

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

MICHAEL BILLIONI,

Plaintiff,

vs.

SHERIFF BRUCE BRYANT,
YORK COUNTY, YORK COUNTY
DETENTION CENTER, AND
YORK COUNTY SHERIFF'S OFFICE,

Defendants.

CASE NO. 0:14-cv-03060-JFA
COLLECTIVE ACTION COMPLAINT
(JURY TRIAL REQUESTED)
(EMPLOYMENT/FLSA)

Plaintiff, Michael Billioni, individually and on behalf of himself and all other similarly situated individuals, by way of the following Complaint in the above-captioned matter, allege and show unto this Honorable Court the following:

NATURE OF CLAIMS

1. This is an employment civil rights case involving deprivations of rights contained in the First and Fourteenth Amendment and of the U.S. Constitution, made actionable pursuant to 42 U.S.C. § 1983; as well as violations of State and Federal public policy laws.

2. Plaintiff alleges violations of the State law and policy under the state Whistleblowers Statute, SC Code Ann § 8-27-10 *et seq* (Supp 1995); and retaliation in violation of public policy.

3. Plaintiff also brings this lawsuit seeking recovery against Defendants for Defendants violation of the Fair Labor Standards Act, as amended (the “FLSA” or the “Act”), 29 U.S.C. §201 et. seq.

4. Plaintiff brings this lawsuit against Defendants as a collective action, pursuant to the collective action provisions of 29 U.S.C. § 216(b), on behalf of themselves and all other similarly situated employees who suffered damages as a result of Defendants’ violations of the overtime compensation provisions of the FLSA.

PARTIES, JURISDICTION AND VENUE

5. Plaintiff, Michael Billioni, is a citizen and a resident of York County, South Carolina and at all times relevant to this complaint he was employed as a detention officer at the York County Detention Center.

6. York County provides governmental services for the citizens of the County. The County Council is the governing body. The County Manager, who is appointed by the Council, directs daily operations.

7. York County Sheriff’s Office is responsible for law enforcement, corrections, and court services within the county. The Sheriff, who is an elected official, oversees and directs the daily operations.

8. The York County Detention Center houses persons arrested in York County by local law enforcement. The Detention Center houses individuals for short periods, particularly people awaiting trial or sentence.

9. The York County Detention Center is staffed by the York County Sheriff’s Office. The York County Council issues the paychecks for employees of the York County Detention Center and the York County Sheriff’s Office.

10. Plaintiff brings suit against Bruce Bryant, in his individual and official capacity as Sheriff of York County.

11. Upon information and belief, at all times relevant to this complaint, York County, York County Sheriff's Office, York County Detention Center, and Sheriff Bruce Bryant, hereinafter referred to as York County Defendants, employ persons such as Plaintiff to work on its behalf in providing labor for its benefit.

12. At all times material hereto, Plaintiff performed non-exempt duties for the York County Defendants within the jurisdiction and venue of this Court.

13. Venue is proper in this District because the York County Defendants have conducted substantial, continuous, and systematic governmental activities in the Rock Hill Division of this Court. Additionally, the unlawful labor practices and policies giving rise to Plaintiff's claims were, for the most part, committed in this Division of the Court.

14. This Court has jurisdiction of the claims alleged herein, of the FLSA claim per 28 U.S.C. § 1331, and 42 U.S.C. § 1983.

15. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367 over Plaintiff's pendent claims, which are brought pursuant to the statutory and common law of the State of South Carolina. The pendent claims arise out of the same transaction or occurrence as the federal claims alleged herein.

FACTS

16. At all times relevant to this action, Michael Billioni was employed as a detention officer at the York County Detention Center, from November 8, 2010 until he was terminated on October 25, 2013.

17. Plaintiff's primarily job responsibilities were to provide protective service work, ensuring the care and secure detention of inmates at the Defendants' facility.

18. At the time of termination, Plaintiff earned \$16.73 per hour

19. Plaintiff spent much of his career in law enforcement, having six (6) years total in the profession.

20. Plaintiff was promoted and received several merit increases during the course of his employment with the Defendants.

21. In March of 2012, Plaintiff was promoted to the position of Master Control Specialist. His primary responsibility in this position required him to coordinate the ingress and egress of all personnel and visitors to the Detention Center.

22. Plaintiff had a good record and has received no disciplinary actions after being promoted to Master Control Specialist.

23. In the early morning hours of October 20, 2013 a inmate by the name of Joshua Matthew Gross died in custody after being forced into and restrained for several hours in the "prisoner restraint chair".

24. A "prisoner restraint chair" is a metal-framed chair in which prisoners are immobilized in four-point restraints securing both arms and legs, with a strap across the chest.

25. The use of the prisoner restraint chair at the York County Detention Center, coupled with inadequate training of and supervision by detention officers in the use of the chair has caused injury and even death of the inmates.

26. The "prisoner restraint chair", per the manufacturer's instruction is intended for use for short periods of time. "The restraint chair" is not intended as the solution to the problem rather it is intended as a short-term intervention in a larger treatment plan.

27. Chief of the Detention Center, Freddie Arwood, informed the public at a press conference on November 12, 2013 when asked by a reporter how often the prisoner restraint chair is used, “It is not uncommon to use the restraint chair four or five times a week it just varies . . . just depends like we deal with all walks of life from trespass to public disorderly conduct to like this individual.” <http://www.youtube.com/watch?v=uUcSAWe1AWQ> November 12, 2013 Press Conference. (58:35-59:09 in the video).

28. Upon information and belief, Mr. Gross was the second inmate in recent years with a history of mental illness to die in custody at York County Detention Center after being restrained in the prisoner restraint chair. On May 10, 2006, Jeff Waddell, had an epileptic seizure and was permitted to choke on his own vomit while in the “prisoner restraint chair” under the supervision and with the knowledge of the York County Defendants.

29. Approximately 6 weeks prior to Mr. Gross’s death on August 31, 2013, William Joseph Blinn was found hanging from a light fixture with a bed sheet knotted around his neck while in custody at the York County Detention Center.

30. Given the history of inmate deaths under their supervision, the York County Defendants were on notice and subject to a higher degree of public scrutiny.

31. On the same day as Mr. Gross’s death, the Defendants, acting on their own accord, initiated a press conference to inform the public about Mr. Gross’s death while in custody.

32. At the press conference, Public Information Officer, Trent Faris, responded to a question from a reporter regarding whether any detention officers had been placed on administrative leave in connection with Mr. Gross’s death, Faris stated: “all our officers did

exactly what they were supposed to”. <http://www.youtube.com/watch?v=ljJjT7uQgqA>. (4:49 in the video) October 20, 2013 Press Conference.

33. Upon information and belief, Officer Farris was advised on how to respond to inquiries by the media regarding Mr. Gross’s death by the York County Defendants; in addition, Officer Farris, as Public Information Officer, was acting under their authority and on behalf of all York County Defendants.

34. The Plaintiff was not “on duty” when Mr. Gross was in custody and he had no official responsibilities regarding Mr. Gross or role in the investigation that followed.

35. October 21, 2013, Plaintiff reported to work as scheduled. Plaintiff, along with other detention officers, who were working the shift, were interested in the events that lead to Mr. Gross’s death so they viewed the video footage of Mr. Gross in the prisoner restraint chair.

36. The Plaintiff would not have been derelict in his duties for not watching the video.

37. The video depicted Mr. Gross being placed in the prisoner restraint chair by approximately six (6) officers. While three (3) officers were placing Mr. Gross in the restraint chair, a fourth officer, struck Mr. Gross with a closed fist about his abdomen and arms approximately 10 to 12 times. In addition, the video showed the prisoner restraint chair was purposefully tied to the door in a position in order to allow Mr. Gross to repeatedly strike his head on the wall.

38. Plaintiff was extremely disturbed by the video. It was Plaintiff’s belief that the Defendants violated policies and procedures by repeatedly striking Mr. Gross while he was restrained. Furthermore it was Plaintiff’s belief that tying the restraint chair to the door in a position that allowed Mr. Gross to repeatedly bang his head on the wall was also a violation of

policies and procedures. The Plaintiff believed the Defendants were being less than forthright with the public at the press conference by stating, “all our officers did exactly what they were supposed to”.

39. The Plaintiff was concerned because he was under the belief that the Officer who was seen striking Mr. Gross in the video had previously been disciplined for assaulting another inmate in the restraint chair and he believed this Officer presented a potential danger to other inmates and that the York County Defendants were attempting to cover it up.¹

40. Plaintiff returned home after his shift and, being distraught while off duty, advised his wife that he was upset over the death of Mr. Gross and that the tape was disturbing. He also relayed that he felt that the policies and procedures attendant to that type of situation were not followed and that the Defendants were being less than forthright with the public. Plaintiff was exercising his right as a private citizen when he spoke with his wife about his concerns.

41. Plaintiff’s spouse is a research analyst at a local media outlet. Her primary job duties include researching Neilson ratings for the purpose of selling advertising time. Plaintiff’s spouse is not a reporter or a journalist. Plaintiff’s spouse, on her own accord, sent an email to a news director at the station generally suggesting that he investigate the recent death at the jail. Upon information and belief, the news director assigned the story to an investigative reporter who submitted a Freedom of Information Act (herein after FOIA) request for the video, a standard request or function of a reporter. Upon information and belief, Defendants have not complied with this FOIA request.

¹Plaintiffs’ counsel served the Defendants with a FOIA request for the personnel file of the Officer who is seen striking Mr. Gross in the video. The records disclosed to counsel indicate, on 2/25/2013 “Upon conclusion of an internal investigation, employee is found in violation of policy and procedure 100.14 III B. 8

42. The York County Defendants have a policy and practice of withholding information pursuant to the FOIA.²

43. Note that the media was aware independently of a previous incident at the York County Detention Center involving the same chair. See. <http://www.wenc.com/news/local/Two-York-inmates-die-in-same-restraint-chair-230915791.html>

44. Plaintiff came to work the evening of October 22, 2013 and at approximately 6:50 p.m. was called into the Chief Jail Administrator's conference room and formally placed under investigation, for allegedly "leaking information".

45. The afternoon of October 25, 2013, Plaintiff was required to meet at the Detention Center with a SLED Agent. During the interrogation, Plaintiff was required to make a written report summarizing what he believed to be wrong doing on the part of the York County Defendants.

46. Plaintiff was advised specifically by SLED that he had broken no rules or laws by speaking with his spouse and by writing the report, setting forth and informing SLED of the rules and policy violations by co-workers and his employer.

47. As a result of report, Chief Arwood terminated the Plaintiff later that day.

48. Chief Arward was acting under the instruction and authority of Sheriff Bryant when he terminated Plaintiff.

49. Chief Arwood told Plaintiff he had a choice, to resign immediately or be terminated.

50. Plaintiff was upset, was isolated and was not given time to think about the situation or to contact his spouse or other support. Plaintiff told Chief Arwood he was concerned

² *Burton v York County Sheriff's Dep't* 358 SC 339 (Ct App 2004). (The Court held York County Sheriff's Department clearly violated the provisions of FOIA by withholding non-exempt documents that were the subject of a legitimate request)

about his family's welfare and that if he resigned he would forfeit his right to unemployment benefits.

51. Chief Arwood immediately presented Plaintiff with a prepared letter of termination, dismissing him from employment for alleged violations of Code of Ethics and Employee Rules of Conduct; Confidential Information. Attached as Exhibit 1.

52. Plaintiff did not receive unemployment benefits. Upon Information and belief the Defendants further retaliated against the Plaintiff and his spouse by submitting paperwork to the SC Department of Employment and Work Force requesting that Plaintiff's unemployment benefits be denied.

53. Plaintiff and his spouse were exercising their right to petition the government to readdress matters of public concern, which is guaranteed to any citizen in a democratic society regardless of his status as a public employee.

54. At no time did the Plaintiff or his spouse disclose confidential or privileged information to the media.

55. Plaintiff spoke to his wife as a private citizen on a matter of public concern and therefore the First Amendment protected his speech.

56. Plaintiff spoke out as a citizen involving a matter of public concern, rather than as an employee about a matter of personal interest.

57. Plaintiff submitted a full report to SLED, the appropriate authority for notification of such wrongful activities.

58. Plaintiff had an expectation of continued employment with York County based upon its policies and procedures and based upon his experience with the Department in dealing with similarly situated officers.

59. The Defendants had a policy prohibiting retaliation against citizens and employees, and Plaintiff had a right to rely on that policy in his capacity as a citizen and employee.

60. Plaintiff was not afforded a hearing or forum to object to the termination.

61. In addition to terminating the Plaintiff, the Defendants retaliated against Plaintiffs through their efforts to have the Department of Employment and Workforce (DEW) deny the Plaintiff unemployment benefits.

62. It was well established at the time of Sheriff Bruce Bryant's actions that the First Amendment prohibited him from retaliating against Plaintiff for exercising his right as a citizen to expose misconduct.

63. Additionally, it is clearly established law of this Circuit since 2009 that an employee's speech as a citizen regarding serious misconduct in a law enforcement agency is protected. Any reasonable official in Sheriff Bruce Bryant's position would have realized that he would violate the Constitution if he retaliated against an employee for speaking as a citizen on a matter of public concern.

64. After terminating Plaintiff, Sheriff Bryant has continued to cover up and mischaracterize the events that led to the deaths of Mr. Gross and Mr. Wadell while withholding relevant information pursuant to FOIA.

65. In a press conference on November 12, 2013 Sheriff Bryant stated, "I will tell you this, I have not found any wrong doing on any officers part in this organization on this case and even on the other case". <http://www.youtube.com/watch?v=uUcSAWe1AWQ> (53:17-53:48 in the video). November 12, 2013 Press Conference.

66. Furthermore at the press conference Sheriff Bryant told reporters "If any of you can show me where we did anything to cause this man's death, I challenge you, and you go out and report it that man and everything that we did and I am going to tell you this, I call it heroic". (51:27-51:47 in video).

67. Sheriff Bryant's actions of terminating Plaintiff had a "chilling" effect on any and all county employees who otherwise may wish to speak out against alleged misconduct of inmates and/or in support of Plaintiff.

68. The practices of the York County Defendants regarding the prisoner restraint chair present a potential danger to the public. If not for the Plaintiff, the public would have no reason to doubt the version of events presented by the Sheriff or to question the abuses regarding the prisoner restraint chair.

69. The Plaintiff was acting as a citizen to expose alleged official malfeasance to broader scrutiny. A reasonable official could not have believed under these circumstances that his actions of terminating the Plaintiff were lawful. The York County Defendants and Sheriff Bryant in particular, had fair and clear warning of what the Constitution requires.

70. Sheriff Bruce Bryant's makes day-to-day decisions with regard to the Sheriff's Office. He also makes policy in conjunction with County Manager and County Council on prison matters, personnel matters, and law enforcement policy matters. He oversees employees' job performance and has the responsibility for the selection, performance evaluation, training, and discipline of the Department's staff. Sheriff Bruce Bryant makes decisions pertaining to law enforcement for York County that are routinely endorsed and effectuated by the County Manager, and County Council.

71. York County effectively adopted Sheriff Bruce Bryant's decisions and policies regarding the violation of Plaintiff's First and Fourteenth Amendment rights, the termination of the Plaintiff, retaliation, and the policies on use of the prisoner restraint chair.

72. Through the above stated actions the York County Defendants have violated the Plaintiff's civil rights, involving deprivations of rights contained in the First and Fourteenth Amendment of the U.S. Constitution as well as public policy of this State and the United States.

73. Plaintiff has always had an excellent reputation within the law enforcement community and during the course of his career he has worked for several different law enforcement agencies.

74. Since being terminated, Plaintiff has been unable to obtain similar employment within the law enforcement community, despite each making attempts with other local agencies.

75. As a result of York County Defendants' retaliatory actions, Plaintiff has been unable to obtain comparable employment and suffered loss of income along with other actual damages, and has been forced to seek counsel and incur attorney fees and costs.

76. As a direct and proximate result of the York County Defendants willful actions, the Plaintiff has been damaged in that he lost wages and incurred additional expenses, costs, and attorney's fees as well as experienced mental anguish and trauma, in such amount as to be determined at trial.

77. Plaintiff regularly worked in excess of 171 hours in a 28-day work cycle, and was rarely properly compensated for his overtime hours.

78. At all times relevant to this Complaint, Plaintiff was a non-exempt employee for purposes of the FLSA.

79. The York County Defendants deducted one hour from Plaintiff's compensable time for meal breaks.

80. Plaintiff usually worked approximately twelve hours and thirty minutes per shift (12.5).

81. Plaintiff was not compensated for his meal breaks even though he frequently performed job related responsibilities during his meal break and was largely precluded from using the time for his own purposes.

82. Plaintiff regularly performed the following activities during his meal breaks: retrieving property from the property room, pat-down searches of inmates arriving in the intake area, taking mug-shot photos, fingerprinting and update booking statuses in the computer with bond information.

83. It was a generally accepted practice that in order to advance, detention officers needed to work through meal breaks in other areas of the jail.

84. The Defendants were aware that Plaintiff and other similarly situated officers were regularly working through their meal breaks; this was a practice they promoted and encouraged. The January 2014 Employee of the Month was recognized because, "he almost always uses one of his two daily breaks to work in the booking area or master control room".

<http://www.yorkcountysheriff.com/vcs.aspx?eID=106&iframe=true&height=600&width=800>

85. The York County Defendants did not maintain accurate records of the hours that Plaintiff actually worked and the training that Plaintiff was required to attend.

86. Plaintiff and other similarly situated officers were required to participate in eight (8) hours of mandatory training approximately four (4) times a year on their regularly scheduled

day off. The York County Defendants did not include those hours as time actually worked in the pay cycle when Plaintiff and other similarly situated officers attended the training.

87. Instead, the Plaintiff and other similarly situated officers were compensated for only two hours and thirty minutes (2.5) of the eight (8) hour training session per pay cycle spread out over approximately thirteen (13) pay cycles, effectively depriving them of their overtime compensation.

88. Upon information and belief, these policies and procedures were an attempt by the Defendants to avoid paying the Plaintiff and other similarly situated officers overtime compensation.

FOR A FIRST CAUSE OF ACTION

(Violation of First Amendment Rights – Freedom of Speech)
(42 U.S.C. § 1983)

89. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again here and state, his actions of discussing his concerns regarding improper treatment of an inmate was a protected expression regarding a matter of public concern.

90. No confidential information was disclosed by the Plaintiff to the community as part of his communication.

91. Plaintiff's interest in First Amendment expression as citizens outweighs any disruptive effect that the communications may have created.

92. As a result, the Plaintiff was deprived of his unique and valuable position as detention officer, which he had a reasonable expectation of continuing to possess based upon the York County Defendants' policies, procedures and anti-retaliation rules.

93. As a result of his protected expression on matters of public concern as a citizen, and for seeking redress, the Plaintiff suffered adverse employment action and retaliation by the York County Defendants.

94. The actions complained of herein violated the Plaintiff's right to free speech under the First Amendment of the U.S. Constitution.

95. The York County Defendants violated a clearly established right by retaliating against Plaintiff for exercising his First Amendment rights.

96. In response to voicing his concern as a citizen on a matter of public safety, and seeking redress thereof, Plaintiff was terminated from his employment and then ultimately lost his valuable benefit of public employment.

97. A causal relationship exists between Plaintiff's right to seek redress of grievances as to matters of public concern, and their termination from valuable public employment.

98. The interest in maintaining officer integrity and promoting safety in the detention center for all inmates outweighs any interest of the employer.

99. Sheriff Bruce Bryant is not entitled to qualified immunity because the state of the law at the time he terminated the Plaintiff gave him fair warning that his conduct was unconstitutional.

FOR A SECOND CAUSE OF ACTION
(Whistleblower- SC Code Ann. § 8-27-10)

100. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again herein.

101. The Plaintiff is a public employee covered by SC Code Ann. § 8-27-10 et seq.

102. Plaintiff sought to remedy and make the York County Detention Center safer for inmates and coworkers.

103. Plaintiff felt he had a duty to file a report relaying the improper activities taking place at the Defendant's facility in the form of his statement to SLED.

104. In the report, Plaintiff summarized the nature of the wrongdoing occurring within 60 days of when he became aware of the wrongful acts.

105. Plaintiff filed a well-grounded, good faith report of alleged wrong doing with the appropriate authority.

106. No policy was in place to prohibit such actions.

107. As a result of this "whistle blowing" and refusal to actively participate in a "cover-up" regarding the in-custody deaths of inmates and the wide spread abuse regarding the use of the prisoner restraint chair, Plaintiff was separated from employment due to and in retaliation for the same.

108. Such retaliatory actions by the Defendants are in clear violation of SC Code Ann. § 8-27-10 et seq, which provides that no public body may take retaliatory actions against an employee for reporting or failing to participate in wrongdoing and illegal activities.

FOR A THIRD CAUSE OF ACTION
(Retaliation/Violation of Public Policy)

109. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again herein.

110. Sheriff Bruce Bryant is upon information and belief, the chief decision-maker of the Defendant York County Sheriff's Office and the York County Detention Center.

111. Plaintiff engaged in protected actions to further safety in the detention center.

112. South Carolina and Federal law prohibit termination of employees where they refuse to participate in illegal acts mandated by the employer.

113. By not enforcing rules prohibiting assaults on inmates and rules regarding proper use of the restraint chair, the York County Defendants effectively had a policy that allowed assaults and injury to inmates.

114. This policy is further evidenced by Defendants' termination of Plaintiff for declining to participate in covering up such incidents and Defendants' ensuring that Plaintiff was unable to obtain employment with other law enforcement agencies.

115. The Defendants actions against the Plaintiff violated the rights of the Plaintiff to speak publicly and seek redress regarding public safety at the York County Detention Center.

116. Plaintiff's investigation and forced separation from employment was an act of punishment and in retaliation for Plaintiff's expressions of speech and regarding matters of public safety, protecting and serving the community.

117. Plaintiff's speech was the substantial motivating factor for termination and but for his speech, he would not have been separated from employment.

118. Accordingly, because of the constitutionally offensive and retaliatory acts of York County Defendants in terminating the Plaintiff's employment, Defendants are liable to the Plaintiff for the actions complained of herein.

FOR A FOURTH CAUSE OF ACTION

(Violation of Fourteenth Amendment Rights – Due Process)

(42 U.S.C. § 1983)

119. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again herein.

120. The York County Defendants' act of terminating the Plaintiff was an arbitrary and malicious abuse of power, thereby violating Plaintiff's procedural due process of law as secured

by the Fourteenth Amendment to the Constitution of the United States and constituted a violation of 42 U.S.C. § 1983.

121. The York Defendants, as required by law, did not give Plaintiff, a detention officer, procedural due process protections.

122. Plaintiff was terminated without receiving notice, hearing, an opportunity to be heard, or a meaningful opportunity to contest the allegations against him.

123. Plaintiff was deprived of a protected interest in his property right namely his job.

124. Plaintiff had a protected property interest in continued employment under state and local law.

125. The York County Defendants had policies and practices promulgated and fostered by state officials that justified Plaintiff's entitlement to continued employment absent "sufficient cause".

126. Plaintiff was not given procedural due process to contest the alleged allegations against him.

127. The conduct of the York County Defendants damaged and impugned the good name, reputation, honor, and integrity of Plaintiff, a law enforcement officer, in the State of South Carolina.

128. As a direct and proximate result of York County Defendants' conduct described herein, Plaintiff has been damaged and is entitled to injunctive relief and compensation.

FOR A FIFTH CAUSE OF ACTION
(Wrongful Discharge in Violation of Public Policy)

129. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again herein.

130. Plaintiff's termination from his positions by Defendants was without good cause and said termination constituted a wrongful discharge as follows:

- a. The termination was retaliatory, arbitrary, discriminatory, and unfair in that such termination was not based on a fair, objective, uniform, and reasonable standard.
- b. The termination was in violation of public policy;
- c. The termination constituted intentional and negligent interference by the Defendants with the described employment relationship.
- d. The termination allows the perpetuation of a culture which encouraged the assault, battery, intimidation and harassment of inmates at the Detention Center to the detriment of the community was in violation of public policy; and
- e. The termination of Plaintiff perpetuates a culture, which encouraged the assault, battery, intimidation and harassment of a certain inmates constituted intentional and negligent interference by the Defendants within the described employment relationship.
- f. The termination of the Plaintiff was the result of retaliation for reporting and encouraging the reporting of wrongful behavior of detention officers against inmates at the Detention Center and was in violation of public policy.

131. Wherefore, Plaintiff demand judgment, against the Defendants, for such actual, monetary and punitive damages as the Court finds appropriate, plus costs and attorneys' fees, and such equitable relief as the Court may deem necessary.

FOR A SIXTH CAUSE OF ACTION

(Fair Labor Standards Act–Failure to Pay Overtime Wages)

132. Plaintiff realleges and incorporates by reference all preceding paragraphs as if they were set forth again herein.

133. Plaintiff and the members of the Plaintiff's class are employees of Defendants for purposes of the Fair Labor Standards Act during times relevant to this Complaint. Defendants failed to pay Plaintiff and the members of the Plaintiff's class for all overtime hours.

134. Defendants also failed to pay Plaintiff and the members of the Plaintiff's class for all compensable time for which Plaintiff provided work for the benefit of Defendants.

135. Plaintiff and the members of the Plaintiff's class are entitled to back wages for all overtime hours worked.

136. Plaintiff and the members of the Plaintiff's class are also entitled to an award of back pay at their regular hourly rate or their overtime rate, as appropriate compensation for all time spent in working for Defendants, which was wrongfully excluded by Defendants in calculating their compensable time.

137. The failure of Defendants to compensate Plaintiff for overtime work and for "off the clock hours" as required by the FLSA was knowing, willful, intentional, and done in bad faith.

138. Plaintiff and the members of the Plaintiff's class are also entitled to liquidated damages equal to the amount of overtime compensation and unpaid compensation due to them under the FLSA, pursuant to section 16(b) of the FLSA, 29 U.S.C. § 216(b).

139. The work and pay records of Plaintiff and the members of the Plaintiff's class are in the possession, custody, and/or control of York County Defendants, and Defendants are under a duty pursuant to section 11(c) of the FLSA, 29 U.S.C. § 211(c), and pursuant to the regulations of the United States Department of Labor to maintain and preserve such payroll and other employment records from which the amount of Defendant's liability can be ascertained.

140. Plaintiff requests an order of this Court requiring Defendants to preserve such records during the pendency of this action.

141. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs incurred in prosecuting this action, pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and similarly situated employees who join this action demand:

- a. An affirmative injunction against the York County Defendants, from maintaining false allegations in Plaintiff's personnel file, and disseminating false allegations against the Plaintiff;
- b. Designation of this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216 (b);
- c. Judgment against Defendants for all overtime worked at one and one half times the regular rate of pay;
- d. Entering a Judgment to compensate the Plaintiff for economic and non-economic damages incurred by the Plaintiffs, including but not limited to, the humiliation, stress, mental anguish, embarrassment, and loss of enjoyment of life suffered by the Plaintiff;
- e. Granting punitive damages against the Defendants;
- f. Judgment against York County Defendants that their violation of the FLSA and its implementing regulations were willful;
- g. Liquidated damages in an amount equivalent to the overtime damages owed to Plaintiff;
- h. Leave to add additional plaintiffs by motion, the filing of written consent forms; or any other method approved by the Court;

- i. Leave to amend to add other defendants who meet the definition of Plaintiff's "employer" pursuant to 29 U.S.C. § 203(d);
- l. Injunctive relief to require Defendants to record, report and preserve records sufficient to enable Plaintiff and similarly-situated employees to determine their wages, hours and conditions and practices of employment, including practices regarding deductions and payment and nonpayment of overtime as mandated by the FLSA.
- m. Attorneys' fees and costs; and
- o. All such further relief as the Court deems just and equitable under the causes of action set forth above.

JURY DEMANDED

Plaintiff, Michael Billoni, along with all similarly situated detention officers hereby demands a trial by jury.

Respectfully submitted,
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July 31, 2014
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