

IN THE CIRCUIT COURT OF BOONE COUNTY STATE OF MISSOURI

GABRIEL EDWARDS, Chief of Police)
 for the City of Ashland, Missouri,)
 Plaintiff,)

v.) Case No.:
)

CITY OF ASHLAND, MISSOURI,)
 a Municipal Corporation of the Fourth)
 Class,)
 Defendant.)

**PETITION FOR INJUNCTIVE RELIEF FOR VIOLATION OF STATE LAW IN
 THE ILLEGAL REMOVAL OF A POLICE CHIEF, DECLARATORY
 JUDGMENT, ACTION FOR WRONGFUL DISCHARGE IN VIOLATION OF
 PUBLIC POLICY**

Summary of this Action

Plaintiff is the appointed Chief of Police for the City of Ashland, Missouri. He was removed from his post as Chief of Police after it was learned by the City of Ashland Mayor and Board of Aldermen that Plaintiff criticized the mayor on social media. Plaintiff's removal was done in violation of Missouri statutes, which provide for a specific procedure in removing an appointed police chief in a fourth class city, and in violation of the First and Fourteenth Amendments of the United States Constitution and Article I, § 8 of the Missouri Constitution.

Demand for Jury Trial

1. For those counts stated below, in which a jury trial may be had, Plaintiff demands a trial

by jury.

Nature of The Claims

2. This action involves the City of Ashland, Missouri, which is located in Boone County.
3. The City of Ashland is a Fourth Class City. *See* Ashland City Ordinances, Article I. General 2.005. Incorporation and Classification.
4. Plaintiff is a resident of Boone County.
5. Venue is proper in the Circuit Court of Boone County.
6. Ashland City Ordinances state that the Chief of Police is appointed by the Mayor and the Board. Specifically,

The Mayor, with the consent and approval of a majority of the members of the Board of Aldermen, may appoint a Chief of Police upon such terms and conditions as the Board shall deem appropriate, who shall perform all duties previously or currently required to be performed by the City Marshall, and such additional duties as the Mayor or Board may prescribe. The Chief of Police shall be twenty-one years of age or older. (State law reference-79.050 RSMo.)

Ashland City Ordinance 2.315
7. The Plaintiff was appointed Chief of Police in June of 2020 and periodically reappointed thereafter.
8. As the Chief of Police of a Fourth Class City, removal of the Plaintiff is governed by Mo.

Rev. Stat. § 106.273 (*See Mo. Rev. Stat. § 79.240*), which requires the following:

- (1) The governing body of the political subdivision employing the chief issues a written notice to the chief whose removal is being sought no fewer than ten business days prior to the meeting at which his or her removal will be considered;
- (2) The chief has been given written notice as to the governing body's intent to remove him or her. Such notice shall include:
 - (a) Charges specifying just cause for which removal is sought;
 - (b) A statement of facts that are alleged to constitute just cause for the chief's removal; and
 - (c) The date, time, and location of the meeting at which the chief's removal will be considered;

- (3) The chief is given an opportunity to be heard before the governing body, together with any witnesses, evidence and counsel of his or her choosing; and
 - (4) The governing body, by two-thirds majority vote, finds just cause for removing the chief.
9. Further, Ashland City Ordinances state with regard to removal of the Police Chief that
“The Chief of Police may be removed from office as provided for in Section 106.273 RSMo.” Ashland City Ordinance 2.110
10. There is no law or city ordinance that allows the City of Ashland to place the Plaintiff on administrative leave or to suspend him.
11. On July 17th, 2023 at 4:00pm the Defendant placed the Plaintiff on administrative leave.
12. This action violated Ashland City Ordinances, in that Defendant may only remove an appointed officer, “[W]ith the consent of a majority of all the members elected to the Board of Aldermen.”
13. Defendant City of Ashland acted in violation of Mo. Rev. Stat. § 106.273, in that, Plaintiff was not provided a written notice that includes:
 - (a) Charges specifying just cause for which removal is sought;
 - (b) A statement of facts that are alleged to constitute just cause for the chief’s removal; and
 - (c) The date, time, and location of the meeting at which the chief’s removal will be considered;
14. Further, placement on administrative leave is not a permitted action by a Fourth Class City under Mo. Rev. Stat. § 106.273 and is functionally a removal under the statute.
15. The Defendants thereafter named an interim police chief.
16. Defendants have not notified Plaintiff of the reason for Plaintiff’s removal.
17. Prior to being placed on leave, there had been no complaints against Plaintiff and no previous disciplinary actions.

18. Plaintiff's removal came immediately after the mayor and board of aldermen learned that Plaintiff had, during the 2022 city election, made social media posts regarding the mayor's criminal history.

19. Thereafter, Plaintiff was removed from his post as Chief of Police.

20. No investigation or hearing was held by Defendants.

21. Plaintiff was not provided an ability to address the accusations, confront his accusers, or appeal the decision.

22. Plaintiff's term as Chief of Police is a two year term, pursuant to the Defendant's city ordinances.

23. Specifically, Ashland City Ordinance 2.310.1 states that "The Mayor, with the consent and approval of a majority of the members of the Board of Aldermen, may appoint a

Chief of Police upon such terms and conditions as the Board shall deem appropriate..."

24. Plaintiff is being denied the wages and benefits owed to him by law.

COUNT I - Declaratory Judgment (§ 527.020)

25. Plaintiff restates and realleges all previously stated paragraphs as if fully stated herein.

26. Plaintiff is a person whose rights, status or other legal relations are affected by statute, municipal ordinance, and contract.

Wherefore, Plaintiff requests a judgment and declaration of rights, status or other legal relations from the Court for the following:

- a. Whether Mo. Rev. Stat. § 106.273 governs this case;
- b. Whether Plaintiff has been removed from his office;
- c. Whether the term of office as stated in the employment contract mentioned herein

is valid, enforceable or null and void and unenforceable;

d. Plaintiff requests an award for attorneys fees and costs; and,

e. Such additional relief the Court may deem appropriate.

COUNT II - Injunctive Relief

27. Plaintiff restates and realleges all previously stated paragraphs as if fully stated herein.

28. Plaintiff requests a temporary, preliminary, and permanent injunction.

29. Plaintiff will suffer irreparable economic harm, including harm to his reputation as a law enforcement officer.

30. Based on the facts adduced, alleged, and those that will be adduced, it is reasonably likely that the Plaintiff will prevail on his request for permanent injunction.

31. Plaintiff seeks an order from this Court, ordering Defendants to return Plaintiff to his position as appointed Chief of Police, as placement on administrative leave is not an action permitted pursuant to Mo. Rev. Stat. § 106.273 and thus constitutes a removal.

Wherefore, Plaintiff requests an injunction, ordering the Defendants to return Plaintiff as Chief of Police, an award of attorney fees and costs, and for such other relief the Court deems just and appropriate under the circumstances.

COUNT III - Violation of Chapter 536 of the Revised Statutes of Missouri

32. Plaintiff restates and realleges all previously stated paragraphs as if fully stated herein.

33. Count III is brought against Defendant City of Ashland.

34. The removal, suspension, or placement on administrative leave by the defendants, affects the legal rights, duties, or privileges of the Plaintiff.

35. Plaintiff's removal, suspension, or placement on administrative leave from his position as

- Chief of Police does not meet the requirements of a contested case under Chapter 536.
36. Defendants' failure to comply with Chapter 536 is a due process violation. The Missouri Constitution guarantees, "That no person shall be deprived of life, liberty or property without due process of law." Mo. Const. Art. I. § 10
37. Pursuant to § 106.273 RSMo, and the Missouri Administrative Procedures Act, Plaintiff was entitled to a hearing that would include oral evidence taken upon oath or affirmation and a right to the cross-examination of witnesses (§ 536.070); the making of a record (§ 536.070); adherence to evidentiary rules (§ 536.070); and a written decision including findings of fact and conclusions of law (§ 536.090).
38. Acting under color of law, Defendant willfully deprived Plaintiff of his right to due process.

Wherefore, Plaintiff requests an Order from the Court, reinstating him as Chief of Police for the City of Ashland, for costs and attorneys fees; and for such additional relief that the Court may deem just and appropriate under the circumstances and pursuant to RSMo. §. 536.140.

COUNT IV - Violation of Mo. Rev. Stat. § 105.055

39. Plaintiff restates and realleges all previously stated paragraphs as if fully stated herein.
40. Defendant City of Ashland is a "Public Employer" as defined by Mo. Rev. Stat. § 105.055.
41. Suspending the Plaintiff from his role as the appointed chief of police is a retaliatory act by Defendant and a violation of Mo. Rev. Stat. § 105.055.
42. As a direct and proximate cause of Defendant's violation of Mo. Rev. Stat. § 105.055, Plaintiff suffered and continues to suffer damages, including lost wages (present and

future), emotional distress, and injury to his reputation.

Wherefore, Plaintiff requests an award for monetary damages, in his favor and against the Defendant; injunctive relief; for costs and attorneys fees; and for such additional relief that the Court may deem just and appropriate under the circumstances.

Count V - Violation of Civil Rights

43. Plaintiff restates and realleges all previously stated paragraphs as if fully stated herein.

44. Defendant City of Ashland, while acting under the color of law deprived Plaintiff of his employment as Chief of Police for the City of Ashland.

45. This action arises under the Constitution and law of the United States, including Article III, Section 1 of the U.S. Constitution and is brought under 42 U.S.C. §§ 1981, 1983, and/or 42 U.S.C. § 1988.

46. Plaintiff had a property interest in his employment.

47. 42 U.S.C § 1983 states:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .

48. Plaintiff is a citizen of the United States and the Defendant is a person for purposes of 42 U.S.C. § 1983.

49. Under the Fourteenth Amendment to the United States Constitution, “No State shall

make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law[.]”

50. By depriving Defendant of the property due to him through his position as the City of Ashland Chief of Police and denying him the right to be heard regarding the allegations against him, the Defendants have deprived Plaintiff of his property without due process of law in violation of the Fourteenth Amendment.

51. As a direct and proximate cause of Defendant’s violation of Plaintiff’s right to due process, Plaintiff suffered and continues to suffer damages, including lost wages (present and future), emotional distress, and injury to his reputation.

Wherefore, Plaintiff requests an award for monetary damages, in his favor and against the Defendants; injunctive relief; for costs and attorneys fees; and for such additional relief that the Court may deem just and appropriate under the circumstances.

Respectfully submitted,

/s/ Matt Uhrig

Matt Uhrig, Missouri Bar No. 49750

Alexander Brown, MO Bar No. 73646

Law Office of Matt Uhrig, LLC

501 B South Henry Clay Boulevard

PO Box 640

Ashland, MO 65010

P. 573-657-2050

F. 573-657-2051

E. matt@muhriglaw.com

Counsel for the Plaintiff