

TATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF BERKELEY

FOR THE NINTH JUDICIAL CIRCUIT

AISHA DAVIS,

Plaintiff,

vs.

BERKELEY COUNTY SHERIFF'S
OFFICE, MALLORY MARTIN, and S.
DUANE LEWIS,

Defendants.

Civil Action No.

SUMMONS

TO: THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herewith served upon you and to serve a copy of your Answer to the said Complaint on Plaintiff's attorney, Timothy O. Lewis, Esquire, Gibbs & Holmes, 171 Church Street, Suite 110, Charleston, South Carolina 29401, within thirty (30) days after the service hereof, exclusive of the day of such service. **YOU ARE HEREBY GIVEN NOTICE FURTHER** that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.

BY: /s/ Timothy O. Lewis
Allan R. Holmes, No. 2576
Timothy O. Lewis, No. 74024
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ATTORNEYS FOR THE PLAINTIFF

September 18, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

AISHA DAVIS,
Plaintiff,
vs.
BERKELEY COUNTY SHERIFF'S
OFFICE, MALLORY MARTIN, and S.
DUANE LEWIS,
Defendants.

Civil Action No.
COMPLAINT
(Jury Trial Demanded)

The Plaintiff, by and through her undersigned attorneys, alleges and shows unto this court as follows:

1. The Plaintiff, Aisha Davis, is a citizen and resident of Berkeley County, South Carolina. She was a long-time employee of the Defendant Berkeley County Sheriff's Office at the Hill-Finklea Detention Center, and, until her wrongful termination, had an exemplary employment record.

2. The Defendant, Berkeley County Sheriff's Office ("BCSO"), is a law enforcement agency located in Berkeley County, South Carolina. As one of its duties, the BCSO staffs the Hill-Finklea Detention Center in Berkeley County. Upon information and belief, BCSO has a long history of protecting its own, and it was known to employees that anyone who reported another's misconduct would be targeted.

3. The individual Defendant, S. Duane Lewis, is a citizen and resident of Berkeley County, South Carolina. He serves as the duly elected Sheriff of Berkeley County and is responsible for running BCSO. He is ultimately responsible for all actions taken by or on behalf of BCSO and is also sued in his individual capacity.

4. The individual Defendant, Mallory Martin, is, upon information and belief, a citizen

and resident of Berkeley County, South Carolina. She is a Sergeant at BCSO and oversees the medical operations at the Hill-Finklea Detention Center. She and the Plaintiff have never gotten along, and during their employment together, Ms. Martin has gone out of her way to create problems for the Plaintiff.

5. The Defendant BCSO employed the Plaintiff as a corrections officer at Hill-Finklea Detention Center for almost eight years. During that time, the Plaintiff performed her job duties in an exemplary fashion and was looking forward to a long career with BCSO. Over the course of her employment there, which spanned the vast majority of her working life, the Plaintiff was never disciplined. She received numerous awards and was often commended for her performance.

6. During the two years they were assigned to the same area, Defendant Martin created false rumors about Plaintiff, designed to harm her, and maliciously spread those rumors throughout the BCSO. The Plaintiff complained to Human Resources, and no official action was taken.

7. On June 8, 2024, the Plaintiff was approached by a female inmate. That female disclosed that she had been sexually assaulted by a male corrections officer employed by the BCSO. The inmate gave a detailed and believable account of the assault and showed Plaintiff where the harmful activity had taken place.

8. As required by law, within minutes of the complaint, Plaintiff reported the incident to her superior officers, Lt. James Clark and Major Anthony Phyll. Major Phyll told Plaintiff that he would escalate the matter. Plaintiff brought the inmate to her superiors for an interview and later escorted the inmate's attorney to the interview. Later that day, the inmate—who happened to be at the detention center for a DUI charge—was released on a personal recognizance bond.

9. Shortly thereafter, an investigation into the actions of the reported corrections officer ensued. BCSO brought in SLED to review the reported criminal acts. The Plaintiff was

initially asked to assist with pulling video related to the incident; however she was never required to do so.

10. Unfortunately for Plaintiff, Defendant Mallory Martin took over the majority of contact with SLED after the initial review. As previously stated, Defendant Martin and Plaintiff have a history of not getting along. Defendant Martin seized the opportunity to defame the Plaintiff to her superiors and others. She spread vicious false statements, including statements regarding Plaintiff's unfitness in her job or profession, to harm the Plaintiff. Those false statements were unnecessarily repeated by her and other unprivileged employees within the BCSO, including superior officers, to third parties, and far exceeded any qualified immunity.

11. Unsatisfied by HR's failure to adequately respond, on June 27, 2024, Plaintiff made a complaint about Martin's disparaging conduct directly to Capt. Michael Crumley, another of her superior officers. Again, no action was taken.

12. Directed by Defendant Martin for the most part, SLED interviewed multiple victims at the jail, as well as numerous employees of BCSO, but did not even take a statement from Plaintiff, who had received the initial outcry and reported it. The investigation concluded around June 28, 2024. The corrections officer was arrested and has since been jailed in a neighboring county.

13. Just days after the conclusion of the investigation and the officer's arrest, the Plaintiff was terminated by Defendant Sheriff Lewis in retaliation for her required and lawful report of a sexual assault in the detention center. When she asked what led to her termination, Plaintiff was told she was a "problem" and would "continue being a problem in the future." Defendant Lewis said this was based on "statements from others," but when she asked for more details, Plaintiff was not provided any specificity. She was aware, of course, of Defendant Martin's

false claims, but she was never confronted about any potential wrongdoing or made aware of any policy violation during her entire tenure with BCSO.

14. This termination was part of a culture of cover-up and wrongdoing and retaliation for reporting that has existed at the Detention Center for years.

15. A widespread, pervasive culture of sexual abuse of female inmates existed, and virtually the entire staff of the Detention Center knew about it and actively concealed it. The SLED investigation determined that sexual abuse at the jail had been going on for at least two years, and not only was the original corrections officer terminated and arrested, but also his superior officers for failure to intervene.

**FOR A FIRST CAUSE OF ACTION
(Public Policy Wrongful Discharge)**

16. Plaintiff reavers all preceding and subsequent paragraphs of this Complaint as if set forth fully herein.

17. The Plaintiff was required, under penalty of the laws of South Carolina, to report sexual assault on inmates of a corrections facility.

18. Section 44-23-1150 of the South Carolina Code of Laws states:

(1) "Actor" means an employee...of a public entity that has statutory or contractual responsibility for inmates...

(2) "Victim" means an inmate...who is confined in...jail or mental health facility, or who is an offender on parole, probation, or other community supervision programs. A victim is not capable of providing consent for sexual intercourse or sexual contact with an actor.

(D) A person who knowingly or willfully submits inaccurate or untruthful information concerning sexual misconduct as defined in this section is guilty of the misdemeanor of falsely reporting sexual misconduct and, upon conviction, must be imprisoned for not more than one year.

(E) A person who has knowledge of sexual misconduct *who has received information in the person's professional capacity* and fails to report it to the

appropriate law enforcement authority, *or a person who threatens or attempts to intimidate a witness* **is guilty of a misdemeanor** and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

SC Code §44-23-1150 (*Emphasis added*).

19. This law expresses the clear public policy of the State of South Carolina and makes it clear that the Plaintiff's failure to report the assault would be a criminal act.

20. The Plaintiff was terminated in retaliation for her legally required report of sexual assault in the detention center, in violation of the clear public policy of South Carolina, which gives rise to a tort action, as explained by the Supreme Court in *Ludwick v. This Minute of Carolina, Inc.*, 287 S.C. 219, 337 S.E.2d 213 (1985), and its progeny.

21. Plaintiff was confronted with the dilemma of choosing between her livelihood, on the one hand, and obedience to the law of the state, on the other. Per *Ludwick*, the public policy exception is invoked when an employer requires an at-will employee, as a condition of retaining employment, to violate the law. 287 S.C. at 225, 337 S.E.2d at 216.

22. Defendants' acts were willful, wanton, and reckless and caused damages, actual and punitive, to Plaintiff in an amount to be determined at trial.

FOR A SECOND CAUSE OF ACTION (Defamation)

23. Plaintiff repeats all preceding and subsequent paragraphs of this Complaint as if set forth fully herein.

24. Upon information and belief, Defendants have made false and defamatory statements about Plaintiff, including false statements about Plaintiff's unfitness in her business or profession, which is defamation *per se*.

25. Additionally, the unlawful termination of Plaintiff immediately following the

investigation, clearly insinuates unfitness in her business or profession, and itself constitutes defamation *per se*.

26. Defendants published false statements about Plaintiff. Those false statements were unnecessarily repeated by Defendant Martin and other unprivileged employees within the BCSO, including superior officers, to third parties, and far exceeded any qualified immunity.

27. As a proximate result, Plaintiff has suffered both special and general damages, and is additionally entitled to punitive damages, in an amount to be determined at trial.

JURY DEMAND

28. Plaintiff requests a trial by jury of her claims against the Defendants.

WHEREFORE, Plaintiff respectfully requests that this Court:

- (a) Enter judgment for the Plaintiff against the defendants for actual, nominal, exemplary, general, special and punitive damages together with attorney's fees and costs;
- (b) Set this case down for trial by jury;
- (c) Grant such other and further relief as is deemed just and proper.

DATED at Charleston, South Carolina on this 18th day of September 2024.

GIBBS & HOLMES

/s/ Timothy O. Lewis
 Allan R. Holmes, No. 2576
 Timothy O. Lewis, No. 74024
 A. Riley Holmes, Jr., No. 76141
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