

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

RYAN COUSINS,)	
)	
Plaintiff,)	
)	
v.)	Cause No.:
)	
CHIEF D. SAMUEL DOTSON III, in his)	Division No.:
official and individual capacities as)	
Chief of Police of the Metropolitan Police)	
Department, City of St. Louis, Missouri,)	JURY TRIAL DEMAND
Serve at: 1915 Olive St.)	
St. Louis, MO 63103)	
)	
and)	
)	
THE CITY OF ST. LOUIS, MISSOURI,)	
Serve: Mayor Francis G. Slay)	
1200 Market St., Room 200)	
St. Louis, MO 63103)	
)	
Defendants.)	

PETITION

PARTIES & JURISDICTION

1. At all times relevant herein, Plaintiff, Ryan Cousins (hereinafter “Cousins”), was and is a resident of the City of St. Louis, in the State of Missouri. At all times relevant herein, Cousins was employed by the City of St. Louis through the Metropolitan Police Department, City of St. Louis (hereinafter “Department”).

2. Defendant D. Samuel Dotson III (hereinafter “Dotson”) has been Chief of the Department since December 14, 2012. He has supervisory authority over the Department and its employees. He is sued in both his individual and official capacities. Dotson is Caucasian.

3. Defendant City of St. Louis, Missouri (hereinafter “City”) is a municipal corporation organized and existing under the laws of the State of Missouri. More specifically, it is a charter city that operates the Department.

4. The adverse employment action Cousins suffered when he was terminated occurred in the City of St. Louis, State of Missouri.

5. The City is an “employer” within the meaning of the Missouri Human Rights Act in that it employs six or more persons within the State of Missouri and is a political subdivision of the State. § 213.010 R.S.Mo.

6. Defendant Dotson was a person acting directly in the interest of an employer at all times relevant herein, and therefore, he is also an “employer” within the meaning of the Missouri Human Rights Act.

7. Venue is proper in the Circuit Court of the City of St. Louis by reason of § 213.111.1 R.S.Mo. as the county in which the unlawful discriminatory practices occurred.

FACTS COMMON TO ALL COUNTS

8. Cousins had been employed by the Department since 1996 (20 years) at the time of his wrongful discharge. He was promoted to the rank of captain in September of 2015.

9. At all times relevant, Cousins was the Captain in the City’s Sixth District.

10. As part of his duties, Cousins was responsible for the efficient operation of the District, to include but not be limited to efforts to prevent and solve crimes. In an effort to reduce burglaries at or near Lowell Street in the Sixth District, Cousins had ordered self-initiated activity in the Lowell Street area before he was terminated.

11. No self-initiated activity had been conducted on January 29, 2016 by officers in the Lowell Street area before the events at issue that day took place as set forth below.

12. On the morning of January 29, 2016, the Department received a call for shots fired in the Lowell Street area. Officers responded to the area and coded the call “unfounded,” meaning they could find no evidence to support the call.

13. Shortly thereafter, the Department received a call for police help related to a burglary at 8827 Lowell (“Subject Residence”).

14. C.O. and D.F. lived at the Subject Residence. Both are African American. Their home had been burglarized shortly before January 29, 2016. Because their home had been burglarized twice within a short period of time, officers assumed that they were criminals, instead of the victims.

15. Officers of the Department J.L., A.H., R.K., and N.H. responded to the Subject Residence.

16. C.O. emerged from the rear of the residence and was immediately placed in handcuffs.

17. Department Officers B.B. and A.R. arrived at the scene.

18. B.B. was Officer Jason Stockley’s partner when Stockley shot and killed Anthony Lamar (an African American) on or about December 20, 2011. Officer Stockely has been charged with first degree murder. B.B. was granted immunity in the Lamar shooting but refused to testify about the shooting because he was not offered immunity from federal prosecution.

19. B.B., A.R., N.H., and R.K. searched the house after C.O. was placed in handcuffs to clear the house (meaning to determine whether or not there were injured individuals and/or other suspects inside the Subject Residence that could pose a risk to the officers).

20. The Subject Residence was cleared by Officers B.B. A.R. N.H., and R.K before Sergeant M.S. arrived on the scene.

21. Without a warrant and while C.O. was still handcuffed, Sgt. M.S entered the home without permission began searching it.

22. Sgt. M.S. searched for and seized a gun inside the Subject Residence without a warrant (“Gun Search”) and without the homeowner’s permission.

23. This Gun Search was:

- a. Illegal;
- b. In violation of the 4th Amendment to the United States Constitution;
and
- c. Against Department policy and procedure.

24. Illegal searches and seizures are punishable in the Department by discipline up to and including termination and expose the City to civil liability.

25. The officers performing the illegal/unconstitutional Gun Search are all Caucasian. None have been disciplined but instead have been protected by the Department.

26. Upon information and belief, prior to the Gun Search, Sgt. M.S. had been disciplined for improper search(es) and/or providing false information related to a search. Nonetheless, he was promoted to sergeant by Dotson.

27. Sgt. M.S. is Caucasian.

28. While handcuffed and in custody, officers questioned C.O., asking him guilt seeking questions (“C.O. Questioning”).

29. The officers did not read C.O. his *Miranda* rights before questioning him, even though they suspected he had committed a crime.

30. The C.O. Questioning was:

- a. Illegal;

- b. In violation of the 5th Amendment to the United States Constitution;
- c. Against Department policy and procedure.

31. Improper and illegal questioning of suspects is punishable in the Department by discipline up to and including termination and exposes the City to civil liability.

32. The officer(s) who questioned C.O. in violation of his 5th Amendment rights have not been disciplined but instead have been protected by the Department.

33. Upon information and belief, the officers at the scene knew they had performed an illegal search and seizure and had illegally questioned C.O.

34. Upon information and belief, officers of the Department regularly violate the 4th and 5th Amendment rights of African American residents of the City because they know they will be protected (not disciplined) when they engage in such misconduct.

35. In order to cover-up their illegal/unconstitutional acts and prevent Cousins from discovering their misconduct, the officers at the scene falsely claimed that Cousins told them to file a false police report and not to seize evidence at the scene. These false allegations prevented Cousins from reviewing and approving the report, which he should have done if he was the officer in charge of the scene.

36. Department Lt D.G. met with the officers who wrote the report after they returned to the Department and instructed them on how to prepare it. Lt. D.G. approved the police report one minute after it had been finalized.

37. Lt. D.G. also spoke to officers at the scene as a group, telling them what had happened at the Subject Resident and what their dilemma was. He then instructed the officers to write memos about what happened at the scene, which were written while the officers were together, allowing them to coordinate their stories.

38. A majority of the officers at the scene were represented by the same attorney, allowing them to coordinate their stories when interviewed by the Department.

39. This would not be the first time officers of the Department, represented by a single attorney, coordinated their stories to scapegoat another officer for their misconduct based upon race. Even after a police officer, who was not even present at the scene, was falsely charged with assaulting a mentally challenged resident and acquitted, the Department allows this practice to continue.

40. In this case, a Caucasian Police Chief has allowed an African American police officer to be scapegoated to cover-up the misconduct of Caucasian police officers at a scene.

41. The next day, January 30, 2016, Lt. D.G. completed and signed a Warrant Application for C.O.'s arrest ("Arrest Warrant").

42. The Arrest Warrant claimed that C.O. had been given his *Miranda* warnings, a false representation.

43. False statements on an arrest warrant application are against Department policy and procedure, carrying a punishment up to and including termination. False statements on a warrant application are also a crime.

44. Lt. D.G. is Caucasian.

45. Lt. D.G. has not been disciplined for the false warrant application.

46. On February 1, 2016, Department Det. C.F. prepared an Affidavit in Support of a Search Warrant ("Search Warrant Affidavit").

47. The Search Warrant Affidavit stated, in part:

During a subsequent interview with St. Louis Metropolitan Police Lieutenant D.G, DSN ****, Lieutenant G. advised he observed shell casings inside and outside the target residence of 8827 lowell [sic].

48. On January 29, 2016, Lt. D.G. was near the Subject Residence but never went into the yard or inside the house.

49. Grove never observed shell casings inside or outside the Subject Residence.

50. The Search Warrant Affidavit contains a false statement.

51. False statements in a search warrant application are against Department policy and procedure carrying a punishment up to and including termination. A false statement in a search warrant applications is also a crime.

52. Det. C.F. is Caucasian. He has not been disciplined for making a false statement in the Search Warrant Affidavit.

53. Cousins was placed on forced leave on or about February 12, 2016 by Dotson.

54. At the time Cousins was placed on forced leave, upon information and belief, Dotson planned to run as a candidate for mayor of the City of St. Louis. Dotson placed Cousins on forced leave before the investigation into the allegations was even completed to further his political ambitions.

55. Approximately a thousand letters protesting Dotson's forced leave decision were collected and/or sent to the City/Department by the predominantly African American residents of the Sixth District. They described Dotson's decision to place Cousins on forced leave as a smear campaign to ruin the reputation and career of a stellar African American officer working to better the community. They asked that Cousins be returned because he cared about the community, which stands in sharp contrast to the cavalier violation of constitutional rights by other officers working in the community.

56. Prior to placing Cousins on forced leave, Dotson stated to the media that the Cousin's matter was being investigated both internally and criminally, which statement damaged

Cousin's personal and professional reputation.

57. According to a report issued by the Ethical Society of Police (discussed in more detail below), Dotson's comment to the media about police personnel matters is often more damaging when an African American officer is being investigated than when Caucasian officers are accused of misconduct.

58. On May 10, 2016, Cousins was notified that he was required to appear for a pre-termination review on May 19, 2016. Defendants terminated Cousins on May 24, 2016.

59. Cousins has never been charged with a crime.

60. During his pre-termination review, Cousin presented evidence to Dotson that Caucasian officers are treated differently and more favorably than African American officers in disciplinary matters since his tenure as Chief.

61. Shortly after Cousin's wrongful termination, the Ethical Society of Police issued a report entitled *Comprehensive Evaluation of the St. Louis Metropolitan Police Department by the Ethical Society of Police* (July 2016), which documented the disparate treatment African American Police Officers of the Department experience with respect to discipline, among other things, since Dotson was promoted to Chief.

62. In this case, officers of the Department who violated an African American citizen's 4th and 5th Amendment rights and put false statements in an arrest warrant application and a search warrant application have not been disciplined. In contrast, an African American commander was fired based upon the inconsistent and false claims of officers who needed to cover-up their own serious misconduct involving the rights of an African American resident of the City.

63. After Cousins' forced leave and termination received substantial media attention, the Civil Service Commission voted to close all Civil Service Commission hearings, to include

Cousins, when such hearings had previous been open to the public. When the City of St. Louis Police Department was an agency of the state, state law required police disciplinary hearings to be open to the public for transparency. This transparency no longer exists, allowing misconduct like that alleged in this Petition to persist.

64. Defendants knew or should have known that the statements made against Cousins were inconsistent, showing they were false, and that officers handling the scene had engaged in serious misconduct, providing a motive to fabricate claims against Cousins. They certainly know all of this as of the filing of this lawsuit, but nonetheless have failed and refused to reinstate Cousins, further damaging him personally and professionally.

65. Cousins timely filed a Charge of Discrimination with the Missouri Commission on Human Rights (hereinafter “MCHR”) after he was wrongfully discharged by Defendants.

66. The MCHR issued Cousins a right to sue letter on March 1, 2017. See Exhibit 1 attached.

67. As a direct and proximate result the acts of the Defendants alleged herein, Cousins has suffered and will continue to suffer lost wages and other benefits of employment.

68. As a direct and proximate result the acts of the Defendants alleged herein, Cousins has suffered and will continue to suffer emotional pain and suffering, mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment of life, stress, and loss of personal and professional reputation.

69. Upon information and belief, Defendant City maintained a policy of insurance with respect to tort claims filed against it at the time of the acts alleged herein, and therefore, to the extent it may assert the defense of sovereign immunity with respect to any tort claim, the City has waived any immunity defense under the provisions of §537.610 R.S.Mo. by maintaining such

policy of insurance.

70. On or about April 29, 2014, the Department was enjoined from illegal discrimination in certain employment decisions after an officer had shown that he was intentionally discriminated against because of his race. This officer filed a second lawsuit related to his retaliation by Dotson for successfully suing the Department for illegal discrimination.

71. Defendants continue to discriminate against officers of the Department based upon race, even after being enjoined from doing so.

72. Dotson has continued to engage in illegal race discrimination when it is to his political advantage to do so.

COUNT I
PLAINTIFF'S MHRA CLAIM
BASED UPON RACE DISCRIMINATION

For Count I of Plaintiff's cause of action against Defendants, Plaintiff states:

73. Cousins realleges and incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Petition.

74. Cousins is a member of a protected class as an African American.

75. Plaintiff was discriminated against by Defendants because of his race/color, which resulted in him being placed on forced leave on February 12, 2016 and culminated in his wrongful discharge on May 10, 2016.

76. Cousins' race/color was a contributory factor in the discrimination described above that culminated in his wrongful discharge.

77. The acts and/or omissions complained of herein were in violation of Cousins' rights secured by §213.010 *et seq.* R.S.Mo.

78. As a direct and proximate result of the acts of the Defendants alleged herein,

Cousins has suffered and will continue to suffer lost wages and other benefits of employment.

79. As a direct and proximate result of the acts of the Defendants alleged herein, Cousins has suffered and will continue to suffer emotional pain and suffering, mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment of life, stress, and loss of personal and professional reputation.

80. Defendants conduct, as factually set forth herein and incorporated into this paragraph by reference, was outrageous because of their evil motive or reckless indifference to the rights of others, making an award of punitive damages against them jointly and severally appropriate in this case so as to punish the Defendants and deter them and others from such conduct in the future.

WHEREFORE, Plaintiff Ryan Cousins prays this Court enter judgment in his favor and against the Defendants in an amount exceeding \$25,000.00, the jurisdictional minimum of this Court; award Cousins damages for all lost wages and benefits he has suffered and will suffer; awarding him damages for emotional injuries, including but not limited to emotional pain and suffering, mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment of life, stress, and loss of personal and professional reputation; award Cousins punitive damages against the Defendants in such sum as a jury and this Court believes will serve to punish them and to deter them and others from like conduct in the future; award Cousins the costs of this action, together with her reasonable attorneys' fees; and granting such other and further relief as may appear to the Court to be equitable and just under the circumstances.

COUNT II
FAILURE TO TRAIN, INSTRUCT, SUPERVISE, CONTROL AND/OR DISCIPLINE

For Count II of Plaintiff's cause of action against Defendant City of St. Louis, Plaintiff states as follows:

81. Cousins realleges and incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Petition.

82. While the City purportedly has policies and procedures prohibiting discrimination, there exists within the City, and particularly the Department customs, practices and usages that are so pervasive that they constitute the policies of the City, that caused the statutory violation and damages suffered by Cousins as set forth herein.

83. As a result of the pattern of illegal discrimination within the Department and/or by Dotson, the City had at least constructive knowledge that such practices exist, and therefore, owed a duty of care to employees of the Department, to include Cousins, to supervise Dotson to prevent such acts of discrimination.

84. As a result of the pattern of illegal discrimination within the Department, it was reasonably foreseeable that Dotson would discriminate against employees of the Department, to include Cousins. As a result, the City owes a duty to employees of the Department, to include Cousins, to protect them from Dotson's acts of illegal discrimination.

85. The City's failure to affirmatively act in the face of transgressions about which it knew or should have known, established the unwritten policies, customs, practices, and/or usages of this Defendant to condone or otherwise tolerate conduct that violates the statutory rights of employees of the Department in general and specifically the conduct described in this Petition. Alternatively, this Defendant has delegated and abrogated all supervisory power. Had this Defendant acted affirmatively to properly train and supervise command rank officers, to include Dotson, and/or to properly discipline command rank officers when they conduct themselves in ways that violate the statutory rights of others, the discrimination against Cousins on the basis of his race would not have occurred.

86. As a direct and proximate result of the acts and/or omissions complained of herein, Cousins has suffered and will continue to suffer lost wages and other benefits of employment.

87. As a direct and proximate result of the acts and/or omissions complained of herein, Cousins has suffered and will continue to suffer emotional pain and suffering, mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment of life, stress, and loss of personal and professional reputation.

WHEREFORE, Plaintiff Ryan Cousins prays this Court enter judgment in his favor and against the Defendants in an amount exceeding \$25,000.00, the jurisdictional minimum of this Court; award Cousins damages for all lost wages and benefits he has suffered and will suffer; awarding him damages for emotional injuries, including but not limited to emotional pain and suffering, mental anguish, inconvenience, humiliation, embarrassment, loss of enjoyment of life, stress, and loss of personal and professional reputation; award Cousins punitive damages against the Defendants in such sum as a jury and this Court believes will serve to punish them and to deter them and others from like conduct in the future; award Cousins the costs of this action, together with his reasonable attorneys' fees; and granting such other and further relief as may appear to the Court to be equitable and just under the circumstances.

Respectfully submitted,

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