

District Court of Colorado, El Paso County, Court Address: 270 S. Tejon, P.O. Box 2980, Colorado Springs, CO 80901	DATE FILED: March 27, 2018 4:12 PM FILING ID: F1237A8061A86 CASE NUMBER: 2018CV30745
PLAINTIFF: TIMOTHY WILLIAMS, v. DEFENDANTS: BILL ELDER as Sheriff of El Paso County Sheriff's Office, and EL PASO COUNTY SHERIFF'S OFFICE.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
ATTORNEYS FOR PLAINTIFF: LIVELIHOOD LAW, LLC Brooke H. Meyer, #33913 Rachel E. Ellis, #40447 3401 Quebec St, Suite 6009 Denver, Colorado 80207 Telephone: (720) 465-6972 Email: bhm@livelihoodlaw.com ree@livelihoodlaw.com	Case No.: Division:
COMPLAINT AND JURY DEMAND	

Plaintiff, Timothy Williams, ("Plaintiff"), by and through counsel Livelihood Law, LLC, hereby files his Complaint against Defendants, Bill Elder ("Sheriff Elder") as Sheriff of El Paso County Sheriff's Office, and the El Paso County Sheriff's Office ("EPSO") and alleges the following:

INTRODUCTION

Plaintiff Lieutenant Timothy Williams worked for 14 years at EPSO. Lieutenant Williams was a well-regarded, respected, and devoted member of the EPSO. However, the newly sworn-in Sheriff, Bill Elder, requested retirement dates from his employees in a mandatory survey. After Sheriff Elder knew Lieutenant Williams' retirement eligibility date and planned date of retirement, Sheriff Elder targeted Lieutenant Williams, accusing him of "checking out," and

abruptly demoted Lieutenant Williams to a lower rank and pay, which drastically impacted his related retirement benefits. Lieutenant Williams was forced into early retirement, despite his ability to continue to perform his duties. Sheriff Elder then replaced Lieutenant Williams with a younger, less qualified employee. When Lieutenant Williams complained of age discrimination, the EPSO retaliated against him by making unfounded, false arguments.

PARTIES

1. At all times relevant to this action, the Plaintiff, Timothy Williams (hereafter "Williams"), was a resident of Teller County, [REDACTED]. The unlawful employment practices described below were committed in El Paso County.

2. Defendant Bill Elder was elected in November 2014 to serve a 4-year term as sheriff of El Paso County. He is running for re-election in November 2018.

3. El Paso County is a law enforcement organization which operates under the authority of the sheriff and is responsible for conducting various law enforcement and detention functions within El Paso County, Colorado.

4. At all times relevant to this action, the Defendants, conducted business at 27 E. Vermijo Ave, Colorado Springs, CO 80903.

JURISDICTION AND VENUE

5. Jurisdiction is proper pursuant to Colo. Const. Art. VI, Section 9 as the conduct alleged in the Complaint occurred in El Paso County, Colorado.

6. Venue is proper in El Paso County, Colorado pursuant to C.R.C.P. Rule 98(c) as the conduct alleged in the Complaint took place in El Paso County, Colorado.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. Williams timely filed charges of discrimination with the Colorado Civil Rights Division in Denver, Colorado. Williams' Charge of Discrimination alleged discrimination and retaliation based on age, retaliation and protected activities.

8. On December 28, 2017, Williams received his Notice of Right to Sue from the Colorado Civil Rights Division.

9. This action was commenced within 90 days of Williams' receipt of the Right to Sue letter.

FACTUAL BACKGROUND

10. Williams began working at the EPSO on February 25, 2002.

11. Williams was promoted multiple times during his 14-year career at the EPSO and reached the rank of Lieutenant in 2015.
12. Williams had an exemplary record while employed at the EPSO.
13. Williams is 58 years old.
14. Williams was eligible for full retirement benefits from the El Paso County Retirement Plan on June 1, 2018.
15. On March 17, 2016, Sheriff Elder ordered a mandatory survey requesting, amongst other things, retirement eligibility dates from all employees.
16. On March 18, 2016, Williams completed the survey.
17. Sheriff Elder knew of William's ability to retire in June of 2018.
18. Following the scandalous resignation of former Sheriff Terry Maketa, the EPSO implemented several new policies and procedures. As part of his job duties, Williams reviewed investigations into inappropriate conduct of personnel at the EPSO and advised Sheriff Elder regarding the discipline imposed.
19. The DAB was created to be a separate and distinct Board to conduct investigations into matters of personnel misconduct without Sheriff Elder's involvement.
20. The EPSO's Standard ACA: 7E-01, Disciplinary/Corrective Action Policy is signed by Sheriff Elder and was adopted to abide by C.R.S. § 30-10-506, attached as Exhibit 1.
21. In October 2016, Williams was assigned as a member of the Disciplinary Action Board ("DAB") to review an investigation into a Deputy who had engaged in misconduct with a fellow EPSO employee.
22. The DAB, through Williams, followed procedures outlined in EPSO's Standard ACA: 7E-01, Disciplinary/Corrective Action Policy, which became effective February 9, 2016.
23. During the review into underage drinking and fraternization, Williams discovered that other Deputies at the EPSO conspired to cover up these events because of a personal relationship with Sheriff Elder. Williams believed that appropriate procedures were not followed with the DAB investigation due to the victim's personal relationship with Sheriff Elder. When he'd questioned the attorney, Williams was told to continue the investigation. Upon learning of Williams' conversation with the attorney, Sheriff Elder told Williams, "if you think I'm doing something wrong then charge me."
24. Williams notified the Office of Legal Advisor, Lisa Kirkman, about this possible cover up and failure to report. Williams then continued with the review.

25. On October 26, 2016 the DAB review concluded. The DAB performed its responsibilities according to the policy and issued its results. The DAB unanimously recommended reassignment and demotion by one pay grade.

26. On October 28, 2016, Administrator Larry Borland and Sheriff Elder held a meeting with Williams. Sheriff Elder was visibly upset; he berated Williams for the decisions made by the DAB. Sheriff Elder did not want to move forward with the DAB recommendation of reassignment and demotion by one pay grade. Instead, Sheriff Elder recommended immediate termination of the employee at issue.

27. On October 28, 2016, during that same conversation, Sheriff Elder criticized Williams' job performance and indicated that Williams should be concerned about his job security.

28. During that same conversation, Borland yelled at Williams for the results of the DAB and stated "[t]he CEO should be able to fucking fire anybody he wants to." Williams was alarmed by this statement and by Sheriff Elder's demeanor.

29. On November 2, 2016, Sheriff Elder held a four and a half hour long Lieutenants' meeting and demanded all employees, including Williams, "step up or step out" and "if you can't cut it then check out." Sheriff Elder looked at Williams when he said "check out," and Williams believed this was in reference to his age and future retirement with EPSO.

30. The next day, on Thursday November 3, 2016, Sheriff Elder abruptly confronted Williams by stating, "Are you done? So if you're fucking done then just get out."

31. Williams interpreted Sheriff Elder's comments to mean that his employment was in jeopardy and that Sheriff Elder believed Williams was no longer useful at EPSO.

32. Williams had no desire to retire or "check out" at this time and was fully performing his job responsibilities, but he was so disturbed by this confrontation that he took the next day off from work.

33. On Monday, November 7, 2016, Borland handed Williams a one-page letter from Sheriff Elder demoting him from Lieutenant to the rank of Senior Deputy assigned to floor duty in the jail – a significant change in rank, pay, and duties.

34. Sheriff Elder's unilateral demotion violated EPSO, Standard ACA: 7E-01, Disciplinary/Corrective Action Policy, Section II, which states:

DISCIPLINARY DEMOTION: A demotion must be decided by the Disciplinary Action Board. A demotion reduces the classification and salary grade of an employee due to the employee's failure to maintain satisfactory job performance or for other disciplinary reasons. This action is not subject to appeal. This disciplinary decision will be made by the Disciplinary Action Board, after procedures are followed with respect to the DAB.

35. On November 7, 2016, when Williams received the demotion in rank and pay, he immediately realized the extent that his retirement would be negatively affected by the demotion.

36. Sheriff Elder's unilateral demotion of Williams from Lieutenant to Senior Deputy would have severely affected his highest annual salary calculation for retirement pay out; Williams was forced to retire early to preserve the Lieutenant rate of pay.

37. Williams retired on November 8, 2016.

38. Williams' Lieutenant position was filled by Andy Prehm, who is younger and less qualified than Williams.

39. Demoting Williams in this manner without referring the matter to the Disciplinary Action Board ("DAB") violated Defendant Sheriff Elder's own Policy and C.R.S. § 30-10-506.

40. On October 30, 2017, EPSO retaliated against Williams by publicly and specifically naming him in a response to an Open Records Request, accusing Williams of taking Commission on Accreditation of Law Enforcement (CALEA) documents. The October 30, 2017 letter states in part "4. Copy of the most recent CALEA inspection report: When Lt. Williams retired, he removed items from his office. Lt. Williams had been responsible for CALEA documentation. After a search of items left behind, and an electronic search, no CALEA documents have been located ..."

41. The EPSO's October 30, 2017 letter has publicly humiliated Williams.

FIRST CLAIM FOR RELIEF
(Violation of the Colorado Anti-Discrimination Act ("CADA")
Under Colo. Rev. Stat. 24-34-401 et. seq. – Age Discrimination

42. Williams incorporates herein by this reference the allegations contained within the foregoing paragraphs, as if set forth verbatim.

43. By virtue of his age, Williams belongs to a protected class under Colo. Rev. Stat. § 24-34-402(1)(a).

44. Colo. Rev. Stat. § 24-34-402(1)(a) provides, in relevant part: "It shall be a discriminatory or unfair employment practice . . . [f]or an employer to refuse to hire, to

discharge, to promote or demote, to harass during the course of employment, or to discrimination matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified because of disability, race, creed, color, sex, sexual orientation,

religion, age, national origin, or ancestry . . . For purposes of this paragraph (a), "harass" means to create a hostile work environment based upon an individual's race, national origin, sex, sexual orientation, disability, age, or religion.

45. Defendants intentionally engaged in unlawful employment practice and policies in violation of C.R.S. § 24-34-402.

46. These practices include, but are not limited to, making ageist comments about Williams and his plans for retirement, berating and unfairly criticizing Williams' performance, willfully and knowingly refusing Williams due process through the DAB, denying Williams equal access to employment and benefits, and constructively terminating/discharging Williams because of his age.

47. This discrimination by Defendants EPSO and Sheriff Elder, was done knowingly and willfully.

48. As a proximate result of Defendants EPSO and Sheriff Elder's actions, Williams has suffered and continues to suffer loss of pay, salary and benefits, loss of job, loss of career opportunities, and related injuries.

49. Williams seeks any and all damages permissible by law.

SECOND CLAIM FOR RELIEF
(Violation of the Colorado Anti-Discrimination Act ("CADA")
Under Colo. Rev. Stat. 24-34-401 et. seq. – Retaliation

50. Williams incorporates herein by this reference the allegations contained within the foregoing paragraphs, as if set forth verbatim.

51. Colo. Rev. State 24-34-402 provides, in relevant part:

It shall be discriminatory or unfair employment practice: For any person, whether or not an employer, an employment agency, a labor organization, or the employees or members thereof:

(I) To discriminate against any person because such person has opposed any practice made a discriminatory or an unfair employment practice by this part 4, because he has filed a charge with the commission, or because he has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to parts 3 and 4 of this article.

52. Williams complained of discrimination.

53. Defendant EPSO retaliated against Williams by publicly shaming and specifically naming Williams in a response to a CORA request by falsely accusing Williams of taking Commission on Accreditation of Law Enforcement (CALEA) documents.

54. This discrimination is in violation of C.R.S. § 24-34-402.

55. Williams seeks any and all damages permissible by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants EPSO and Sheriff Elder for any and all damages permissible by law, including front pay, back pay, compensatory damages, interest, attorney's fees, and such other and further relief as this Court deems just and proper.

PLAINTIFF DEMANDS TRIAL TO A JURY OF **SIX (6)** ON ALL ISSUES

RESPECTFULLY SUBMITTED this 27th day of March 2018.

LIVELIHOOD LAW, LLC

*Duly signed original on
file at the offices of Livelihood Law, LLC*

/s/ Brooke H. Meyer

Brooke H. Meyer, #33913

Attorney for Plaintiff Timothy Williams

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of March 2018, I served a true and correct copy of the foregoing via CCE upon the following:

Diana May and Amy Folsom
El Paso County Attorney
200 S. Cascade Avenue
Colorado Springs, CO 80903

/s/ Amber Klein

Amber Klein

In accordance with C.R.C.P. 121 §1-26(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.