

Suit claims top Sheriff's officer provided phony affidavit

[3] July 23, 2014 | Leader

By JOHN M. WYLIE II

Editor

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A new federal lawsuit accuses a senior Rogers County Sheriff's supervisor of falsifying statements and documents to search for drugs, then destroying the career of a deputy who refused to lie under oath to protect him, court records show.

The lawsuit, alleging violation of his First Amendment and civil rights, was filed July 8 by former deputy Brian Kindle and names the Board of County Commissioners (the avenue by which any county or its officers must be sued); Sheriff Scott Walton as both an individual and in his official capacity; Undersheriff Jon (spelled John in the lawsuit) Sappington; Capt. Adam Hull (the officer accused of falsifying his affidavit and statements); and Deputy Paul Tucker.

It seeks actual and punitive damages in excess of more than \$150,000 plus legal fees and other costs. The case has been assigned to U.S. District Judge Gregory Frizzell, who already is hearing a federal lawsuit involving allegations by Claremore Police Investigator John Singer against Rogers County District Attorney Janice Steidley and several of her deputies.

Most of Singer's claims have been dismissed but some remain active.

According to the 15-page lawsuit:

The issue originated with a drug raid in March 2012 that was conducted without a warrant, over Kindle's objection, and led to his constructive termination when he refused to lie in court to cover up the situation.

Bits and pieces rumors about the situation have swirled about the courthouse for more than a year, but nothing could be published until the lawsuit was filed, which made the allegations a matter of public record under oath.

The plaintiff is represented by Donald Eugene Smolen II and Laura Marie Lauth of the Tulsa law firm of Smolen, Smolen & Roytman of Tulsa. The lawsuit is filed in the U.S. District Court of the Northern District of Oklahoma (Case No. 4:14-cv-374). The complete text is posted at Oologah.net .

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- ▶ [Pre-School Story Time](#) at 10:00 AM
- ▶ [Election Board](#) at 7:00 PM

COMING EVENTS

- ▶ January 16, 2015
 - [RWD4 Board](#) at 1:00 PM
 - [Oologah Historical Society](#) at 1:00 PM
 - [Election Board](#) at 2:00 PM
- ▶ January 18, 2015
 - [Alcoholics Anonymous](#) at 7:30 PM
- ▶ January 19, 2015
 - [Rogers County Commission](#) at 9:00 AM
 - [Sno Cone shop & Museum](#) open at 12:00 PM

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It contends a government state torts act claim was filed Oct. 30, but no reply was made by the deadline of Jan. 28. That, it says, allows a lawsuit can be filed.

Kindle says he was employed as a deputy sheriff in March 2012 under the supervision of Sappington and Hull.

Capt. Hull asked Kindle to assist in a "knock and talk" at the residence of suspected drug dealer, Ronald Sanders. Hull said the officers would knock on the door of the residence, enter, and search when the occupant answered.

Kindle asked Hull if he had a warrant, the lawsuit says, and Hull said he did not need one because he had cleared the search with the District Attorney's office.

They knocked at the door, a woman answered and did NOT provide consent to search, but Hull entered anyway. He and the other officers found drugs and evidence of intent to distribute.

Hull wrote and filed with the DA's office a report on those activities.

Kindle was subpoenaed in June 2012 to appear and testify in the case, reviewed Hull's report, and discovered that Hull had told the DA that the woman had given a consent to search the residence when she had not.

"Plaintiff knew this to be false as the woman had not given consent for the search," the lawsuit says,

He contacted the DA's office to advise he "could not testify in the case" because "he did not want to perjure himself."

The DA's office reviewed the case and determined that Hull had consulted the DA's office, reviewed the case, but rather than being told he could proceed without a search warrant he was told he needed a warrant to search the house.

Kindle also said he was interviewed by speakerphone by Hull and an assistant DA, that Hull specifically

Asked if the woman "gave us consent, didn't she," and slammed down the phone when Kindle replied, "No."

The DA's office had Kindle write a report on the situation as part of an internal investigation,



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In a July 2012 case, a motion was made to disclose Kindle's situation in the Sanders case, and it was granted in January 2013. That led to the dismissal of the second case, (the Sanders case had already been dismissed).

Kindle contends that Hull and other RSCO employees and supervisors treated him unfairly because he was truthful about Hull's conduct in the Sanders case.

He said the harassment ranged from efforts to disrupt a romantic relationship that was completely within office guidelines to berating him on open radio frequencies (something never done to other officers) to issuing chicken s**t tickets that other officers routinely issued to hiding reports so they could claim he had not turned them into hiring a private investigator to pry into his private life to harassing him over a Workers Compensation injury by claiming he was faking it.

He said he was forced to perform duties prohibited by his injury, was told he was being demoted, and was forced to resign May 28, 2013.

He is seeking a minimum of \$150,000 damages plus interest, other fees and costs based on allegations of civil rights, First Amendment rights, and whistleblower rights violations.

The new lawsuit is at least the fifth state or federal court lawsuit filed in the growing corruption allegations between Claremore and the Rogers County Sheriff's office versus the District Attorney's Office for Roger, Mayes and Craig Counties.

A request for comment made last week to the Rogers County Sheriff's Department Public Information Office by email was not answered by deadline, and there also was no response to a request for documents under the Oklahoma Open Records Act.

[Kindle v Rogers County Complaint](#)

 **Category:** [News](#)

Microscope of Truth

Still showing you what no one wants you to see.

Captain Giglio. A.K.A. Adam Hull

Two, four, six, eight. How many Brady/Giglioed officers does it take?

Adam Hull is the third of the “already determined” Brady/Giglio officers still on our payroll. Little about his cases are available to the public. Everything is sealed. In February of 2012 he arrested Rodney Richardson for DUI, who supposedly fingered Ronald Sanders as his drug supplier. In March of 2012 Hull conducted a search on the home of Sanders. Without a warrant. He lied and told the deputies with him that he was told he did not need one. Sanders was subsequently arrested and charged with several counts, ranging from possession with the intent to distribute to child endangerment. Then Hull lied again and claimed that the woman who had answered Sanders’ door gave permission to search the home.

When it became subpoena time, however, former Deputy Brian Kindle, who had spoken up during the search about the need for a warrant, told the truth about what happened that night. Hull attempted to get Kindle to change his story to no avail, and Kindle was apparently not the only deputy present that night who would not budge when it came to the truth.

Giglio law states that it is up to a D.A. to make a Giglio determination. If one can not, it is presented to a judge to do so. Kathy Lahmeyer and Don Palik each spoke to Hull at some point, and their statements were turned over along with Kindle’s, Hull’s and others to Judge Crosson. Bill Higgins, defense lawyer for Sanders, pressed for a Giglio determination. Judge Crosson did make one and ordered that the information be disclosed. It resulted in the dismissal of all charges against Ronald Sanders, and subsequently the charge against Rodney Richardson as well.

Events				
Event	Party	Docket	Reporter	
Wednesday, March 21, 2012 at 10:30 AM ARR - JAILED (ARR)	Sanders, Ronald Allen	Terrill S Crosson		
Wednesday, April 18, 2012 at 9:00 AM PRELIMINARY HEARING (NO ISSUE)(PLN)	Sanders, Ronald Allen	Terrill S Crosson		
Wednesday, May 23, 2012 at 9:00 AM PRELIMINARY HEARING (NO ISSUE)(PLN)	Sanders, Ronald Allen	Terrill S Crosson		
Wednesday, June 13, 2012 at 12:30 PM PRELIMINARY HEARING (ISSUE)(PLI)	Sanders, Ronald Allen	Terrill S Crosson		
Wednesday, June 27, 2012 at 12:30 PM PRELIMINARY HEARING (ISSUE)(PLI)	Sanders, Ronald Allen	Terrill S Crosson		

Counts				
Further appear only within the counts with which they were charged. For complete sentence information, see the court order on the docket.				
Count # 1	Count as Filed: ODC, DISTRIBUTION OF CONTROLLED DANGEROUS SUBSTANCE - INCLUDING POSSESSION WITH INTENT TO DISTRIBUTE (F), in violation of 63 O.S. 2-401 (A)(1).			
Party Name:	Disposition Information:			
Sanders, Ronald Allen	Disposed: DISMISSED, 06/27/2012, Dismissed by Court.			
	Count as Disposed: DISTRIBUTION OF CONTROLLED DANGEROUS SUBSTANCE - INCLUDING POSSESSION WITH INTENT TO DISTRIBUTE (F) (DCD)			
	Violation of 63 O.S. 2-401 (A)(1)			
Count # 2	Count as Filed: DUBH, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (F), in violation of 63 O.S. 2-401 (A)(1)			
	Date Of Offense: 03/09/2012			
Party Name:	Disposition Information:			
Sanders, Ronald Allen	Disposed: DISMISSED, 06/27/2012, Dismissed by Court.			
	Count as Disposed: POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (F) (DUBH)			
	Violation of 63 O.S. 2-401 (A)(1)			
Count # 3	Count as Filed: CHEND, CHILD ENDANGERMENT - PERMITTING ABUSE (F), in violation of 21 O.S. 852.1.			
	Date Of Offense: 03/09/2012			
Party Name:	Disposition Information:			
Sanders, Ronald Allen	Disposed: DISMISSED, 06/27/2012, Dismissed by Court.			
	Count as Disposed: CHILD ENDANGERMENT - PERMITTING ABUSE (F) (CHEND)			
	Violation of 21 O.S. 852.1			
Count # 4	Count as Filed: DR3, UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA (M), in violation of 63 O.S. 2-405.			
	Date Of Offense: 03/09/2012			
Party Name:	Disposition Information:			
Sanders, Ronald Allen	Disposed: DISMISSED, 06/27/2012, Dismissed by Court.			
	Count as Disposed: UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA (M) (DR3)			
	Violation of 63 O.S. 2-405			
Count # 5	Count as Filed: DUR, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (M), in violation of 63 O.S. 2-402.			
	Date Of Offense: 03/09/2012			
Party Name:	Disposition Information:			
Sanders, Ronald Allen	Disposed: DISMISSED, 06/27/2012, Dismissed by Court.			
	Count as Disposed: POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (M) (DUR)			
	Violation of 63 O.S. 2-402			

Docket							
03-20-2012	INFORMATION	3	Sanders, Ronald Allen	5144420	Mar 20 2012 3:10:14:067PM	-	\$ 0.00
DEFENDANT RONALD ALLEN SANDERS WAS CHARGED WITH COUNT #3, CHILD ENDANGERMENT - PERMITTING ABUSE (F) IN VIOLATION OF 21 O.S. 852.1							
03-20-2012	INFORMATION	4	Sanders, Ronald Allen	5144437	Mar 20 2012 3:17:39:117PM	-	\$ 0.00
DEFENDANT RONALD ALLEN SANDERS WAS CHARGED WITH COUNT #4, UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA (M) IN VIOLATION OF 63 O.S. 2-405							
03-20-2012	INFORMATION	5	Sanders, Ronald Allen	5144438	Mar 20 2012 3:10:14:117PM	-	\$ 0.00
DEFENDANT RONALD ALLEN SANDERS WAS CHARGED WITH COUNT #5, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE (M) IN VIOLATION OF 63 O.S. 2-402							
03-20-2012	AFPC	-	Sanders, Ronald Allen	5144444	Mar 20 2012 2:12:14:137PM	-	\$ 0.00
PROBABLE CAUSE AFFIDAVIT, IA 3-21-12 10:30							
03-20-2012	TEXT	-		5144420	Mar 20 2012 3:06:02:417PM	-	\$ 0.00
OCIS HAS AUTOMATICALLY ASSIGNED JUDGE STEIDLEY, J. DWAYNE TO THIS CASE.							
03-22-2012	CTFREE	-	Sanders, Ronald Allen	5144282	Mar 22 2012 9:13:36:767AM	-	\$ 0.00
MINUTE OF 3-21-12, JUDGE CROSSON, ST BY MCCONNELL, DEFENDANT IN RCJ CUSTODY; ATTY JUSTIN GREER, ATTORNS PRESEED COPY OF INFORMATION, WAIVER READING THEREOF, COURT EPING AND SET ON 4-14-12 AT 9AM.							
04-18-2012	DCON	-	Sanders, Ronald Allen	5151575	Apr 18 2012 1:26:47:520PM	-	\$ 0.00
REQUEST & ORDER OF CONTINUANCE							
04-20-2012	CTFREE	-	Sanders, Ronald Allen	5144888	Apr 20 2012 10:36:18:707AM	-	\$ 0.00
MINUTE OF 4-18-12, JUDGE CROSSON, ST BY MCCONNELL, ATTY JUSTIN GREER WITH DFT; SET FOR 5-30-12 @ 9:00 A.M.							
06-01-2012	CTFREE	-	Sanders, Ronald Allen	5273939	Jun 1 2012 2:21:24:603PM	-	\$ 0.00
MINUTE OF 5-30-12, JUDGE CROSSON, ST BY WANTLAND AND MCCONNELL, ATTY BILL HIGGINS WITH DFT; SET FOR ISSUE PLH ON 6-13-12 @ 1:30 PM.							
06-01-2012	SIF	-	Sanders, Ronald Allen	5286647	Jun 1 2012 4:22:19:463PM	-	\$ 0.00
(S) SUBPOENA ISSUED - PERSONAL SERVICE							
06-01-2012	SIF	-	Sanders, Ronald Allen	5286649	Jun 1 2012 4:23:01:833PM	-	\$ 0.00
(S) SUBPOENA ISSUED - PERSONAL SERVICE							
06-19-2012	CTFREE	-	Sanders, Ronald Allen	5286678	Jun 19 2012 11:02:14:080AM	-	\$ 0.00
MINUTE OF 6-13-12, JUDGE CROSSON, ST BY WANTLAND, ATTY BILL HIGGINS WITH DFT; SET FOR ISSUE PLH ON 6-27-12 @ 1:30 P.M.							
06-28-2012	O	-	Sanders, Ronald Allen	5275889	Jun 28 2012 2:48:27:233PM	-	\$ 0.00
MOTION & ORDER							
06-29-2012	ABST	2	Sanders, Ronald Allen	5273916	Jun 29 2012 2:11:14:173AM	-	\$ 0.00
ABSTRACT SENT TO D.P.S.							
06-29-2012	ABST	4	Sanders, Ronald Allen	5273917	Jun 29 2012 2:11:14:173AM	-	\$ 0.00
ABSTRACT SENT TO D.P.S.							
06-29-2012	ABST	5	Sanders, Ronald Allen	5273918	Jun 29 2012 2:11:14:173AM	-	\$ 0.00
ABSTRACT SENT TO D.P.S.							
07-06-2012	CTFREE	-	Sanders, Ronald Allen	5282324	Jul 6 2012 11:13:46:810AM	-	\$ 0.00
MINUTE OF 6-27-12, JUDGE CROSSON, REPORTER GIBSON, ST BY WANTLAND, ATTY JUSTIN GREER WITH DFT; DISMISSED, COSTS TO STATE, BEST INTEREST OF JUSTICE, BOND EXONERATED							

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<http://www.oscn.net/applications/oscn/GetCaseInformation.asp?submitted=true&viewtype=caseGeneral&casemasterID=225884&db=Rogers>

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Count # 1: Court as Filed: DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL - In violation of 47 O.S. 11-502(A)(1)
 Date Of Offense: 01/02/2012

Party Name: Richardson, Rodney Gene
Disposition Information: Disposed: DISMISSED, 10/01/2013, Dismissed-Request of the State, Court as Disposed: DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL (DR) Violation of 47 O.S. 11-502(A)(1)

Citation Information

Arresting Agency: Rogers County Sheriff's Department
 Location of Offense: HWY 66 & NS 433
 North Location:
 East Control: 90
 County: Rogers
 Citation Number: 012745
 License Class: D
 License Endorsements:
 Employer: GREY PATTERSON CONST
 Violation Type: Operation
 Vehicle Make: CHEV
 Vehicle Model Year: 1998
 Vehicle Body Style: 4DR
 Vehicle Color: GLD
 Vehicle Tag: 80HARW
 Vehicle Tag Year: 2012
 Vehicle Tag Issuer: Oklahoma
 Commercial Vehicle: No
 Hazardous Material: No
 Accident:
 Personal Injury: No
 Property Damage: No
 Faculty: No
 Bond Amount: \$0.00
 Information Date: N/A
 Comments: N/A

Docket

Date	Code	Count	Party	Serial #	Entry Date		
02-06-2012	TEXT	1	Richardson, Rodney Gene	0087300	Feb 6 2012 4:18:11:007PM	-	\$ 0.01
CRIMINAL MISDEMEANOR INITIAL FILING.							
02-06-2012	INFORMATION	1	Richardson, Rodney Gene	0087301	Feb 6 2012 4:10:06:047PM	-	\$ 0.01
DEFENDANT RODNEY GENE RICHARDSON WAS CHARGED WITH COUNT #1, DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL IN VIOLATION OF 47 O.S. 11-502(A)(1)							
02-06-2012	APFCA	-	Richardson, Rodney Gene	0087303	Feb 6 2012 4:10:10:707PM	-	\$ 0.01
PROBABLE CAUSE AFFIDAVIT							
02-06-2012	CTFREE	-	Richardson, Rodney Gene	0087302	Feb 6 2012 4:10:28:070PM	-	\$ 0.01
2012 (MR OF 2/1/12); JUDGE CROSSON, ST BY WANTLAND AND PALKE, ST NEEDS MORE TIME TO FILE CASE, SET FOR IA ON 2/6/12 @ 10:30 (MR OF MR)							
02-06-2012	TEXT	-	Richardson, Rodney Gene	0087301	Feb 6 2012 4:08:17:170PM	-	\$ 0.01
CONFIDENTIALITY REQUEST FOR PROTECTIVE ORDER							
01-19-2012	JUDGE	-	Richardson, Rodney Gene	0073491	Jan 19 2012 1:30:02:764PM	HENKOW	\$ 420.00
OKLAHOMA COURT INFORMATION SYSTEM REVOLVING FUNDS 23.00							
02-12-2013	CTFREE	-	Richardson, Rodney Gene	0088040	Feb 12 2013 3:10:16:087PM	-	\$ 0.00
JUDGE CROSSON, ST BY WANTLAND, ATTY BILL HIGGINS FOR DFT, SET FOR MOTION HRS ON 4-15-13 @ 1:30 P.M.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088100	Feb 16 2013 2:12:12:079PM	-	\$ 0.00
TRANSCRIPT FOR IN CAMERA HEARING OF OCTOBER 23, 2012 - UNDER SEAL PER JUDGE CROSSON.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088100	Feb 16 2013 2:09:43:070PM	-	\$ 0.00
TRANSCRIPT FOR IN CAMERA HEARING OF SEPTEMBER 25, 2012 - UNDER SEAL PER JUDGE CROSSON.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088070	Feb 16 2013 3:06:01:007PM	-	\$ 0.00
TRANSCRIPT OF IN CAMERA HEARING ON DECEMBER 17, 2012 - UNDER SEAL PER JUDGE CROSSON.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088060	Feb 16 2013 3:07:01:007PM	-	\$ 0.00
TRANSCRIPT OF IN CAMERA HEARING ON NOVEMBER 27, 2012 - UNDER SEAL PER JUDGE CROSSON.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088070	Feb 16 2013 3:10:38:007PM	-	\$ 0.00
TRANSCRIPT OF IN CAMERA HEARING ON DECEMBER 12, 2012 - UNDER SEAL PER JUDGE CROSSON.							
02-16-2013	TR	-	Richardson, Rodney Gene	0088060	Feb 16 2013 3:18:17:007PM	-	\$ 0.00
TRANSCRIPT OF IN CAMERA HEARING ON OCTOBER 2, 2012 - UNDER SEAL PER JUDGE CROSSON.							
03-25-2013	CTFREE	-	Richardson, Rodney Gene	0088000	Mar 25 2013 10:45:58:030AM	-	\$ 0.00
JUDGE CROSSON, ON CRTS MOTION, CASE CONT DUE TO CLOSING OF CRT HOUSE TO 5-14-13 @ 1:30 P.M.							
05-14-2013	CTFREE	-	Richardson, Rodney Gene	0088100	May 14 2013 2:30:18:200PM	-	\$ 0.00
JUDGE CROSSON, ST BY REINGER, ATTY JUSTIN GREER WITH DFT FOR ATTY BILL HIGGINS, CONT TO 6-25-13 @ 2:00 P.M.							
07-01-2013	CTFREE	-	Richardson, Rodney Gene	0079403	Jul 1 2013 11:07:08:007AM	-	\$ 0.00
MINUTE OF 6:25-13, JUDGE CROSSON, ST BY CODDING, REPORTER GIBSON (NO FEE), ATTY BILL HIGGINS WITH DFT, ST REQUESTING MORE TIME DUE TO NEW DA IN CASE, CONT TO 7-23-13 @ 2:00 P.M. FOR STATUS AND ISSU HIRG ON 8-6-13 @ 2:00 P.M. IF HEADED							
07-26-2013	CTFREE	-	Richardson, Rodney Gene	0073700	Jul 26 2013 2:30:24:700PM	-	\$ 0.00
MINUTE OF 7-23-13, JUDGE CROSSON, ST BY CODDING, REPORTER GIBSON (NO FEE), ATTY BILL HIGGINS FOR DFT, CASE PREVIOUSLY SET FOR HIRG ON 8-6-13 @ 2:00 P.M.							
08-08-2013	CTFREE	-	Richardson, Rodney Gene	0074761	Aug 8 2013 10:00:16:000AM	-	\$ 0.00
MINUTE OF 8-6-13, JUDGE CROSSON, ST BY WANTLAND, ATTY BILL HIGGINS FOR DFT, CONT TO 9-9-13 @ 2:00 P.M.							
09-16-2013	CTFREE	-	Richardson, Rodney Gene	0076103	Sep 16 2013 10:00:01:077AM	-	\$ 0.00
MINUTE OF 9-9-13, JUDGE CROSSON, ST BY WANTLAND, REPORTER GIBSON, ATTY BILL HIGGINS WITH DFT, WITNESSES CALLED AND SWORN, TESTIMONY TAKEN, DFT MOTION SUSTAINED, SET FOR STATUS ON 03-14-13 @ 2:00 P.M.							
10-01-2013	CTFREE	-	Richardson, Rodney Gene	0088000	Oct 1 2013 1:01:00:000PM	-	\$ 0.00
MINUTE OF 10-24-13, JUDGE CROSSON, ST BY WANTLAND, REPORTER GIBSON, ATTY BILL HIGGINS FOR DFT, CRT SUSTAINING DFT MOTION IS FATAL TO THE CASE, CASE DISMISSED, COSTS TO STATE, BOND EXONERATED							
10-03-2013	BIXON	1	Richardson, Rodney Gene	0012706	Oct 3 2013 10:11:26:100AM	-	\$ 0.00
THE STATUS OF THE BOND ENTRY DETAILED IN DOCKET SERIAL #0012706 ABOVE HAS CHANGED TO READ AS FOLLOWS: SURETY BOND FOR RICHARDSON, RODNEY GENE POSTED BY NORA, JOHN EDWARD (A PROFESSIONAL INMAN, EDOE) (POWER NUMBERAS175), COUNT NUMBER 1, IN THE AMOUNT OF \$1,000.00, POSTED 01/21/2012, EXONERATED 10/03/2013							
10-04-2013	ABST	1	Richardson, Rodney Gene	0013912	Oct 4 2013 11:00:00:000AM	-	\$ 0.00
ABSTRACT SENT TO D.P.S.							

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Judge Crosson sealed all transcripts in the cases, and we never would have known about this had it not been for their treatment of Brian Kindle for telling the truth.

Update: Hull resigned from the RSCO in the Spring of 2015 and took a part time job at the Chelsea PD. Soon after, he applied for the position of Chief of Police in Chelsea. This position, of course, came open when the majority of the Chelsea PD resigned after the Weast/Haggard obstruction attempt. After speaking out against another candidate for the position and “making an ass” out of himself in front of the Chelsea town board, he was asked to resign from Chelsea as well...and did so.

However, after the Chief position was filled, the new Chief turned around and hired Adam Hull again.

Much like herpes, there is no cure for this man.

Blog at WordPress.com.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

(1) BRIAN KINDLE,

Plaintiff,

v.

Case No.: 14-CV-374-JHP-FHM

(1) BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY
OF ROGERS COUNTY;

(2) SCOTT WALTON, SHERIFF OF
ROGERS COUNTY, in his individual
and official capacities;

(3) JOHN SAPPINTGON;

(4) PAUL TUCKER; and

(5) ADAM HULL,

Defendants.

JURY TRIAL DEMANDED

ATTORNEY LIEN CLAIMED

COMPLAINT

COMES NOW the Plaintiff, Brian Kindle, by and through his undersigned counsel, and for his causes of action against Defendants Board of County Commissioners of the County of Rogers County (hereinafter, "Rogers County"), Sheriff Scott Walton, John Sappington, Paul Tucker, and Adam Hull, submits and sets forth as follows:

Jurisdiction and Venue

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343 to secure protection of and to redress deprivations of rights secured by the First and Fourteenth Amendments to the United States Constitution as enforced by 42 U.S.C. § 1983, which provides for the protection of all persons in their civil rights and the redress of deprivation of rights under color of law.

2. The jurisdiction of this Court is also invoked under 28 U.S.C. § 1331 to resolve a controversy arising under the Constitution and laws of the United States, particularly the First Amendment and Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

3. This Court has supplemental jurisdiction over the state law claims asserted herein pursuant to 28 U.S.C. § 1367, since the claims form part of the same case or controversy arising under the United States Constitution and federal law.

4. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

Parties

5. Paragraphs 1-4 are incorporated herein by reference.

6. Plaintiff is a citizen of Oklahoma residing in this judicial district.

7. Defendant Rogers County is a state governmental entity with its principal place of business in Rogers County, Oklahoma, within this judicial district.

8. Defendant Scott Walton, Sheriff of Rogers County, is a citizen of Oklahoma residing in Rogers County, Oklahoma, and is statutorily responsible for the acts of the Rogers County Sheriff's Office ("RCSO"). Sheriff Walton is being sued in both his individual and official capacities. Walton was, at all times pertinent hereto, responsible for creating, adopting, approving, ratifying and enforcing the rules, regulations, policies, practices, procedures, and/or customs of the RCSO and Rogers County, including the policies, practices, procedures and/or customs that violated Plaintiff's rights as set forth in this Complaint. Defendant Walton is also sued in his official capacity as being vicariously liable for the State law claims against the RCSO and

its employees as set forth herein. Defendant Walton is sued in his individual capacity under a supervisory liability theory and for his personal involvement and participation in the violation of Plaintiff's rights, while acting under color of State law, as set forth herein.

9. Defendant John Sappington, Undersheriff of Rogers County, was, at all times relevant hereto, acting under color of state law and within the scope of his employment with the RCSO.

10. Defendant Paul Tucker, RCSO Deputy, was, at all times relevant hereto, acting under color of state law and within the scope of his employment with the RCSO.

11. Defendant Adam Hull, RSCO Captain, was, at all times relevant hereto, acting under color of state law and within the scope of his employment with the RCSO.

Compliance with the Oklahoma Government Tort Claim Act, 51 O.S. § 151, *et seq.*

12. Paragraphs 1-11 are incorporated herein by reference.

13. On October 29, 2013, Plaintiff sent, by and through his undersigned counsel, notice to the Rogers County Clerk and the RCSO of his intent to pursue the state law tort claims set forth herein pursuant to the Oklahoma Government Tort Claims Act ("The Act"). 51 O.S. § 151, *et seq.*

14. Said entities received Plaintiff's notice on October 30, 2013.

15. No response to Plaintiff's notice was sent or received and Plaintiff's claims were deemed denied pursuant to the Act on January 28, 2014.

16. The instant action is timely brought thereafter.

17. At all times relevant to this Petition, Defendants acted under color of state law.

Statement of Facts

18. Paragraphs 1-17 are incorporated herein by reference.

19. In March of 2012, Plaintiff was employed as a deputy sheriff for the Rogers County Sheriff's Office ("RCSO"). Plaintiff's supervisors at this time were Undersheriff John Sappington and Captain Adam Hull.

20. Captain Hull called Plaintiff to assist in performing a so-called "knock and talk" at the residence of a suspected drug dealer, Ronald Sanders. Hull advised that the officers would knock on the door of the residence and enter and perform a search when the occupant answered.

21. Plaintiff asked Hull if he had a warrant to perform the search and Hull told Plaintiff that he did not need a warrant because he had cleared the search with the Rogers County District Attorney's Office.

22. Hull and Plaintiff knocked on the door of the Sanders' residence and a woman answered. The woman did not give consent to search but Hull entered the residence anyway. The officers discovered illegal drugs and other evidence indicating an intent to distribute.

23. Hull wrote a report of the search and evidence obtained and provided it to the District Attorney's Office.

24. In June of 2012, Plaintiff received a subpoena from the District Attorney's Office compelling him to appear and testify at the trial of Ronald Sanders. In preparation of his testimony, Plaintiff reviewed the report Captain Hull had prepared after the search. In reviewing Hull's report, Plaintiff discovered that Hull had told the District Attorney's

Office that the woman who had answered the door the day of the search had given *consent* for the officers to search the residence.

25. Plaintiff knew that to be false as the woman had *not* given consent for the search.

26. Plaintiff contacted the District Attorney's Office to advise that he could not testify in the case against Ronald Sanders because he did not want to perjure himself or interfere with the state's case.

27. In his conversation with an assistant district attorney, Plaintiff learned that Hull had spoken with the office prior to the search but had not been "cleared" for a warrantless search; rather, the office had specifically told him that a warrant was necessary.

28. After Plaintiff spoke with the district attorney's office regarding this matter, he later received a telephone call from Captain Hull, who was present in the district attorney's office with an assistant district attorney on speaker phone. Hull asked Plaintiff, very pointedly, "That woman [who answered the door at the Sanders' residence the day of the search] gave us consent, *didn't she?*" Plaintiff answered, "no," and Hull immediately hung up the phone.

29. On June 28, 2012, the state was forced to ask the court dismiss its case against Ronald Sanders.

30. The district attorney's office opened an investigation into Hull's actions.

31. At the request of the district attorney, Plaintiff wrote and signed an affidavit regarding the Sanders' search and Hull's actions.

32. Neither the writing of said affidavit nor his conversations with the district attorney's office were a part of Plaintiff's official duties as an RCSO deputy.

33. The contents of Plaintiff's affidavit and his conversations regarding Hull and the Sanders search with the District Attorney's Office were "citizen-speech" and dealt with a matter of obvious public concern.

34. The affidavit was supposed to be sealed but copies were provided to Hull, Sheriff Walton and other RCSO employees to ready anyway.

35. The contents of Plaintiff's affidavit and his conversations regarding Hull's conduct impacted other pending cases in which Hull was a witness.

36. In July of 2012, a defendant in a case brought by the state in Rogers County filed a motion to suppress evidence contending that Hull did not have probable cause or consent to detain, search and/or arrest the defendant.

37. After Plaintiff had submitted his affidavit to the district attorney's office, the state was forced to disclose the existence of the affidavit as potentially exculpatory or impeachment evidence under *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972).

38. In January, 2013 the court ordered the state to disclose Plaintiff's affidavit to the defendant, whose motion to suppress was ultimately sustained and the case, like the Sanders' case, had to be dismissed.

39. Between June of 2012 and the spring of 2013, Hull and other members of the RCSO treated Plaintiff unfairly, in retaliation for his telling the truth about the Sanders' search and disagreeing with Hull's version of events. For example:

- a. Hull berated the Plaintiff over the radio for running with his lights and sirens on to an injury crash – something that was very embarrassing and never done to other officers;
- b. Hull ordered Plaintiff not to talk to a female dispatcher whom Plaintiff had been romantically involved with – something that was not against policy and not enforced against other officers;
- c. RCSO officers friendly with Hull constantly monitored and scrutinized Plaintiff's actions, both on and off duty;
- d. Officer Paul Tucker, a close friend of Hull, drove by Plaintiff's house while his ex-wife was present and tried to cause trouble with Plaintiff's friend, the female dispatcher by calling her out of the blue and telling her Plaintiff's ex-wife was at his house;
- e. When Plaintiff confronted Tucker about his actions, Tucker called Hull and Hull went to Sheriff Walton advising that Plaintiff was causing trouble and that his relationship was interfering with his work;
- f. Hull told the mother of the female dispatcher that Plaintiff was a liar and untrustworthy;
- g. Plaintiff was advised that RCSO officers began talking about Plaintiff constantly behind his back, calling him a liar;
- h. Officers accused Plaintiff of making up the fact that he was shot at while involved in a pursuit as an enforcement officer in Houston;
- i. Hull began following Plaintiff for no reason;
- j. Hull accused Plaintiff of lying regarding a blood draw taken during a DUI stop – Hull said Plaintiff had taken it on the side of the road when he had not;
- k. Hull and other RCSO officers unfairly berated Plaintiff for ticketing a woman for failing to signal a turn – a ticket officers routinely hand out; the only reason the officers berated Plaintiff was because the woman complained to the County – Hull called the ticket a “chicken-s*** ticket;”
- l. Hull and other RCSO officers unfairly berated Plaintiff for issuing tickets for failure to dim lights, tickets officers often hand out, accusing Plaintiff of writing “chicken-s*** tickets;”
- m. In January of 2013, Plaintiff wrote a report of a pursuit he was involved in and turned it in to RCSO Lieutenant Norman and Sergeant Mike Clark.

Two (2) weeks later, Plaintiff suffered an accidental on-the-job injury compensable under the Oklahoma Workers' Compensation Act. Norman contacted Plaintiff while he was off work because of his injuries to ask about the report and said the district attorney's office needed it. Plaintiff reminded Norman that he had turned it in. Norman said the report was nowhere to be found and the district attorney's office was forced to dismiss the case as a result. Thereafter, Hull "found" the report in Plaintiff's in-box. Plaintiff believes Hull took the report from Plaintiff's in-box and hid it in order to get Plaintiff disciplined.

- n. After Plaintiff's on-the-job injury, Hull accused Plaintiff of not really being hurt and not really being injured while working. Hull took it upon himself to investigate the circumstances of Plaintiff's injury, a task that is outside of his responsibilities as Plaintiff's supervising captain.
- o. In February of 2013, Plaintiff was ordered by Sheriff Walton to cooperate with a private investigator who was allegedly investigating the Sanders incident that had occurred the previous summer. The investigator asked Plaintiff few questions about Hull and spent the majority of the interview asking about Plaintiff's personal life and history. Plaintiff believes the investigator had been instructed by Sheriff Walton, who was good friends with Hull, to find out information that could be used to exonerate Hull so that other cases in which Hull was involved would not be negatively impacted by his actions in the Sanders matter.
- p. Hull advised other officers and RSCO staff members on numerous occasions that Plaintiff was lying about work-related matters, even after the matters at issue were independently verified.
- q. The abuse that Plaintiff was put through by his fellow officers and supervisors at the RCSO was so bad it caused him extreme distress and anxiety that affected his work.
- r. Plaintiff had numerous conversations with his supervisor, Undersheriff Jon Sappington, about the mistreatment he was receiving. Sappington acknowledged that Plaintiff was being treated unfairly but refused and failed to take any responsive measures.

40. The abuse escalated throughout 2012 and into 2013 as part of continuous chain of harassment in retaliation for Plaintiff's statements in June of 2012.

41. Plaintiff complained to his supervisors about his mistreatment and abuse by Hull and other RCSO officers. Nothing was done about the situation.

42. To the best of Plaintiff's knowledge and belief, during all times relevant hereto, Sheriff Walton was personally involved in all promotion, demotion and termination personnel decisions with respect to RCSO employees.

43. In March of 2013, Plaintiff was given a partial release from his doctor from the work-restrictions implemented as a result of Plaintiff's January 2013 on-the-job injury. The partial release allowed Plaintiff to return to work but seriously limited the use of his right arm and shoulder (the body parts he had injured when he had helped a young woman push her car off the roadway when it had stalled).

44. Plaintiff was placed on light duty and told that his responsibilities would include exclusively watching the security camera footage in the courthouse. He was told he could call other officers to investigate any incidents he observed. He was told he would be inside monitoring video in a private security office and to wear civilian dress

45. When Plaintiff arrived at the courthouse for his shift, he was ordered instead to guard an area, outside, where construction work was being performed. Plaintiff was hesitant to do so because if an incident arose, he would be obligated to handle it himself, which would require use of his injured arm and shoulder. Nonetheless, Plaintiff did as he was directed.

46. During Plaintiff's guard shift, an altercation arose wherein Plaintiff was forced to use his right arm and shoulder. Plaintiff complained to his supervisor that the work he was being directed to perform did not comply with his work restrictions. Plaintiff was told that he "needed to get back in a [patrol car], or else," meaning that Plaintiff needed to get a full release from his doctor or his job as a patrol officer was in jeopardy.

47. Plaintiff was released by his doctor within days thereafter and advised his supervisors of this fortuitous turn of events.

48. Instead of allowing Plaintiff to return to patrol, Plaintiff was advised that Undersheriff Sappington and Sheriff Walton had discussed Plaintiff's employment and that they had jointly decided that Plaintiff would not be permitted to return to patrol. Plaintiff was advised that he could go back to working detention in the jail but that he would *never* be allowed to return to patrol. Plaintiff asked why he was being demoted in this way but he was not provided with any explanation.

49. Plaintiff knew that if he accepted the demotion to detention, it would be very difficult for him to get a patrol job with another law enforcement agency and it was likely that, given the way he was being treated, the RCSO would continue to mistreat him and eventually find a reason to terminate him.

50. As such, Plaintiff was forced to constructively discharge on May 28, 2013.

51. Based upon information and belief, Walton, Sappington, Tucker and Hull conspired together for Plaintiff's demotion and constructive termination in retaliation for Plaintiff's reporting of Hull's illegal behavior and for Plaintiff's pursuance of the rights he is entitled to under the Oklahoma Workers' Compensation Act, 85 O.S. § 341, *et seq.*

Causes of Action

I. Violation of Plaintiff's Federal Civil Rights – 42 U.S.C. § 1983

**(As to Defendants Walton, in his individual and official capacities,
Sappington, Hull and Tucker)**

52. Paragraphs 1-51 are incorporated herein by reference.

53. Under the First Amendment to the United States Constitution, Plaintiff has a federally protected right of free speech.

54. Defendants violated and deprived Plaintiff of his rights under the First Amended to the United States Constitution by attempting to coerce him into lying about the Sanders search to protect Adam Hull and by retaliating against him for telling the truth.

55. The actions of Defendants in so violating and depriving Plaintiff of his rights were made under color of state law.

56. Plaintiff is entitled to actual damages for Defendants' violations, and for punitive damages from Defendants Walton, Sappington, Tucker and Hull.

II. Violation of Plaintiff's State Constitutional Rights

(As to all Defendants)

57. Paragraphs 1-56 are incorporated herein by reference.

58. Art. 2, § 22 of the Oklahoma Constitution grants Plaintiff the right to freely speak, write or publish his sentiments on all subjects.

59. Defendants violated and deprived Plaintiff of his rights conferred under the Oklahoma Constitution.

60. The actions of Defendants in so violating and depriving Plaintiff of his rights were made under color of state law.

61. Defendant Walton, in his official capacity, and/or Rogers County are vicariously liable for the violation of Plaintiff's rights under the Oklahoma Constitution by employees of the RCSO pursuant to *Bosh v. Cherokee County*, 2013 OK 9.

62. Plaintiff is entitled to actual damages for Defendants' violations, and for punitive damages from Defendants Walton, Sappington, Tucker and Hull.

III. Intentional Infliction of Emotional Distress

(As to all Defendants)

63. Paragraphs 1-62 are incorporated herein by reference.

64. Defendants' above described actions in the setting in which they occurred were so extreme and outrageous as to go beyond all possible bounds of decency and would be considered atrocious and utterly intolerable in a civilized society.

65. Defendants' intentionally and/or recklessly caused severe emotional distress to Plaintiff beyond that which a reasonable person could be expected to endure.

66. As a result of Defendants' actions, Plaintiff has sustained personal injuries including mental and physical pain and suffering and other actual damages in excess of \$75,000.00.

IV. Wrongful Termination in Violation of Okla. Stat. tit. 74 § 840-2.5 – Whistleblower Act – under the *Burk* Public Policy Tort

(As to Defendant Rogers County and/or Defendant Walton in his Official Capacity)

67. Paragraphs 1-66 are incorporated herein by reference.

68. Defendant's decision to terminate Plaintiff from his position as patrol officer and demote Plaintiff to detention officer was made on the basis of Plaintiff's reports of Defendant Hull's violation of Oklahoma law, and Defendants' Walton, Sappington, Tucker and Hull's mismanagement and abuse of authority.

69. As a result of Defendants' treatment of Plaintiff and the decision to demote Plaintiff to detention officer, Plaintiff was terminated from his position as patrol officer and constructively discharged from his employment with RCSO.

70. The purpose of Oklahoma’s Whistleblower Act is to “encourage and protect the reporting of wrongful government activities and to deter retaliation against state employees for reporting those activities.” Okla. Stat. tit. 74, § 840-2.5.

71. The Whistleblower Act does not create a private right of action on which to base a retaliatory discharge claim. As such, Plaintiff brings his claims under *Burk* for his wrongful discharge for reporting illegal behavior of his supervisor, as contemplated in the Whistleblower Act.

72. Oklahoma common law recognizes a clear public policy exception to the termination of an at will employee. Known as a *Burk* Tort, the Oklahoma Supreme Court recognized in *Burk v. K-Mart*, 770 P.2d 24 (Okla. 1989), that an employee who is discharged for refusing to act in violation of an established and well-defined public policy or for performing an act consistent with a clear and compelling public policy may bring a tort claim for wrongful discharge. In recognizing and reporting his supervisor’s illegal conduct, Plaintiff’s actions were clear and consistent with compelling state public policies.

73. At all times relevant to this Petition, Plaintiff was an at-will state employee for RCSO.

74. The termination of an employee whose actions are consistent with the Whistleblower Act is a public policy concern upon which a *Burk* tort may be based.

V. Wrongful Termination in Violation of the Oklahoma Workers’ Compensation Act, 85 O.S. § 301, et seq

(As to Defendant Rogers County and/or Defendant Walton in his Official Capacity)

75. Paragraphs 1-74 are incorporated herein by reference.

76. Plaintiff sustained an accidental injury arising out of and in the course of his employment while working for Defendant RCSO.

77. Defendant RCSO subsequently discriminated against Plaintiff and terminated him from his position of employment for exercising the rights afforded to him under the Oklahoma Workers' Compensation Act, Okla. Stat. tit. 85, § 301, *et seq.*

78. The discrimination against and termination of Plaintiff was in direct violation of Oklahoma law. More specifically, said policy and act of termination violates 85 O.S. § 341.

79. As a result of this wrongful termination, Plaintiff has suffered considerable damages, including but not limited to lost wages and other actual damages in excess of \$75,000.00.

WHEREFORE, based on the foregoing, Plaintiff prays that this Court grant him the relief sought including, but not limited to, actual damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), with interest accruing from the date of filing suit, punitive damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), reasonable attorney fees, and all other relief deemed appropriate by this Court.

Respectfully submitted,

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