

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

TABATHA L. KING

PLAINTIFF

VS.

NO. 3:21-cv-03086-MEF

**BAXTER COUNTY, ARKANSAS;
JOHN MONTGOMERY, Sheriff, in his individual
and official capacities;
SERGEANT STEVEN GOODE; and DOES
1-10, in their individual and official capacities**

DEFENDANTS

AFFIDAVIT OF SHERIFF JOHN MONTGOMERY

**STATE OF ARKANSAS)§§
)§§
COUNTY OF BAXTER)§§**

I, Sheriff John Montgomery, being duly sworn on my oath, state as follows:

1. I am over the age of 18, of sound mind, and have personal knowledge of the information set forth in this affidavit.

2. I am the Baxter County Sheriff and was at all times relevant to this case.

3. Steven Goode was a corporal in the Baxter County Sheriff's Office and later promoted to sergeant. In his position as a corporal and as a sergeant, Goode did not have the authority to hire, fire, promote, or reassign Plaintiff to significantly different duties.

4. Plaintiff was hired by Baxter County, Arkansas as a jailer with the Baxter County Sheriff's Office on February 28, 2018, until I terminated her on April 23, 2021, based on her dishonesty of misuse and abuse of County property. A true and correct copy of her Notice of Termination is attached hereto as Ex. 1(D).



5. During her employment with Baxter County, Plaintiff worked as a jailer and a reserve deputy. A jailer is primarily responsible for booking inmates in and out of the facility, monitoring, and supervising the inmates at the Baxter County Detention Center. The position is also responsible for general call taking and radio dispatch functions for deputies and personnel. A reserve deputy's primary duties include police powers only when under supervision of a full-time deputy and when on a particular assignment. General duties include, but are not limited to inmate transports, assist with court security, participate in parades and events, occasional ride along with a full-time deputy on patrol. Reserve deputies may carry their own duty weapon with prior approval.

6. Baxter County is an equal opportunity employer and has in place a Personnel Policy Manual, which includes an Equal Opportunity Policy and Anti-Harassment Policy, which sets out the process for reporting harassment. Attached hereto as Exhibit 1(E) are true and correct copies of excerpts of County Personnel Policy

7. The Baxter County Sheriff's Office also has an Equal Opportunity Employment Policy and Harassment Policy, which also provides a process for reporting harassment. Attached hereto as Ex.1(F) are true and correct copies of the applicable Sheriff's Office General Orders.

8. Shortly after being hired, Plaintiff received the Baxter County Personnel Policy Manual as well as the Baxter County Sheriff Office General Orders as indicated by her signed receipt of the policies. Attached hereto as Exhibit 1(G) is a true and correct copy of the Plaintiff's Policy Acknowledgment, Ex. 1(G).

9. During her employment, Plaintiff was the subject of numerous formal disciplinary actions, which did not involve Goode.

10. On August 8, 2018, she received and signed acknowledgement of a written Notice of Reprimand from Corporal Austin Morrison for performing “Improper Searching Procedures.” A true and correct copy of the August 8, 2018 Written Reprimand is attached hereto as Ex. 1(H).

11. On August 18, 2019, the Plaintiff received verbal coaching from Sergeant Tony Beck for initially refusing to perform work assigned to her by Corporal Ethan Raymond, and then yelling at Corporal Raymond that she “want[ed] off [his] fucking shift.” A true and correct copy of the August 18, 2019 Verbal Coaching is attached hereto as Ex. 1(I).

12. On September 9, 2019, Plaintiff received a Verbal Warning from Corporal Raymond for sending an ACIC hit to the wrong agency. A true and correct copy is attached hereto as Ex. 1(J).

13. On September 21, 2020, Corporal Clark issued a Written Reprimand to Plaintiff for failing to report to work on time. A true and correct copy of the Written Reprimand is attached hereto as Ex. 1(L).

14. On February 22, 2021, Plaintiff was again issued a Written Reprimand by Corporal Clark for failing to timely report to work on February 18 and 22, 2021, and for failing to issue a no-contact order in a domestic-battery matter. 2/22/2021 A true and correct copy is attached hereto as Ex. 1(M). This Written Reprimand warned Plaintiff that future occurrences of this conduct would result in a two-day suspension without pay. Id.

15. A true and correct copy of the Plaintiff’s annual evaluation in March of 2021 is attached hereto as Ex. 1(N).

16. Plaintiff's issues with insubordination were noted in the Plaintiff's 2020 annual performance evaluation, which was completed by Corporal Ethan Raymond, wherein he wrote that Plaintiff "is, at times, insubordinate to her supervisors and has been written up on such in the past." A true and correct copy of the Plaintiff's 2020 Performance Evaluation is attached hereto as Ex. 1(K).

17. I reviewed and approved the Plaintiff's 2021 performance evaluation.

18. I considered the evaluation to be overall favorable.

19. Based on Plaintiff's annual evaluation, I approved giving Plaintiff the full 4.5% merit increase to her rate of pay. A true and correct copy of the April 11, 2021 Notification of Personnel Action is attached hereto as Ex. 1(O).

20. Plaintiff was not denied a promotion or pay raise due to the evaluation nor was evaluation used to materially alter a term or condition of Plaintiff's employment, other than to provide Plaintiff with a 4.5% merit raise.

21. Baxter County Personnel Policy provides that:

Prescription drugs and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription—however, a safety-sensitive employee who has been prescribed a medication that might cause drowsiness or otherwise impair the employee's ability to safely perform job functions shall . . . provide a written statement from the prescribing practitioner certifying that such use will not impair the employee's ability to safely perform his or her essential job functions. When . . . a licensed medical practitioner's statement is provided, the employee may continue working in the same position.

Baxter County Personnel Policy, Ex. 1(E). A "safety-sensitive position" is defined, in relevant part, as "any position where impairment may present a clear and present risk to

co-workers or other persons,” including any position where the employee carries a firearm, which Plaintiff did when serving as a reserve deputy. *Id.*

22. The County’s one-day suspension of Plaintiff’s badge and service weapon in March of 2021 was in accordance with the Baxter County Personnel Policy.

23. Plaintiff was terminated as a jailer with Baxter County, Arkansas on April 23, 2021, for being untruthful and deliberately damaging County property.

24. The incident that resulted in Plaintiff’s termination was captured on the Detention Center’s surveillance camera. A true and correct copy of the video is attached hereto as Ex. 1(A).

25. As indicated on the video, on April 14, 2021, Plaintiff was in an inmate pod when jailer, Dawn Laurie came up behind her and lightly pushed her in an attempt to startle Plaintiff. In response, Plaintiff walked past Ms. Laurie and out of the pod, turned around and came back in the pod, lightly pushed Ms. Laurie back, took the Guardian unit out of Ms. Laurie’s hands, and deliberately threw it across the room where it crashed and broke into pieces. Plaintiff then picked up and re-assembled the device.

26. Guardian handheld units retail at almost three thousand dollars. These devices are used by Detention Center staff continuously throughout the day to scan and record inmate movements, for cell checks, incident reports, gather evidence, and other inmate activities. The devices are crucial to the operations of the Detention Center for safety measures and mitigation of risk.

27. Ms. Laurie reported the incident as the Guardian was assigned to her name.

28. Written statements were requested from both Plaintiff and Ms. Laurie about the incident, which were inconsistent. Attached hereto are true and correct statements of from the Plaintiff and from Laurie attached as Ex. 1(Q), and 1(R), respectively.

29. Laurie reported that Plaintiff told her she would “regret it” if she told anyone what happened, and that Laurie wrote she did “not want any problems with Tabatha King because of my dealings with her in the past.” Plaintiff wrote in her statement that Laurie entered D Pod, snuck up behind her, squeezed her ribs, and yelled to scare her. Plaintiff Statement on Guardian Incident, Ex. 1(Q). Plaintiff reported that she reacted by jumping, hitting Laurie’s hand in the process, and knocking the Guardian to the ground. Id. (“...as a reaction I hit Jailer Lorie (sic), guardian hit the ground...”) Id.

30. The video footage clearly shows that Plaintiff grabbed the Guardian from Ms. Laurie’s hand and threw it into the ground where it broke. Video of Termination Incident, Ex. 1(A).

31. I reviewed the Detention Center surveillance camera footage and found that Plaintiff’s statement was inconsistent with the video footage. I made the decision to terminate the Plaintiff due to her dishonesty about the situation and her handling of the Guardian unit, both being actions that violated Baxter County policies.

32. Plaintiff was provided a written notice stating the reasons for her termination, was provided a copy of the policy that she violated, and was advised of her right to appeal the decision to the Baxter County Grievance Committee, which is comprised of the Baxter County Quorum Court.

33. I take issues of untruthfulness seriously and I have a no-tolerance policy of employees who lie during investigations.

34. I would have fired any other employee in the Department for the same conduct exhibited by Plaintiff.

35. In late December of 2019 or early January of 2020, I was was advised that Goode and King had exchanged text messages. The issue was not reported as sexual harassment but as inappropriate communication between Goode and Plaintiff. Goode's wife was also employed at the Baxter County Sheriff's Office.

36. I immediately addressed the issue with Goode and advised Goode that if he was communicating with Plaintiff inappropriately, then it needed to stop immediately.

37. Within the same week, Lt. Brad Lewis advised me that it was reported that Goode had sent photos to Plaintiff. I advised Lt. Brad Lewis that I had addressed the issue with Goode. I did not hear anything further on the issue of Goode texting the Plaintiff.

38. I am aware now aware through the course of this litigation that the Plaintiff claims to have had conversations with Captain Lewis in which she claim to have reported some version of sexual harassment or assault. Captain Lewis disputes that these conversations occurred. Regardless, I was unaware that the Plaintiff allegedly reported any such allegations to Captain Lewis at the time that I made the decision to terminate the Plaintiff.

39. On April 23, 2021, after Plaintiff was terminated, she came to my office to discuss her termination. I explained to the Plaintiff that she was terminated for lying. At that meeting, the Plaintiff questioned that she was getting terminated after having reported harassment. She did not mention sexual harassment or sexual assault. I

informed her that I had no information of these allegations, and that Plaintiff could appeal the decision and have a grievance hearing.

40. The first time that I was ever advised Plaintiff alleged sexual harassment was by David Ethredge, the County Attorney, after Plaintiff's termination.

41. On April 27, 2021, Plaintiff submitted a written grievance of her termination. A true and correct copy is attached hereto as Ex. 1(T).

42. In May of 2021, Baxter County began an internal investigation into Plaintiff's allegations of sexual harassment and retaliation at the Baxter County Sheriff's Office, interviewing seventy employees there. Only fourteen of those employees indicated firsthand knowledge of Plaintiff receiving inappropriate photographs. A review of the investigation did not find that there were any claims of sexual harassment and the only issue discovered regarding Plaintiff pertained to the photos from Goode in 2019, which I had previously addressed months prior.

43. The investigation further revealed that Plaintiff had engaged in sexually suggestive or harassing conduct. For example, Kaitlyn Wayland, who worked for the Arkansas State Police, reported that on multiple occasions, Plaintiff told her she would "make [Wayland] turn into a lesbian," said she should spank Wayland, and put her hand on Wayland's thigh and moved her hand up her leg. The investigation also reflected that, at some point, Ethan Raymond lodged a complaint about receiving sexually harassing text messages from Plaintiff.

44. On May 7, 2021, an independent government body, the Baxter County Quorum Court, held a Grievance Hearing on the termination of Ms. King, which upheld her termination.

45. I terminated Goode's employment on April 28, 2021.

46. I do not have an insurance policy that would provide coverage for damages for any of the claims made in this case.

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FURTHER AFFIANT SAYETH NAUGHT.



Sheriff John Montgomery

SUBSCRIBED and SWORN TO before me, a Notary Public, on this 27th day of
October 2023.



Notary Public
My Commission Expires:

