

**FILED**  
JUN 2 2012  
DAVID GREWS, CLERK  
BY *[Signature]*  
Deputy

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**JEFFREY E. WIGGINTON,**

**Plaintiff**

v.

**WASHINGTON COUNTY, MISSISSIPPI;  
SHERIFF MILTON GASTON, in his official  
and individual capacities; and WASHINGTON  
COUNTY SHERIFF'S DEPARTMENT**

Defendant.

Civil Action No. 4:12-PV51-SA JMV

**JURY TRIAL DEMANDED**

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**COMPLAINT**

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Plaintiff, by and through his attorney, for his Complaint allege, upon knowledge as to himself and otherwise upon information and belief, as follows:

**I. PRELIMINARY STATEMENT**

1. This action is also brought pursuant to 42 U.S.c. § 2000 et seq., Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, for unlawful race discrimination and retaliation suffered for reporting discriminatory activity.

2. This is an action to recover actual, nominal, compensatory and punitive damages for race discrimination. Additionally, Plaintiff seeks actual, nominal and punitive damages because of the retaliatory action taken against him after he complained of the discriminatory treatment suffered at the workplace.

3. The relief Plaintiff seeks is supported by satisfactory proofs, including the public records, facts and other documentation referenced throughout the Complaint.

4. Aside from the damages stated in Paragraph 2, Plaintiff seeks the costs of litigation, including reasonable attorney's fees.

## **II. JURISDICTION**

7. This Court has jurisdiction over this action pursuant to 28 U.S.c. §§ 1331 and 1343(3)(4), which confers original jurisdiction on federal district courts to redress the deprivation of rights, privileges and immunities as stated herein. It also has federal question jurisdiction pursuant to 28 U.S.c. § 1331.

8. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.c. § 1367.

## **III. VENUE**

9. Venue is proper in the United States District Court for the Northern District of Mississippi, Greenville Division, pursuant to 28 U.S.c. § 1391(b), because the claims arise in Washington County, Mississippi.

## **IV. IDENTIFICATION OF PARTIES.**

10. Plaintiff, JEFFREY WIGGINGTON, of 2851 Wilcox Road, Leland, Mississippi 38756..

11. Defendant, WASHINGTON COUNTY, MISSISSIPPI is a political subdivision of the State of Mississippi which may be served with process by service upon its President of the Board of Supervisors, Mr. Paul Watson, Jr. at 900 Washington Avenue, Greenville, Mississippi. Defendant is an employer within the meaning of Title VII.

12. Defendant, MILTON GASTON, is the Sheriff of Washington County, Mississippi, and at all times acts under the color of state law and may be served with process at his place of employment, Washington County Sheriff's Department located at 903 West Alexander Street, Greenville, Mississippi. Defendant Gaston is sued in his official and individual capacities.

13. Defendant Washington County Sheriffs Department, is a local government entity which carries out the official law enforcement acts of Washington County, Mississippi, by and through its Sheriff. It may be served with process upon its Sheriff, Milton Gaston, at his place of employment, Washington County Sheriffs Department, located at 903 West Alexander Street, Greenville, Mississippi. Defendant is an employer within the meaning of Tide VII.

## **VI. STATEMENT OF FACTS**

14. Plaintiff filed a charge with the Equal Employment Opportunity Commission (hereinafter "EEOC"), attached hereto as Exhibit "A," related to his race and retaliation claims, and has received the right to sue letter dated March, 28, 2012, attached hereto as Exhibit "B."

15. Plaintiff was employed by Defendants for more than five (5) years as a deputy sheriff.

16. Plaintiff's primary duty was as a "road deputy" working patrol of Washington County, Mississippi.

17. When Plaintiff began his employment with Defendants, the Washington County Sheriffs Department employed approximately thirty-five (35) people. The racial makeup of the department at the time was about equally mixed between black and white employees; eighteen (18) black and seventeen (17) white. Today, upon information and belief, the Washington County Sheriffs Department only employs six (6) whites in the entire department.

18. Plaintiff was an excellent employee who took his job seriously and performed his duties well. Prior to 2011, and only a few months preceding his termination, Plaintiff had few if any complaints regarding his job performance.

19. From early in 2011, though, it became clear that Plaintiff was targeted by Defendants to either quit or be terminated.

20. On January 6, 2011, at the end of his shift (approximately 1 A.M.), due to problems with his patrol car, Plaintiff had the department dispatcher call a tow company to get his car. For this, Plaintiff was given a write up for not following the chain of command. Interestingly, the Supervisor who reprimanded Plaintiff did the same thing, sans reprimand, ten (10) days later. Also, Plaintiff had utilized the same procedure previously with no disciplinary actions against him, written or verbal.

21. Also in early 2011, Plaintiff and another, Black, deputy were offered employment with the United States Marshals. The employment would be through Washington County Sheriff's Department.

22. Defendant Sheriff Gaston stated that Plaintiff could not go work with the US Marshals but the black deputy could.

23. Working with the US Marshalls would have been a considered a promotion for Plaintiff in stature and/or salary.

24. Shortly thereafter, Plaintiff suffered another incident that was very similar to the situation he endured with potential employment with the US Marshals. Plaintiff was approached by a movie producer, who was filming a movie in Washington County, about playing the role of a deputy sheriff in the movie. When Plaintiff informed Defendants of the producer's request, Plaintiff was told that he could not be in the movie but a black deputy, who had not been asked by the movie producer, could perform the role.

25. In early August 2011, while Plaintiff was transporting a pnsoner to court, the dispatcher sent Plaintiff on a call.

26. The decision whether to take the prisoner straight to court or handle the dispatched call first belonged to Defendants shift sergeant, not Plaintiff.

27. The shift sergeant was either unavailable to make the decision or refused to do so.

28. Plaintiff handled the dispatched call and then took the prisoner to court. Plaintiff arrived twenty (20) minutes late as a result of handling the dispatched call on the way. Plaintiff was suspended for one (1) day for being late to court.

29. Shordy thereafter, while off-duty, Plaintiff was allegedly speeding in the City of Greenville, Mississippi early in the morning.

30. A City of Greenville police officer gave Plaintiff a verbal warning for the speeding and contacted Defendants.

31. Though Plaintiff was off duty, and was not given a speeding ticket, Defendants concluded that the speeding warning was Plaintiff's third violation in less than one (1) year and justified terminating Plaintiff.

32. Plaintiff was terminated on August 31, 2011 after refusing Defendants requests that he resign.

## **VII. ALLEGATIONS OF LAW**

33. At all times relevant, Plaintiff was a member of the Caucasian race.

34. At all time relevant, Plaintiff made complaints about activities protected under the applicable anti-discrimination statutes.

34. At all times relevant, Plaintiff was qualified for the position of Sheriff's Deputy.

35. At all times relevant, Plaintiff suffered an adverse employment action when he was terminated by Defendant on or about August 31, 2011.

36. At all time relevant, Plaintiff was (i) replaced by someone outside the protected class of race, (ii) treated differendy than a person similarly situated outside the protected class and/or (iii) otherwise discharged because of his race.

37. At all times relevant, Plaintiff engaged in protected activity when he complained that black employees were being treated differently than white employees.

38. At all times relevant, there was a causal link between Plaintiffs protected activity and his termination.

39. Defendant's non-discriminatory/retaliatory reason for Plaintiffs termination was that Plaintiff received three reprimands in the course of one (1) year. These reasons is not just suspect, but false, at least one employee committed the same alleged "offense" Plaintiff was accused of committing and was never reprimanded.

40. At all times relevant, Plaintiff would not have been discharged by Defendant but for his complaints about protected activity.

41. At all times relevant, Plaintiff would not have been discharged by Defendant but for his race.

42. At all times relevant, Defendant's decision to terminate Plaintiff was substantially motivated by his race.

43. At all times relevant, Defendant's decision to terminate Plaintiff was substantially motivated by his decision to engaged in protected activities.

44. As a result of Defendants' actions, Plaintiff was unlawfully terminated because of his race.

45. As a result of Defendants' actions, Plaintiff was unlawfully terminated because he complained about Defendant's discriminatory practices regarding race.

46. At all times relevant, Defendants acted willfully and intentionally in interfering with Plaintiffs lawful employment relationship.

47. At all times relevant, Defendants' actions were calculated to cause Plaintiff injury.

48. At all times relevant, Defendants' actions acts were done with the unlawful purpose for causing damage and loss, without right or justifiable cause on defendant's part.

49. As a result of Defendants' conduct, Plaintiff has suffered injury.

50. As a result of Defendants' conduct, Plaintiff has suffered mental anxiety, stress and lost income.

51. The actions of the Defendant are outrageous such that punitive damages are due.

**VIII. FIRST CAUSE OF ACTION - 42 U.S.c. § 2000 et seq.  
(Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991- Race)**

52. Paragraphs 1 - 51 of the Complaint are incorporated herein by reference, the same as though pleaded in full.

53. The unlawful actions of Defendant, as alleged herein, constituted an unlawful discharged based on race.

54. As a direct and proximate cause of Defendant's actions, Plaintiff's rights, as guaranteed by Title VII, were injured.

WHEREFORE Plaintiff prays for relief against all Defendants as set forth below.

**IX. SECOND CAUSE OF ACTION - 42 U.S.C. § 2000 et seq.  
(Title VII of the Civil Rights Act of 1964,  
as amended by the Civil Rights Act of 1991 - Retaliation)**

55. Paragraphs 1 - 54 of the Complaint are incorporated herein by reference, the same as being plead in full.

56. The unlawful actions of the Defendant, as alleged herein, constituted retaliation against Plaintiff for engaging in protected activity.

57. As a direct and proximate cause of Defendant's actions, Plaintiff's rights, as guaranteed by Title VII, were injured.

WHEREFORE Plaintiff prays for relief against all Defendants as set forth below.

**X. THIRD CAUSE OF ACTION - Supplemental State Claim  
(Malicious Interference with Employment)**

58. Paragraphs 1-57 of the Complaint are incorporated herein by reference, the same as though plead in full.

59. The acts of Defendants, in interfering with Plaintiffs employment, were willful and intentional, calculated to cause damage and done for the purpose of causing said damage.

60. Such actions were done without right or justifiable cause on Defendants' part.

61. As a direct and proximate cause of Defendants' actions, Plaintiff was injured.

WHEREFORE Plaintiff prays for relief against all Defendants as set forth below.

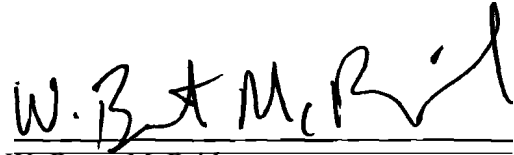
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays this Court:

- a. Assume jurisdiction over this action;
- b. Declare that Defendant's actions, as herein described, violated Plaintiffs rights under Title VII;
- c. Award Plaintiff nominal, actual and punitive damages against Defendant for the its discriminatory and retaliatory actions, as defined by Title VII,
- d. Award Plaintiff his costs of litigation, including reasonable attorney's fees and expenses, pursuant to 42 U.S.c. sec. 1988 and/or 20 U.S.c. sec. 1400 et seq.,
- e. Declare that Defendants maliciously interfered with Plaintiffs employment.
- f. Award Plaintiff actual damages in an amount to be determined by a jury for the torts of malicious interference with employment and wrongful termination;
- g. Award Plaintiff punitive damages in an amount to be determined by a jury for the torts of malicious interference with employment and wrongful termination;
- h. Grant such other relief to which Plaintiff may be entitled or as this Court deems necessary and proper.



Respectfully submitted,

A handwritten signature in black ink that reads "W. Brent McBride". The signature is written in a cursive style with a horizontal line underneath it.

W. Brent McBride  
MS Bar No. 101442  
MCBRIDE LAW FIRM, PLLC.  
Post Office Box 84  
Tupelo, Mississippi 38802  
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[brent@brentmcbride.com](mailto:brent@brentmcbride.com)

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Telephone: (662) 993-8010

This form is affected by the Privacy Act ; See Privacy Act Statement before completing this form



423-2011-02/80

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) <b>Mr. Jeffrey E. Wigginton</b>	HOME TELEPHONE (Include Area Code) <b>602-822-0919</b>
STREET ADDRESS <b>2851 Wilcox Rd. Leland Ms. 38750</b>	DATE OF BIRTH <b>11-7-78</b>

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME <b>Washington County Sheriff</b>	NUMBER OF EMPLOYEES, MEMBERS <b>35 emp.</b>	TELEPHONE (Include Area Code) <b>602-334-4823</b>
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STREET ADDRESS <b>905 W. Alexander St</b>	CITY, STATE AND ZIP CODE <b>Greenville, Ms. 38701</b>	COUNTY <b>Wash.</b>
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CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

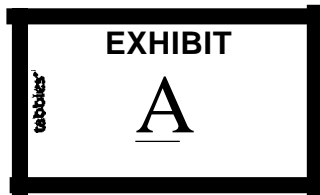
- RACE
- COLOR
- SEX
- RELIGION
- AGE
- RETALIATION
- NATIONAL ORIGIN
- DISABILITY
- (Other) Pregnancy

DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/IEPA) LATEST (ALL)

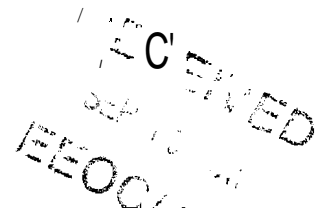
11/06 8/31/11  
 continuing action

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I personally feel that im being discriminated against by the Washington Co Sheriff's dept., Due to the fact that when I started in 2006 there were 17 white Deputies + 18 black Deputies, + now there is six white Deputies + 30 black Deputies. Over the past 5 1/2 years I have been wrote up + suspended for many things, that some of the black Deputies have also done + never got in trouble for. In 2008 I + a black deputy were hired to be deputy U.S. Marshall's but the Sheriff would not let us go. Later I found out that Mc White the black deputy was approved to go to the U.S Marshall service by the Sheriff but the paper work was never filled out. In 2009 I was asked by a producer to play a roll in a low budget movie that was being filmed in Washington co., to play a roll as a deputy. After talking to the sheriff he was irate + made comments that they should have asked for a black person.



NOTARY - (When necessary for State and Local Requirements)



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Date **9-13-11**  
Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

o play the roll in the movie. A few ~~the~~ weeks later I found out from the owner of Gus Restaurant where the roll took place that Gary Jones a black deputy played the roll. As of Aug 31, 2011 I have been terminated from the Washington Co Sheriff office for "getting into trouble three times in one year". There have been black deputies doo far worse than me and I feel that I am being discriminated against

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Jeffrey E. Wigginton
2851 Wilcox Road
Leland, MS 38756

From: Jackson Area Office
100 West Capitol Street
Suite 338
Jackson, MS 39269

O On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
423-2011-02180 Ernestene W. Owens, Investigator (601) 948-8415

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- D The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
D Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
D The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
D Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
D The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
D Other (briefly state)

- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

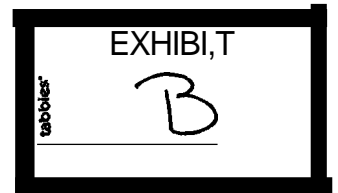
On behalf of the Commission
Wilma cou,
Director

3/28/12
(Date Mailed)

Enclosures(s)

cc: Ann Santucci
Sheriffs Secretary
WASHINGTON COUNTY SHERIFF'S DEPARTMENT
Post Office Box 786
Greenville, MS 38702

W. Brent McBride, Esquire
McBride Law Firm, PLLC
Post Office Box 84
21 North Madison Street
Tupelo, MS 38802-0084



Enclosure with EEOC  
Form 161 (11/09)

INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS            Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you *receive* this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was *mailed* to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS            Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/11/08 to 12/11/08, you should file suit before 7/11/10 - *not 12/11/10* -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.) ,

*IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.*