

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DAVIN HACKETT,)	
)	
Plaintiff,)	
)	
v.)	
)	
CITY OF SOUTH BEND, acting by and)	
through its Police Department, and)	Cause No. 3:17-cv-278
RONALD TEACHMAN, Individually and)	
in his official capacity as Chief of Police,)	
and SCOTT RUSZKOWSKI, Individually)	
and in his official capacity as Chief of)	
Police,)	
)	
Defendants.)	

COMPLAINT

Plaintiff Davin Hackett, by counsel, respectfully makes his Complaint for Damages.

Nature of Case

1. Plaintiff seeks to vindicate his rights under Uniformed Services Employment and Reemployment Act and the Equal Protection Clause of the Fourteenth Amendment due to discrimination based on his race.

Jurisdiction

2. This Court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. § 1331 and § 1343. Plaintiff's causes of action arise under the Equal Protection Clause of the Fourteenth Amendment and the

Uniformed Services Employment and Reemployment Act, 38 U.S.C. §§ 4301–4335.

3. Venue is proper in the South Bend Division because all parties reside in this division and the events complained of occurred in this division.
4. Hackett received a Right to Sue letter regarding the failure to promote him on March 28, 2017.

Parties

5. Davin Hackett (African-American male) is an adult citizen of the United States who resides in South Bend, Indiana.
6. The City of South Bend is a government unit located in St. Joseph County, Indiana. It operates the South Bend Police Department.
7. Ronald Teachman (Caucasian male), is an adult citizen of the United States who resides in South Bend, Indiana. He is sued individually and in his capacity as Chief of the South Bend Police Department.
8. Scott Ruskowski (Caucasian male) is an adult citizen of the United States who resides in South Bend, Indiana. He is sued individually and in his capacity as Chief of the South Bend Police Department.

Facts

9. Davin Hackett (“Hackett”) has been employed by the South Bend Police Department (“SBPD”) as a sworn police officer since November 6, 2006.
10. Hackett performed exemplary police work, receiving numerous commendations.

11. Prior to becoming a police officer, Hackett was enlisted in the U.S. Navy from July 29, 1997 to July 30, 2001, in the U.S. Army from August 1, 2001 to January 2003, and Navy Reserve from January 2003 to June 2005, and the U.S. Air Force from July 2005 to the present.
12. Hackett's job duties in the military consisted of work as an ordnance technician, in which he would load and unload bombs, missiles, and artillery shells onto airplanes and other vehicles. His duties included storing, testing, and maintaining bombs and other munitions.
13. In each case his separation from military service was an honorable discharge.
14. Once he left the military and was employed at SBPD, Hackett applied to in June 2014 be assigned to SBPD's bomb squad.
15. Hackett's application to the bomb squad was denied.
16. The reasons given for the denial was that his military status might cause him to be absent for necessary training and callouts.
17. In August 2015 he filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") regarding the denial.
18. Hackett lodged a similar complaint about discrimination on the basis of race and military status with the U.S. Department of Labor.
19. On November 6, 2016 Hackett was informed by the Department of Labor that SBPD had agreed to assign him to the bomb squad.
20. Since then, however, has never been trained with the bomb, squad, called out on a bomb squad assignment, participated in any bomb squad activities, or received additional pay for performance of bomb squad duties.

21. In 2015 SBPD posted openings for three positions of patrol Sergeant and Hackett applied.
22. Chief of Police Ronald Teachman passed over Hackett for promotion in favor of three less qualified white officers.
23. Hackett filed a Charge of Discrimination with the EEOC on October 20, 2015 due to Teachman's failure to promote him.
24. In August 2016 Hackett applied for the position of logistics Sergeant. The logistics Sergeant works with SBPD's armaments and other equipment, a position for which Hackett's military training made him particularly well qualified.
25. Chief of Police Scott Ruskowski passed over Hackett on September 19, 2016 in favor of a less qualified white candidate.
26. Since filing his complaints about discrimination on the basis of his race and military status, Chiefs Teachman and Ruskowski retaliated against Hackett by subjecting him to a battery of unjustified investigations and discipline.
27. At all times Teachman acted in the scope of his employment by the City of South Bend and under color of Indiana law.
28. At all times Ruskowski acted in the scope of his employment by the City of South Bend and under color of Indiana law.

Legal Claims

29. Teachman and Ruskowski's failure to assign Hackett to the bomb squad and permit him to perform his duties there constitute discrimination on the basis of his military status in violation of 38 U.S.C. §§ 4301–4335.

30. Teachman and Ruskowski's failure to promote Hackett to Sergeant on two separate occasions in favor of less qualified Caucasian males constitutes discrimination on the basis of his race in violation of the Equal Protection Clause of the Fourteenth Amendment and Title VII of the Civil Rights Act of 1964.
31. The unjustified discipline imposed on Hackett following his several charges of constitutes retaliation for protected activity under Title VII of the Civil Rights Act of 1964.

Relief

32. Plaintiff seeks all relief allowable by law, including back pay, front pay, reinstatement, and compensatory and punitive damages, and attorneys fees.

WHEREFORE, Plaintiff prays that the Court will enter judgment against Defendants and in favor of Plaintiff, and grant Plaintiff all just and proper relief.

Respectfully submitted,

/s/ Jeffrey S. McQuary, 16791-49
BROWN TOMPKINS LORY
608 E. Market Street
Indianapolis, IN 46202
317/631-6866

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Indiana

Davin Hackett

_____) *Plaintiff(s)*

v.

Civil Action No.

3:17-cv-278

CITY OF SOUTH BEND, acting by and)
through its Police Department, and)
RONALD TEACHMAN, Individually and)
in his official capacity as Chief of Police,)
and SCOTT RUSZKOWSKI, Individually)
and in his official capacity as Chief of)
Police, _____)

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: THE CITY OF SOUTHBEND
701 West Sample Street
South Bend, IN. 46601

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey S. McQuary
608 East Market Street,
Indianapolis, IN. 46204
Phone: (317)-631-6866

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

' I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

' I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____ a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

' I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

' I returned the summons unexecuted because _____; or

' Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

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and in his official capacity as Chief of)
Police,)

_____)
Defendant(s)

SUMMONS IN A CIVIL ACTION

To: RONALD TEACHMAN
701 West Sample Street
South Bend, IN. 46601

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey S. McQuary
608 East Market Street,
Indianapolis, IN. 46204
Phone: (317)-631-6866

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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' I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____ a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

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and SCOTT RUSZKOWSKI, Individually)
and in his official capacity as Chief of)
Police, _____)

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: SCOTT RUSZKOWSKI
701 West Sample Street
South Bend, IN. 46601

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey S. McQuary
608 East Market Street,
Indianapolis, IN. 46204
Phone: (317)-631-6866

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

USDC IN/ND case 3:17-cv-00278-RLM document 1-4 filed 04/11/17 page 1 of 1

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DAVIN HACKETT

(b) County of Residence of First Listed Plaintiff

St. Joseph

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jeffrey S. McQuary

608 East Market Street, Indianapolis, IN. 46202

(317)-631-6866

DEFENDANTS

City of South Bend, Ronald Teachman, and Scott Ruskowski

County of Residence of First Listed Defendant

St. Joseph

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

'1 U.S. Government Plaintiff

'3 Federal Question
(U.S. Government Not a Party)

'2 U.S. Government Defendant

'4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State of Business In This State	'1		1 Incorporated or Principal Place of Business In Another State	'4	'4
Citizen of Another State	'2		2 Incorporated and Principal Place of Business In Another State	'5	'5
Citizen or Subject of a Foreign Country	'3		3 Foreign Nation	'6	'6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
'110 Insurance '120 Marine '130 Miller Act '140 Negotiable Instrument '150 Recovery of Overpayment & Enforcement of Judgment '151 Medicare Act '152 Recovery of Defaulted Student Loans (Excludes Veterans) '153 Recovery of Overpayment of Veteran's Benefits '160 Stockholders' Suits '190 Other Contract '195 Contract Product Liability '196 Franchise	PERSONAL INJURY '310 Airplane '315 Airplane Product Liability '320 Assault, Libel & Slander '330 Federal Employers' Liability '340 Marine '345 Marine Product Liability '350 Motor Vehicle '355 Motor Vehicle Product Liability '360 Other Personal Injury '362 Personal Injury - Medical Malpractice	PERSONAL INJURY '365 Personal Injury - Product Liability '367 Health Care/Pharmaceutical Personal Injury Product Liability '368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY '370 Other Fraud '371 Truth in Lending '380 Other Personal Property Damage '385 Property Damage Product Liability	'625 Drug Related Seizure of Property 21 USC 881 '690 Other LABOR '710 Fair Labor Standards Act '720 Labor/Management Relations '740 Railway Labor Act '751 Family and Medical Leave Act '790 Other Labor Litigation '791 Employee Retirement Income Security Act IMMIGRATION '462 Naturalization Application '465 Other Immigration Actions	Click here for: Nature of Suit Code Descriptions. '422 Appeal 28 USC 158 '423 Withdrawal 28 USC 157 PROPERTY RIGHTS '820 Copyrights '830 Patent '840 Trademark SOCIAL SECURITY '861 HIA (1395ff) '862 Black Lung (923) '863 DIWC/DIWW (405(g)) '864 SSID Title XVI '865 RSI (405(g)) FEDERAL TAX SUITS '870 Taxes (U.S. Plaintiff or Defendant) '871 IRS—Third Party 26 USC 7609 '375 False Claims Act '376 Qui Tam (31 USC 3729(a)) '400 State Reapportionment '410 Antitrust '430 Banks and Banking '450 Commerce '460 Deportation '470 Racketeer Influenced and Corrupt Organizations '480 Consumer Credit '490 Cable/Sat TV '850 Securities/Commodities/Exchange '890 Other Statutory Actions '891 Agricultural Acts '893 Environmental Matters '895 Freedom of Information Act '896 Arbitration '899 Administrative Procedure Act/Review or Appeal of Agency Decision '950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
'210 Land Condemnation '220 Foreclosure '230 Rent Lease & Ejectment '240 Torts to Land '245 Tort Product Liability '290 All Other Real Property	'440 Other Civil Rights '441 Voting '442 Employment '443 Housing/Accommodations '445 Amer. w/Disabilities - Employment '446 Amer. w/Disabilities - Other '448 Education	Habeas Corpus: '463 Alien Detainee '510 Motions to Vacate Sentence '530 General '535 Death Penalty Other: '540 Mandamus & Other '550 Civil Rights '555 Prison Condition '560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

'1 in Original Proceeding	'2 Removed from State Court	'3 Remanded from Appellate Court (specify)	'4 Reinstated or Reopened	'5 Transferred from Another District	'6 Multidistrict Litigation - Transfer	'8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C § 1983

VI. CAUSE OF ACTION

Brief description of cause:

False arrest and illegal search

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: 'Yes 'No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 14 April 2017 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY