1 in nominal damages for the excessive force claim and \$150,000 for the retaliation claim, for a total of \$150,001.

Johnny Strickland

\$ 1 nominal damages for excessive force claim

\$ 150,000 actual damages for retaliation claim

\$ 150,001 Plaintiff's Total Award

Trial Information:

Judge: Nancy G. Edmunds

Trial Length: 3 days

**Trial
Deliberations:** 0

Jury Vote: 8-0

Post Trial: Plaintiff's counsel filed a motion for attorney fees. Defense counsel filed a motion for judgment notwithstanding the verdict.

Editor's Comment: This report is based on information that was provided by plaintiff's counsel. Additional information was gleaned from court documents. Counsel for Schimeck and the city of Detroit declined to contribute.

Writer Melissa Siegel

Firing of nurse was not retaliatory, defense claimed

Type: Verdict-Defendant

Amount: \$0

State: Michigan

Venue: Federal

Court: U.S. District Court for Eastern District of Michigan, MI

Injury Type(s): • *pulmonary/respiratory* - respiratory; asthma, aggravation of

Case Type: • *Civil Rights* - Title VII; Civil Rights Act of 1964
• *Employment* - Retaliation; Wrongful Termination

Case Name: Mikayla West v. David J. Shulkin, M.D., Secretary of Veterans Affairs, No. 1:17-cv-14218-TLL-PTM

Date: November 13, 2019

Plaintiff(s): • Mikayla West (Female, 20 Years)

Plaintiff Attorney(s): • Jack W. Schulz; Schulz Gotham PLC; Detroit MI for Mikayla West

Defendant(s): • Robert Wilkie

Defense Attorney(s): • James J. Carty; U.S. Attorney's Office; Detroit, MI for Robert Wilkie
• Bradley Darling; U.S Department of Justice; Detroit, MI for Robert Wilkie

Facts: On Jan. 27, 2017, plaintiff Mikayla West, a licensed practical nurse in her 20s, learned she was being terminated from her job with the U.S. Department of Veterans Affairs. West, who is black, claimed the termination was retaliatory.

West sued David J. Shulkin in his capacity as the Secretary of Veterans Affairs. West alleged Title VII racial discrimination and retaliation claims.

Shulkin was replaced by Robert Wilkie during the course of litigation. Wilkie was thus the named defendant at the time of trial.

The Veterans Administration filed a motion for summary judgment. The motion was granted as to the racial discrimination claim. The case proceeded to a trial on the retaliation claim only.

West had been hired as a certified nursing assistant at a veterans' medical center in Saginaw in February 2016. In August of that year, she was transferred to a specialty clinic at the center and began her orientation period as an LPN. West initially worked under a black nurse manager at the clinic. Soon after West started in the specialty clinic, the original nurse manager transferred departments and was replaced by a white female.

In December 2016, West initiated a racial discrimination complaint both internally with the VA's Equal Employment Opportunity office, and with the Equal Employment Opportunity Commission. She claimed that she was mistreated at the clinic. She later amended her complaint to allege that her termination was in retaliation for contacting the VA's EEO.

In December 2017, the local VA EEO manager concluded that the VA had legitimate, non-discriminatory reasons for terminating West. This finding was later upheld by the EEO.

West claimed that the atmosphere in her department changed after the white nurse manager took over. West specifically alleged that the white nurse manager was close friends with other white nurses in the unit, and that this manager would invite the white nurses to social gatherings, while excluding her.

West further claimed that she felt as if the white nurses in the unit were ganging up against her. She alleged that the nurses would complain about her to the manager, and that the manager would then complain to upper-level managers or human resources employees. Per West, she invited her co-workers to speak to her about any issues they had at a meeting in October 2016, but they declined to do so. Instead, she alleged, they continued complaining to the nurse manager. West said that she felt singled out, and that she was not allowed to give her side of the story regarding the complaints. West claimed that she told the nurse manager several times how she felt, and that the nurse manager dismissed her concerns. West similarly alleged that when she told the union president she was being mistreated, he told her to simply "deal with it."

West further claimed that, despite the good reviews she got from her employer, she remained on orientation for an extended period of time. West claimed that her orientation was extended in December 2016, and that a white nurse who started at the same time she did was already off orientation at that point.

West also claimed that the nurse manager had treated her like a child. West specifically accused the nurse manager of yelling and pointing her finger at her in December 2016. West first contacted the EEO the following day. She claimed that the other nurses' complaints against her intensified after that time. One nurse accused West of socializing when she should have been working, and of taking lunch breaks outside of the scheduled lunchtime. She was later accused of taking extra-long lunch breaks, as well. A few days later, another nurse told the nurse manager that West was on her phone while being

trained. Nurses additionally accused West of keeping her door closed and being slow to check in patients. West claimed that the white nurses committed similar offenses, yet were not reprimanded. She thus maintained that the complaints were a pretext for discrimination.

West maintained that she never received any negative performance reviews or discipline, despite the nurse manager and nurses complaining about West behind her back. Her counsel also pointed to testimony from another black employee at the clinic. The employee said that the other nurses would monitor West constantly and ask where she was before her shift had started.

Another email complaint in January 2017 said that West failed to follow the proper process for a patient's bladder scan. And another nurse accused West of failing to perform a trial void procedure after claiming she would do so.

West's counsel asserted that complaints became more frequent in December 2016 and January 2017 because they were in retaliation for the EEO filing. West's counsel further noted that the firing decision came shortly after the staff was interviewed about the EEO complaint. West's counsel additionally alleged that the document the nurse manager wrote to explain the reason for West's termination was lost via spoliation.

West noted that she obtained three nursing jobs after being terminated by the VA. West's counsel claimed this was evidence that West was a good nurse who did not have performance issues.

The defense contended that the performance issues mentioned by the other nurses were legitimate and were the reason for West's termination. The defense also pointed to notes that West took at work documenting her alleged discrimination. Defense counsel asserted that the notes described alleged mistreatment, but did not state that the mistreatment was due to her race.

The defense also noted that the substance of the complaints against West did not change after she filed the EEO claim. While the complaints were more frequent after the EEO filing, the defense said that this was simply because the other nurses were noting more problems with West's actions. Defense counsel further maintained that West was told about her behavior and performance issues prior to her termination, and that West got combative and would not accept constructive criticism. With regard to the three jobs she obtained after her firing, the defense noted that the jobs occurred in less than three years after West was fired, which the defense said showed that West quickly wears out her welcome.

Injury: West received a letter about her termination on Jan. 27, 2017. She claimed that the stress of the situation caused her to have an asthma attack that day. She saw a doctor three days later and was recommended for a one-week leave. She was formally terminated a few days later.

West claimed that she never recovered from the trauma of being fired. She further said that she was left emotionally scarred by the allegations that she was a bad employee.

West sought recovery of back pay, front pay, and past and future noneconomic damages.

The defense did not greatly dispute damages.

Result: The jury rendered a defense verdict. It determined that West did not prove the elements of her retaliation claim by a preponderance of the evidence.

Trial Information:

Judge: Thomas L. Ludington

Trial Length: 3 days

Trial Deliberations: 36 minutes

Jury Vote: 8-0

Jury Composition: 5 male, 3 female

Post Trial: Plaintiff's counsel filed a notice of appeal. Defense counsel billed the plaintiff for costs. The defense agreed not to pursue costs in exchange for plaintiff's counsel dropping his appeal.

Editor's Comment: This report is based on information that was provided by defense counsel. Additional information was gleaned from court documents. Plaintiff's counsel did not respond to the reporter's emails.

Writer Melissa Siegel