

Former El Paso County sheriff's deputy claims to be victim of racial discrimination, retaliation in lawsuit

By: Ellie Mulder Aug 12, 2018

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A former El Paso County sheriff's deputy who was forced to resign after a complaint was filed about his use of force in the jail has filed a lawsuit alleging racial discrimination and retaliation for supporting another deputy's sexual-harassment claim.

Patrick Smith, who is African-American, was employed by the Sheriff's Office for nearly 14 years before resigning June 12, 2017, one month after he used force against an inmate who flipped him off, the lawsuit filed this month in U.S. District Court stated.

The professional standards complaint made by Undersheriff Joe Breister stated Smith "responded by punching (the inmate) in the face and knocking him to the ground." The lawsuit contends video shows he didn't punch the inmate and a

memo from an Internal Affairs sergeant says Smith "redirected (the inmate's) arm away from his face and took him to the ground and handcuffed him."

From January 2017 through June 2018, four jail deputies have faced serious disciplinary consequences for uses of force at the jail, according to documents provided by the Sheriff's Office. Smith was one of two deputies who resigned in lieu of termination. The other two were suspended for 40 hours.

The decision to place Smith on immediate, unpaid administrative leave, then refer him for disciplinary action and ultimately recommend that he be fired were "motivated by his race and his protected activity," the lawsuit says.

A Sheriff's Office spokeswoman didn't respond to a request for comment Friday afternoon.

In February 2017, a female deputy made a complaint of sexual harassment against the Sheriff's Office, the lawsuit says. She later complained of retaliation. Smith participated in the investigation by providing a statement about how the deputy had been treated.

When he heard co-workers calling her a "b---h" or accusing her of trying to bring down a male employee, he would remind them that "like all employees of the EPSO, (she) had a right to work in an environment free from harassment or discrimination, to complain about mistreatment, and that criticizing her for doing so was inappropriate," the lawsuit says.

About 1:10 a.m. May 12, 2017, Smith used force on an inmate in the jail, the lawsuit says. He prepared a report about the incident about 8:10 a.m., and by 10 a.m., he received a memo placing him on leave pending an investigation — an unusually quick response that deviated from the Sheriff's Office's usual policy of having immediate supervisors review use of force incidents before forwarding them to professional standards, the lawsuit says.

The female deputy sent an email to El Paso County Human Resources on May 15, 2017, saying she believed Smith was retaliated against for his involvement in the investigation into her complaints and discriminated against because of his race, the lawsuit says. Smith later made a formal complaint of racial discrimination and retaliation to Human Resources and the county Attorney's Office.

"The EPSO only disciplines employees for use of force incidents in extremely rare circumstances, and in those extremely rare cases of disciplinary action for use of force incidents, the disciplinary action of termination is so rare as to be almost unheard of," the lawsuit says.

Smith reportedly is aware of many other employees, the lawsuit contends, "who are not African-American and/or had not engaged in protected activity, engaged in uses of force that did not result in them being placed on immediate administrative leave, referred to the Disciplinary Action Board, or disciplined."

That includes members of a so-called "fight club" at the jail — an off-the-books contest in which deputies at the jail tracked each time they used force against an inmate, ranging from handcuffing to punching and kicking, and awarded bragging rights to the winners, as previously reported by The Gazette.

The Gazette's Rachel Riley contributed to this report.