

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

THEODORE ROBERT)	
)	
Plaintiff)	
)	
V.)	CASE NO.
)	
)	
CITY OF SOUTH BEND INDIANA)	
Pete Buttigieg, Mayor, City of South Bend)	
Indiana, Ronald Teachman, Keith Schweizer,)	
James Wolff, Janet Cadotte, Individually)	JURY DEMAND
)	
Defendants)	

COMPLAINT

I. JURISDICTIONAL STATEMENT

Jurisdiction of this court invoked pursuant to Sections 1331 and 1333.

Venue in this action is proper in the Northern District of Indiana under 28 U.S.C. Sec. 1331 (b).

This action brought by Plaintiff Theodore Robert, under the provisions of 42 U.S.C. §§ 1983, 1988, Title VII of the Civil Rights Act of 1964, 1991 and 42 USC Section 2000e, et seq. to redress the deprivation of rights, privileges and immunities secured by the constitution and laws of the United States, including but not limited to the First (speech) and Fourteenth (due process) Amendments to the United States Constitution under the color of state law.

Plaintiff filed complaints with the Equal Employment Opportunity Commission (EEOC) on August 30 2012 and October 30 2012, alleging discrimination based on race and retaliation, including workplace harassment. The U.S. Department of Justice issued Notices of Right to Sue on May 7 2013 informing complainant that he had the right to institute a civil action under Title

VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the South Bend Police Department, et al., No. 24M201300022 and No. 24M201300292. Copies of the Notices sent to Indianapolis District Office, EEOC and South Bend Police Department. (Ex. 1 and 2)

The Department of Justice mailed notice of suit rights on May 8 2013. Notice of certified mail return receipt requested, left by USPS on May 11 2013. The right to commence civil action notices retrieved from USPS on May 13 2013. Plaintiff filed Complaint on August 8 2013 within 90 days of receipt of the notice of suit rights.

Suit filed based on above stated EEOC notice of suit rights on August 8 2013, Case No. 2:13-CV-274, is pending in the United States District Court, Hammond Division.

Common Allegations

1. The Plaintiff, Theodore Robert (Robert), African-American male and at all times relevant to this Complaint a resident of St. Joseph County, IN, and employed as a police officer by the City of South Bend ("COSB") since November 2006.
2. The City of South Bend Indiana, a municipal corporation, is a political subdivision of the State of Indiana but neither a state agency nor an instrumentality or arm of the State of Indiana.
3. COSB at all times relevant to this Complaint had more than 15 employees.
4. Pete Buttigieg ("Mayor Buttigieg"), white male, at all times relevant Mayor of the City of South Bend and acting under color of state law held final policymaking authority for the City of South Bend including the South Bend Police Department.

5. Ronald Teachman (Teachman) white male, Chief of Police, appointed by the Mayor of the COSB and acting under color of state law held final policymaking authority for the City of South Bend Police Department.

6. Keith Schweizer (Schweizer), white male at all time's material hereto acting under color of state law served in capacity as Captain and Internal Affairs Investigator for the COSB Police Department. Schweizer authorized by COSB to take tangible employment action against Robert.

7. James Wolff (Wolff), white male at all times relevant to this Complaint acting under color of state law served in capacity as Sergeant on the South Bend Police Department and authorized by COSB to take tangible employment action against Robert.

8. Janet Cadotte, (Cadotte) white female at all times material hereto acting under color of state law served as Director of COSB Department of Human Resources and empowered to take tangible action to prevent race discrimination, creation of hostile work environment and unfair working conditions in the COSB government.

COUNT I

9. Plaintiff hereby incorporates by reference the same as if fully set forth in full the allegations contained in paragraphs 1-8 inclusive, of this Complaint.

10. Plaintiff filed complaints with the Equal Employment Opportunity Commission (EEOC) on July 14 2014 (EEOC Charge No. 24M-2014-00223), July 31 2014(EEOC Charge No. 24M-2014-00241), October 14 2014(EEOC Charge No. 24M-2015-00008), and November 13 2014 (EEOC Charge No. 24M-2015-00032) alleging discrimination based on race, retaliation, including workplace harassment. EEOC closed its file on each charge on ground "Pending litigation in Federal Court." EEOC issued Notice of Suit

Rights on all charges on January 30 2015. (Ex. 1, 2, 3, 4) Plaintiff filed Complaint on April 30 2015 within 90 days of receipt of Notice of Suit Rights.

11. On May 5 2014, Robert submitted letter to the City of South Bend Board of Public Safety (BOPS), COSB Human Resources Department and the office of the Mayor alleging employment discrimination based on race and unfair treatment against black COSB police officers, perpetrated by Chief Teachman. The letter requested that an immediate investigation.

12. Robert received no response from the parties to whom the letter directed.

13. On May 21 2014, Robert submitted a similar letter to the same entities requesting an investigation.

14. On June 6 2014, Robert and several other COSB black police officers presented a formal complaint of misconduct against Chief Teachman and Mayor Buttigieg to the Citizens of South Bend and the COSB City Council members during a formal city council meeting.

15. On June 10 2014, Robert and other COSB black police officers presented four (4) separate complaints to Mayor Buttigieg, Cadotte, and the COSB City Council members. The complaints requested an investigation by the Legal Department, or an outside agency into the allegations of racial discrimination by Buttigieg and Teachman. The letter also requested that Teachman be placed on administrative leave until the investigation completed.

16. Robert and the other black police officers did not receive a response to the June 10 2014 complaints.

17. On June 17 2014, Robert and other black police officers presented four (4) separate complaints to the BOPS during its monthly meeting requesting that the Legal Department or an outside agency investigate the alleged racial discrimination.

18. Weekly during the spring, summer and fall months, Robert picks up litter in the streets and sidewalks throughout his neighborhood.

19. On one occasion while off duty Robert called the COSB Code Enforcement Department (CED) to file an ordinance violation complaint against his neighbor due to large accumulation of trash on his neighbor's lawn, and lying in the public right of way in front of Robert's neighbor's home. Robert reported the violation to CED several times.

20. On July 4 2014, Robert while picking up litter in his neighborhood observed a large amount of trash in the street, tree lawn and sidewalk area located at the address of 2529 Fredrickson, South Bend, Indiana. Robert also collected a portion of the trash from the front of his neighbor's home and placed it inside a trash bag.

21. Later on July 4 2014, Robert drove past his neighbor's home and stopped his assigned patrol vehicle near the curb of the neighbor's residence. He exited his vehicle, removed the remaining large bulky litter items from the street, tree lawn area, and placed them on the front lawn of his neighbor's residence.

22. Several hours later on July 4 2014, Robert informed by Wolff that his neighbor, who lives at 2529 Fredrickson, filed a complaint against him.

23. On July 4 2014, Wolff completed a criminal report that listed Robert as criminal suspect for vandalism.

24. Later that day (July 4 2014), Robert questioned by Wolff inside the Police Department while on duty in relation to his criminal investigation. Other officers were present and witnessed the interview.

25. Robert believed that the interview conducted by Wolff was in no way voluntary. Due to the nature and environment created by the Teachman administration where intimidation, retaliation, harassment, racial discrimination and violation of written policy and procedures occur against police personnel, Robert believed that he was compelled to comply and answer question asked by Wolff during the interview regarding what Wolff identified as a criminal act. Robert was reluctant to make any formal statements to Sgt Wolff but did so for fear of additional retaliation.

26. Robert questioned Wolff during the interview about his right against self-incrimination under the Fifth Amendment to the United States Constitution.

27. The interview was part of a formal investigation involving a criminal matter and Robert not given his Garrity Rights notification by Wolff before he began questioning Robert.

28. Prior to this occurrence Robert had filed four pending EEOC complaints against the COSB and the COSB Police Department and a lawsuit that was pending at the time.

29. Prior to the "vandalism," charge Robert had spoken recently against racial discrimination in the department.

30. The actions taken by Wolff were in retaliation for Robert engaging in statutorily protected activity.

WHEREFORE, Robert prays that the Court:

- A. award Robert compensatory damages to be determined at trial, jointly and severally against Defendants for matters alleged in this Complaint.
- B. award Plaintiff punitive damages in an amount to be determined at trial against all Defendants except City of South Bend, Indiana.
- C. award Plaintiff reasonable costs and attorney's fees.
- D. grant such other and further relief, including injunctive relief enjoining the COSB from retaliating against Robert for engaging in statutorily protected activity of filing EEOC Charges against the COSB complaining of discrimination based on race; hostile work environment; engaging in the free exercise of his Speech rights under the First Amendment to the United States Constitution.

COUNT II

Plaintiff hereby incorporates by reference the same as if fully set forth in full the allegations contained in paragraphs 1-30 inclusive, of this Complaint.

- 31. Plaintiff repeats and re-alleges the Common Allegations and Count I of this Complaint as if fully set forth herein.
- 32. On July 7 2014, Robert filed a formal complaint of misconduct against Sgt. Wolff for violating his Constitutional rights under the Fifth Amendment to the United States Constitution by compelling Robert to answer questions and his responses used in the formulation of the criminal complaint.
- 33. Robert submitted a copy of the formal complaint to members of his chain of command, the Human Resources Director, the COSB Legal Department, and the Chief of Police.

34. On July 14 2014, Robert filed a complaint with EEOC charging the City of South Bend with retaliation for engaging in statutorily protected activity of filing EEOC complaints in 2012, 2013.

35. On July 23 2014, Robert received a Notice of Internal Affairs Investigation from Schweizer of the Internal Affairs (I.A) department regarding a citizen's complaint filed against him on July 4 2014. The I.A. investigation accused Robert of committing a crime, violating rules of conduct, violating his oath of Office, violating City Code Ordinance, and violating a general order.

36. On July 26 2014, Robert submitted an e-mail to the Uniform Division Chief, the Chief of Police and Internal Affairs as to the basis for the charges. He did not receive a response from his superiors.

37. The SBPD initiated two separate investigations against Roberts. The first investigation began on July 4 2014 and a second investigation beginning on July 23 2014.

38. The first investigation charged Robert with a criminal offense.

39. The second investigation conducted by I.A. resulted in the filing of a civil infraction and multiple violations of rules and procedures against charges against Robert.

40. The investigations are in retaliation for Robert having engaged in statutorily protected activity, including but not limited to the filing of EEOC charges against the COSB for discrimination based on race and retaliation for having done so.

41. The investigations opened in retaliation for Robert having exercised his First Amendment speech rights by speaking out on matters of public concern.

42. On July 312014 Robert filed EEOC Charge No. 24M201400241 against the COSB and the SBPD.

WHEREFORE, Robert prays that the Court:

- A. award Robert compensatory damages to be determined at trial, jointly and severally against Defendants for matters alleged in this Complaint.
- B. award Plaintiff punitive damages in an amount to be determined at trial against all Defendants except City of South Bend, Indiana.
- C. award Plaintiff reasonable costs and attorney's fees.
- D. grant such other and further relief, including injunctive relief enjoining the COSB from retaliating against Robert for engaging in statutorily protected activity of filing EEOC Charges against the COSB complaining of discrimination based on race; hostile work environment; engaging in the free exercise of his Speech rights under the First Amendment to the United States Constitution.

COUNT III

Plaintiff hereby incorporates by reference the same as if fully set forth in full the allegations contained in paragraphs 1-42 inclusive, of this Complaint.

43. On August 18 2014, Robert filed formal complaint of misconduct against Captain Phil Trent (Trent) of the SBPD for misconduct. The complaint accused Trent of releasing confidential information regarding an Internal Affairs investigation to a member of the media. A copy of the complaint sent to members of Robert's chain of command, the Human Resources Director, the COSB Legal Department, the Uniform Division Chief and the Chief of Police.

44. On August 19 2014, Robert sent an e-mail to the Human Resources Director; the COSB Legal Department regarding his concern about formal complaints of misconduct filed against white police officers not investigated. Robert requested a meeting with

Cadotte to discuss his concerns. Robert received no response to his request for a meeting to discuss the matter.

45. On August 19 2014, Robert received an e-mail from Cadotte stating that she believed that his formal complaint against Captain Trent was an investigative matter for the Police Department and not HR. Cadotte sent a copy of her e-mail to the Uniform Division Chief, the COSB Legal Department and the Chief of Police. Robert received no response from the individual to whom Cadotte sent copies of her e-mail.

46. On August 20 2014, Robert made a presentation to the BOPS regarding what he believed to be a racial divide occurring within the SBPD. During the presentation, Robert spoke about how state and federal laws prohibiting discrimination based on race and other types of discrimination not enforced by the SBPD by denying promotional opportunities for black officers.

Robert informed the BOPS that he had filed formal complaints of misconduct against police officers and that the Chief of Police and Internal Affairs had ignored his complaints. Robert asked the BOPS who responsible for investigating misconduct within I.A. Department. Robert also questioned the duties of the COSB Law Department and that it seemed that the department allowed injustice in the police department to go unchecked. In addition, during the public meeting Roberts spoke out about discrimination and unfairness, which he believed allowed to continue under the Chief of Police and the Internal Affairs Department. Robert asked the BOPS investigate.

47. Robert has received no response from the BOPS.

48. On August 24 2014, Robert sent e-mail to I.A., Teachman and Cadotte inquiring about the status of his formal complaints of misconduct he filed against Captain Phil Trent and Sergeant Wolff. Robert received no response.

49. On August 27 2014, the COSB received a letter from the EEOC informing it of Robert's charge of employment discrimination for the EEOC Charge filed by Robert on July 14 2014.

50. On Septcmber 4 2014, the COSB received letter from EEOC informing it of Robert's charge of employment discrimination for the complaint filed on July 31 2014.

51. On September 8 2014, Robert sent e-mail to Cadotte regarding what he believed was ongoing harassment against him by Schweizer, and ongoing violation of the Duty Manual by Teachman. Robert submitted a copy of the letter to Schweizer and Teachman. Robert received no response from either.

52. On September 9 2014, Robert filed formal complaint of misconduct against Officer Christopher Houser, white male, for racial harassment and intimidation. Houser sent through the department e-mail a personal letter attacking Robert, which included a statement telling Robert to leave the SBPD and find another job. Robert filed a formal complaint of racial misconduct several years ago against Officer Houser. Robert sent a copy of the formal complaint to his chain of command, Schweizer, the Uniform Division Chief and Chief Teachman. Robert did not receive a response.

53. On September 23 2014, Robert received a Notice of Internal Affairs Investigation from Schweizer regarding a citizen's complaint filed against Robert on September 21 2014. The complaint accused Robert of violating the SBPD evidence collection and storage procedures.

54. On September 23 2014, Robert submitted an e-mail to Schweizer seeking information about the status of his formal complaints against Officer Christopher Houser and Captain Phil Trent. Robert received no response.

55. On September 25 2014, Robert personally served written request to the COSB Legal Department for access to public records. Robert's request was to obtain a copy or to inspect copies of the actual Notice of Internal Affairs Investigation e-mail documents that the Internal Affairs investigator should have submitted to Officer Houser, Sgt. Wolff and Captain Trent, informing each officer that a complaint filed against them and that they were under investigation. Written rules of the department require that all complaints against police officers be investigated immediately. Robert did not receive the requested documents and not permitted to inspect the documents.

56. On September 30 2014, Robert submitted a letter to Schweizer, Teachman, and the COSB Legal Department regarding Schweizer's arbitrary and capricious interpretation of rules and written procedures. In addition, that he used his interpretation of the rules to abuse his authority.

57. On September 30 2014, Schweizer responded to Robert with an e-mail arbitrarily interpreting rules regarding Robert's outside employment.

58. On October 1 2014, Robert submitted his first formal complaint of misconduct against Schweizer for making false statements to witnesses and to his outside employer during an official investigation, and for fostering a hostile working environment for Robert regarding his paid outside employment and his employment as a police officer. Robert submitted a copy of the complaint Police Chief Teachman and the COSB Legal Department. Robert received no response to his complaint.

59. On October 1 2014, Robert Submitted an e-mail to Chief Teachman, the COSB Law Department and his chain of command informing each of them that he had concerns about the new policy and therefore would hold off on signing the new policy. In addition, that he had concerns of fairness and possible abuse of authority the new policy would give the Chief of Police. Robert received no response.

60. On October 2 2014, Robert submitted a second complaint of misconduct against Schweizer for conducting an unethical investigation against Robert with the intent of interfering with Robert's ability to maintain a civil and peaceful relationship with his neighbors. In addition, the complaint was submitted due to Schweizer filing undeserved charges against Robert because of his investigation of a citizen's complaint against Robert. Robert sent copy of the complaint to Teachman and the COSB Legal Department. Robert received no response to his complaint.

61. On October 6 2014, Robert submitted an e-mail to Mayor Buttigieg informing him that he filed formal complaints of misconduct against Captain Schweizer, Captain Phil Trent, and Chief of Police Teachman. Robert received no response.

62. On October 6 2014, Robert Submitted a letter to the Mayor Buttigieg and the BOPS requesting that Schweizer be removed as an investigator from all investigations which involved Robert due to Schweizer's discriminatory and retaliatory treatment of Robert about which Robert had filed formal complaints. Robert received no response to his request.

WHEREFORE, Robert prays that the Court:

A. award Robert compensatory damages to be determined at trial, jointly and severally against Defendants for matters alleged in this Complaint.

- B. award Plaintiff punitive damages in an amount to be determined at trial against all Defendants except City of South Bend, Indiana.
- C. award Plaintiff reasonable costs and attorney's fees.
- D. grant such other and further relief, including injunctive relief enjoining the COSB from retaliating against Robert for engaging in statutorily protected activity of filing EEOC Charges against the COSB complaining of discrimination based on race; hostile work environment; engaging in the free exercise of his Speech rights under the First Amendment to the United States Constitution.

Respectfully submitted

By: s/ Douglas M. Grimes
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of April 2015 the foregoing case was opened through the Courts electronic civil case opening filing system.

/s/Douglas M. Grimes