

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JOHN ROBERT THOMPSON, JR.,

Plaintiff,

v.

CASE NO.:

JURY TRIAL DEMAND

**SERGEANT JASON STITT,
*in his individual and official
capacity,***

**CAPTAIN RICHARD DENNY,
*in his individual and official
capacity,***

**FIRST SERGEANT JERRY W.
SMITH, *in his individual and
official capacity,***

**MAJOR KAREN STERLING,
*in her individual and official
capacity,***

**SERGEANT WILLIAM
MURPHY, *in his individual
and official capacity,***

and

**SUPERINTENDANT GARY T.
SETTLE, *in his individual and
official capacity,***

COMPLAINT

COMES NOW, Plaintiff John Robert Thompson, Jr., (hereinafter, “Mr. Thompson” or “Plaintiff”), by counsel, and states as his Complaint against Defendants Sergeant Jason Stitt, Captain Richard Denny, First Sergeant Jerry W. Smith, Major Karen Sterling,

Sergeant William Murphy, and Superintendent Gary T. Settle, all in their official and individual capacities, the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter as it arises from statutory authority, to-wit, Va. Code Ann. §§ 2.2-3009, *et seq.*, the Virginia Fraud and Abuse Whistle Blower Protection Act (“F&A Act”).

2. The acts and/or omissions of Defendants from which the following causes of action arise, occurred throughout Southwest, Virginia.

3. Defendants are all employees of the Virginia State Police.

4. For all times relevant, Mr. Thompson was a resident of Montgomery County, Virginia.

5. Pursuant to the F&A Act, Defendants Sergeant Jason Stitt, Captain Richard Denny, First Sergeant Jerry W. Smith, Major Karen Sterling, Sergeant William Murphy and Superintendent Gary T. Settle were the “employers” of Mr. Thompson as that term is defined by the F&A Act (“Employer” means a **person** supervising one or more employees, including the employee filing a good faith report, a superior of that supervisor, or an agent of the governmental agency.)

6. All Defendants were supervisors of Mr. Thompson and thus, “employers” pursuant to the Act. All adverse employment actions and decisions related to employment matters complained herein were authorized and endorsed by Defendants.

7. Claims under the F&A Act require timely initiation of the claim. Mr. Thompson commenced this litigation within three (3) years of the adverse act complained of herein.

FACTS

8. Mr. Thompson was hired by the Virginia State Police on or about August 15, 2016. Mr. Thompson was employed as a State Trooper and performed all the essential functions of a law enforcement officer for the Commonwealth of Virginia. Mr. Thompson joined the Virginia State Police after having worked in law enforcement for over ten years.

9. Not long after he began working for the Virginia State Police, Mr. Thompson observed disturbing occurrences at the workplace regarding his fellow officers.

10. The behavior witnessed by Mr. Thompson amounted to abuse and wrongdoing as those terms are defined in Va. Code § 2.2-3010.

11. What shocked Mr. Thompson was twofold: (1) he witnessed State Troopers engaged in misconduct, abuse, and wrongdoing; and (2) those above him in the chain of command had full knowledge of the inappropriate conduct and intentionally chose to allow it to persist.

12. Mr. Thompson was wary of what action to take. Finally, after witnessing such bad faith behavior by his fellow officers, Mr. Thompson provided a good-faith detailed report to Captain Robert P. Chappell, Jr. on or about June 17, 2020. Excerpts from this report include the following (emphasis added):

My name is John R. Thompson I currently hold the rank of Trooper II, and I have been working in Division VI, Area 49 for the past 2 years. I have knowledge of and have observed misconduct by Senior Trooper Fairley M. Blevins on several different occasions due to being assigned on the same shifts. I have explored other options prior to writing this letter by following my chain of command at the area level in order to reach a resolution. I have had closed door meetings to report the misconduct with all of the supervisors for Area 49. I find myself forced to resort to reporting this misconduct to the Internal Affairs Department of the Virginia State Police for a resolution.

This is a formal complaint against Senior Trooper Fairley M. Blevins whom displays misconduct, disregard and manipulation for department policies and procedures. According to policies and procedures set forth this is not considered a standard for employees of the Virginia State Police. Supervision responsible for ensuring his compliance with department policy, documents, scheduled work days, and daily duties were provided with supporting documentation of this complaint to show details on four separate dates without a resolution. The complaints listed in this letter involve falsifying state documents, altering work schedules without supervisor approval, failure to follow department policy for rest periods, failure to follow department policy for maximum hours worked in a day, working more hours than allowed by policy for consecutive days, failure to follow department policy for speed enforcement, manipulation and abuse of selective enforcement projects, failure to conduct school security checks as required, failure to conduct enforcement activity for several hours each work day unless called by dispatch, and a disregard for the safety of a fellow trooper. Examples of the misconduct are listed below in detail by date, times and locations with documentation provided for proof of each incident.

13. This report continues to detail specific observances of Mr. Thompson. As provided in the report, he identifies ten complaints and provides multiple incidents and supporting details for each complaint. Mr. Thompson's complaints included the following:

Complaint 1 (Falsifying State documents [SP-106, SP-127, and Appendix C forms] by claiming hours of overtime pay for time not worked). Below are two detailed incidents of this misconduct.

Complaint 2 (Fail to follow State Police Policy ADM 15.30 for the required rest times) Below is two detailed incidents of this misconduct. There are others listed on the documentation I have provided.

Complaint 3 (Making his own schedules and fail to follow policy ADM 15.30 for maximum hours allowed to work per work day) Below is two detailed incidents to reflect this misconduct. There are others listed on the documentation I provided.

Complaint 4 (Failure to follow policy ADM 15.30 working more than 12 hours consecutive days) Below are two detailed incidents of this misconduct. There are others listed on the documentation I provided.

Complaint 5 (Failure to follow policy for speed enforcement radar/laser) Below are two detailed incidents of this misconduct. There are others listed on the documentation I provided.

Complaint 6 (Falsifying documentation/fail to follow supervisor instructions reference school security checks) Below is detailed an incident of this misconduct. There are others listed on the documentation I provided.

Complaint 7 (Not leaving his residence for several hours after marking on duty) Below is a detailed incidents of this misconduct. There are others listed on the documentation I provided.

Complaint 8 (Failure to follow policy and supervisor instructions for disabled motorist) Below is two detailed incidents of this misconduct. Documentation is provided.

Complaint 9 (Promoting his own personal business (driving improvement school) while enforcing reckless driving behaviors) Below is detailed information of this misconduct. Documentation is provided.

Complaint 10 (Failure to check on fellow Trooper/ disregard for safety) Below is a detailed incident of this misconduct. There are others listed on the documentation provided.

14. Many of these “Complaints” amounted to violations of law.

15. Blowing the whistle on a favored colleague in a system best described as a “good old boy” culture did not come without consequences. Mr. Thompson was ostracized and practically demonized by his peers within southwest Virginia.

16. Prior to reporting the misconduct, Mr. Thompson’s work performance evaluations were stellar. However, after reporting misconduct, he received a negative performance evaluation – the first and only during his employment.

17. Additionally, after blowing the whistle, Mr. Thompson’s colleagues and the chain of command above him worked hard to make Mr. Thompson’s career a working hell. Since 2020, Mr. Thompson practically wore a target on his back at the workplace because he had shone a light on misconduct.

18. Mr. Thompson has been subjected to many false and retaliatory actions and accusations due to his having engaged in protected activities at the workplace. A non-exhaustive list includes:

a. Being placed on a false fit for duty evaluation when no evidence supported such a decision and suspended from work for approximately thirteen weeks (Summer/Fall 2020);

b. Being directed by his supervisor Captain Denny to seek psychiatric help specifically due to Mr. Thompson being “obsessed” with Officer Fairly, (September, 2020);

c. Maliciously false disciplinary actions in 2020, 2021, and 2022;

19. Mr. Thompson was not obsessed with Officer Fairly. Mr. Thompson was upset that Officer Fairly engaged in wrongful acts at the workplace.

20. Mr. Thompson worked in a hostile environment in which his fellow officers either ostracized him or made snide remarks and insults both in front of Mr. Thompson and behind his back.

21. Since providing his report, Mr. Thompson has engaged in numerous follow-up communications and interviews in 2020, 2021, and 2022 regarding the misconduct he witnessed with state officials and individuals affiliated with Virginia State Police Internal Affairs.

22. In October of 2022, law enforcement officers angered by Mr. Thompson’s whistle blowing created a maliciously false series of allegations and submitted this false report to Internal Affairs. This report was orchestrated and created with the pure intent to retaliate against Mr. Thompson. Law enforcement officers who intentionally engaged in the creation, dissemination, and publication of this report include:

a. First Sergeant Jerry W. Smith, Virginis State Police,

b. Detective Sergeant Michael Vallejo, Christiansburg Police Department,

- c. Sergeant Jason Stitt, Virginia State Police, and
- d. Captain Richard A. Denny, Virginia State Police.

23. Mr. Thompson contested the false allegations and provided clear and convincing proof of his innocence. The evidence provided by Mr. Thompson showed how the allegations against him were retaliatory and false on their face.

24. However, the purpose of the allegations were not to shine sunlight on any alleged “misconduct” of Mr. Thompson, but rather to provide a paper trail to support the termination of Mr. Thompson. Upon belief, all Defendants were aware of this malicious intention and acted in furtherance of the retaliatory goal.

25. Defendants ignored Mr. Thompson’s evidence and willfully ignored the fact that he was innocent of the allegations against him. Defendants acted in concert to finally rid the Virginia State Police of a whistle blower that did not fit the mold of the “good old boy” culture.

26. Mr. Thompson was placed on administrative leave in March of 2023.

27. That same month, Mr. Thompson was directed to attend a meeting with Captain Denny, First Sergeant Smith, and Major Karen Sterling. These individuals smiled and laughed at the situation in the presence of Mr. Thompson and informed him that he would be fired but could immediately resign to save himself the embarrassment.

28. The retaliatory decision to terminate Mr. Thompson was made by all Defendants.

29. In order to be able to find subsequent employment, Mr. Thompson agreed to resign via a prefilled form that was provided to him; however, this resignation was by no means voluntary.

30. Mr. Thompson was wrongfully terminated on or about March 27, 2023.

31. Mr. Thompson was unlawfully terminated from employment in retaliation for engaging in acts that were protected by the F&A Act.

32. Despite meeting all legitimate expectations and essential functions of his position, Mr. Thompson was wrongfully terminated.

33. But for Mr. Thompson's protected activities at the workplace, it is believed that he would not have been terminated from the workplace.

**COUNT I: CLAIM FOR RETALIATION IN VIOLATION OF THE VIRGINIA
FRAUD AND ABUSE WHISTLE BLOWER PROTECTION ACT
AGAINST ALL DEFENDANTS**

34. Plaintiff incorporates by reference herein the preceding paragraphs of this Complaint.

35. At the time Plaintiff was terminated from employment, he was protected from retaliation by Va. Code Ann. 2.2-3009, *et seq.*

36. Specifically, Mr. Thompson was protected from retaliation for his protected complaints to his supervisors and to government officials. Mr. Thompson is not a lawyer, but he held a good-faith belief that the conduct he observed was unlawful.

37. The following non-exhaustive laws and regulations concern matters reported by Mr. Thompson:

- a. Va. Code § 18.2-168

Forging public records, etc.

If any person forge a public record, or certificate, return, or attestation, of any public officer or public employee, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or utter, or attempt to employ as true, such forged record, certificate, return, or attestation, knowing the same to be forged, he shall be guilty of a Class 4 felony.

- b. Va. Code § 18.2-178

Obtaining money or signature, etc., by false pretense

(A) If any person obtain by any false pretense or token, from any person, with intent to defraud, money, a gift certificate or other property that may be the subject of larceny, he shall be deemed guilty of larceny thereof; or if he obtain, by any false pretense or token, with such intent, the signature of any person to a writing, the false making whereof would be forgery, he shall be guilty of a Class 4 felony.

- c. Va. Code § 18.2-463

Refusal to aid officer in execution of his office.

If any person on being required by any sheriff or other officer refuse or neglect to assist him: (1) in the execution of his office in a criminal case, (2) in the preservation of the peace, (3) in the apprehending or securing of any person for a breach of the peace, or (4) in any case of escape or rescue, he shall be guilty of a Class 2 misdemeanor.

- d. Va. Code § 18.2-470

Extortion by officer.

If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand and receive a greater fee or compensation than is so allowed or provided, he shall be guilty of a Class 4 misdemeanor.

- e. Va. Code § 18.2-472

False entries or destruction of records by officers.

If a clerk of any court or other public officer fraudulently make a false entry, or erase, alter, secrete or destroy any record, including a microphotographic copy, in his keeping and belonging to his office, he shall be guilty of a Class 1 misdemeanor and shall forfeit his office and be forever incapable of holding any office of honor, profit or trust under the Constitution of Virginia.

- f. Va. Code § 9.1-703

Hours of work.

For purposes of computing fire protection or law-enforcement employees' entitlement to overtime compensation, all hours that an employee works or is in a paid status during his regularly scheduled work hours shall be counted as hours of work. . . .

g. Va. Code § 9.1-184

Virginia Center for School and Campus Safety created; duties.

(A) [T]he Virginia Center for School and Campus Safety . . . shall . . .

(6) Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

(B) All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

38. Prior to Mr. Thompson being terminated, Mr. Thompson was performing his work at a satisfactory level and meeting the legitimate business expectations of his employer.

39. During his employment, Mr. Thompson experienced retaliation based upon having engaged in protected activities, ultimately culminating in his termination.

40. At all times relevant to this Complaint, Defendants acted with actual and specific malice against Mr. Thompson.

41. As a direct and proximate result of Defendants' actions, Mr. Thompson has suffered and will continue to suffer pecuniary loss.

42. Pursuant to Va. Code § 2.2-3011(D), "[i]n a proceeding commenced against any employer under this section, the court, if it finds that a violation was willfully and knowingly made, may impose upon such employer that is a party to the action, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,500, which amount shall be paid into the Fraud and Abuse

Whistle Blower Reward Fund. The court may also order appropriate remedies, including (i) reinstatement to the same position or, if the position is filled, to an equivalent position; (ii) back pay; (iii) full reinstatement of fringe benefits and seniority rights; or (iv) any combination of these remedies. The whistle blower may be entitled to recover reasonable attorney fees and costs.”

43. At all times material hereto, Defendants engaged in a discriminatory practice or practices with malice or reckless indifference to the protected rights of Mr. Thompson.

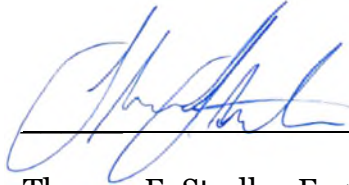
44. The above-described acts by Defendants constitute retaliation in violation of Virginia Code § 2.2-3009, *et seq.*

WHEREFORE, Plaintiff John Robert Thompson, Jr., prays for judgment against Defendants Sergeant Jason Stitt, Captain Richard Denny, First Sergeant Jerry W. Smith, Major Karen Sterling, Sergeant William Murphy, and Superintendent Gary T. Settle, all in both their official and individual capacities, jointly and severally, in the amount of five million dollars (\$5,000,000) and for injunctive relief, equitable relief, reinstatement, back pay, front pay, full reinstatement of fringe benefits and seniority rights together with prejudgment and post judgment interest and attorneys’ fees and costs, and for such other and further relief as may be just and equitable.

A TRIAL BY JURY ON ALL THINGS TRIABLE IS HEREBY REQUESTED.

Respectfully Submitted,

JOHN ROBERT THOMPSON, JR.



Thomas E. Strelka, Esq. (VSB # 75488)
STRELKA EMPLOYMENT LAW
Counsel for Plaintiff

Thomas E. Strelka, Esq. (VSB # 75488)
L. Leigh Rhoads, Esq. (VSB # 73355)
Brittany M. Haddox, Esq. (VSB # 86416)
STRELKA EMPLOYMENT LAW
4227 Colonial Avenue
Roanoke, Virginia 24018
Tel: 540-283-0802
thomas@strelkalaw.com
leigh@strelkalaw.com
brittany@strelkalaw.com

CERTIFICATION OF PLAINTIFF

I, John Robert Thompson, Jr., have read this Complaint and do hereby declare that it is true to the best of my ability to recollect, under penalty of perjury.



JOHN ROBERT THOMPSON, JR.

10/6/2023
DATE