

COPY

JEFFERSON CIRCUIT COURT
DIVISION NINE (9)

CASE NO.

15CI05718

JEFFERSON CIRCUIT COURT

DIVISION _____

NATALIE TAYLOR
3900 LaGrange Road
Shelbyville, Kentucky 40065

PLAINTIFF

vs.

COMPLAINT

MIDDLETOWN FIRE
PROTECTION DISTRICT
108 Urton Lane
Louisville, Kentucky 40223

DEFENDANT

SERVE: Jim Yates, Chairperson
Board of Trustees
Middletown Fire Protection District
108 Urton Lane
Louisville, KY 40223

FILED IN CLERK'S OFFICE
DAVID L. NICHOLSON, CLERK
NOV 10 2015
BY _____
DEPUTY CLERK

SERVE: Jeff Riddle, Fire Chief
Middletown Fire Protection District
108 Urton Lane
Louisville, KY 40223

I.

INTRODUCTORY STATEMENT

1. This is a civil action to redress violations of the civil rights of Natalie Taylor ("Taylor"), pursuant to, and consistent with, the provisions of KRS Chapter 344, the Kentucky Civil Rights Act. This civil action seeks declaratory and monetary relief for injuries sustained by Plaintiff Natalie Taylor as a result of the discriminatory and disparate treatment to which she has been subjected to because of her gender during her term as firefighter and Captain with the Middletown Fire Protection District ("MFPD").

II.

JURISDICTION AND VENUE

2. Claims are brought pursuant to the provisions of the Kentucky Civil Rights, KRS Chapter 344, to redress the Defendant's unlawful discrimination and disparate treatment of Plaintiff Taylor based on her gender.

3. This Court has jurisdiction pursuant to the provisions of the Kentucky Civil Rights Act.

4. Venue is proper in Jefferson County, in that all discriminatory actions and disparate treatment, complained of herein, occurred in Jefferson County.

5. Plaintiff's claims are in excess of the jurisdictional amount applicable to proceedings in Circuit Court.

III.

PARTIES

6. Plaintiff Natalie Taylor is an adult female, and a resident of Shelby County, Kentucky.

7. Plaintiff Taylor serves as a Captain in the MFPD.

8. The MFPD is organized pursuant to the provisions of KRS Chapter 75, related to fire protection districts. Its policies and procedures are governed pursuant to those enumerated in KRS Chapter 75.

9. Middletown Fire Protection District is located in Middletown, Jefferson County, Kentucky. Middletown Fire Protection was initiated in 1940 through the Middletown Volunteer Fire Department.

10. Jeff Riddle serves as Chief of the MFPD, which position he has held during the entire term of the actions complained of herein.

11. Chief Riddle is responsible for the administration and operation of the MFPD.

12. Chief Riddle reports to a Board of Trustees, pursuant to the provisions of KRS Chapter 75, especially KRS 75.031.

13. KRS Chapter 344 prohibits discrimination by employers, such as MFPD, against individuals in a protected class, such as Plaintiff Taylor concerning compensation, terms and conditions, and privileges of employment.

IV.

NATALIE TAYLOR'S TENURE AT MFPD

14. Natalie Taylor f/k/a Sanderfoot commenced her employ as a firefighter with the Middletown Fire Protection District ("MFPD") on October 28, 1996.

15. From September, 1991 to January, 1994, Plaintiff Taylor served as a Firefighter Explorer or Junior Firefighter. In January, 1994, she commenced service with MFPD as a Volunteer Firefighter, which position she held until she became employed, full time, as a Firefighter on October 28, 1996.

16. From October, 1996 through 1998, Taylor served as a 24/48 Shift Firefighter, described as 24 hours on duty followed by 48 hours off duty. From 1998 to July, 2000, she served as a 24/48 Shift Sergeant. From July, 2000 to August, 2002, Taylor served as Division Sergeant of Training; August, 2002 to February, 2006, Division Sergeant of Fire Prevention; September, 2006 to February, 2009, Taylor served as a 24/48 Shift Sergeant.

17. Natalie Taylor progressed through ranks until attaining the rank of Captain in February, 2009, which rank she continues to hold.

18. As of January, 2014, Taylor became President of the Jefferson County Professional Firefighters IAFF Local 3972. In January, 2014, Taylor was then Vice President of the Union.

At that time she ascended to the position of President of the union, succeeding Richard Bliven, who had stepped down because of other obligations. Taylor will continue to hold the position through the end of the President's term in December, 2015. In September, 2015, Natalie Taylor was reelected as President, to serve a full term through December, 2018.

19. Throughout her tenure at MFPD, Taylor has received exemplary, very favorable evaluations.

V.

DISCIPLINARY ACTIONS

20. Prior to November, 2014, Plaintiff Taylor had never been disciplined, or subjected to the prospect of discipline. During the years she has been counseled, like all firefighters, regarding her activities and progress in the department. She received one (1) written warning in October, 2012 regarding a failure to properly utilize the Chain of Command within MFPD.

21. The procedures for disciplinary actions are set forth in KRS Chapter 75, especially KRS 75.130, and Middletown Fire Protection District Administrative Policy Manual at Subsection 302.00, Discipline and Grievance.

22. As applicable to this proceeding, there are limits upon how disciplinary actions may be undertaken. The procedures are enumerated as follows:

II. **GENERAL**

A. Disciplinary action taken shall be in accordance with KRS 75.130. The Chief, subject to review by the Board of Trustees, in lieu of the procedures set out in KRS 75.130, may issue an oral or written warning for conduct constituting a violation of the rules of the department, but which the Chief does not deem to be sufficiently serious to implicate the formal disciplinary process under KRS 75.130. An oral or written warning issued under this section may be considered as evidence against the member or employee in a hearing held pursuant to KRS 75.130 on a subsequent violation by the same member or employee.

- B. The procedures provided in KRS 75.130 will be strictly adhered to when disciplining members. These provisions require that no fire department personnel be reprimanded, dismissed, suspended, or reduced in grade or pay for any reason except for inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the Department.

VI.

PROPOSED DISCIPLINE

23. On November 20, 2014, Natalie Taylor attended an officer's training session at MFPD Station 1 conducted by Chief Michael Morgan, President of the Kentucky Association of Fire Chiefs, and the Chief of the Union County Emergency Services District. During the course of the training session, participants were invited to express their opinion concerning various matters. At the request of Chief Morgan, Natalie Taylor expressed her opinions and observations regarding her experiences as an Officer at MFPD.

24. Taylor understood that this training session was a "safe environment" to communicate opinions regarding the department.

25. In brief, Taylor expressed her opinion that MFPD has outstanding employees, each with his or her own talents and strengths; however, they were not being used to the best of their abilities. There is a disconnect between the command team and the firefighters or troops on the street.

26. Following the training meeting, Taylor was called to a meeting with two (2) of the command personnel of MFPD, namely Assistant Chief Andy Longstreet and Major Bradford Michel.

27. Following this two and one-half hour meeting, Assistant Chief Longstreet and Captain Taylor reached an agreement in an effort to move forward. Taylor agreed that she would work with Assistant Chief Longstreet to prepare a five to ten minute presentation for the

next Officers' Meeting, scheduled for Thursday, December 4, 2014. At that time, Natalie Taylor believed matters involved in the November 20, 2014 incident were resolved.

28. Longstreet and Taylor agreed to meet on Sunday, November 30, 2014 to further discuss her upcoming presentation. This meeting was never held.

29. Following the meeting, on Wednesday, December 3, 2014, Taylor was suspended from her position as a Captain with the MFPD, and was charged with misconduct for which she would be disciplined.

VII.

PROPOSED DISCIPLINE

30. Fire Chief Riddle prepared the charges, which were subsequently preferred against Captain Taylor by the Chairman of the Board of Trustees of Middletown Fire Protection District, Gary Krause.

31. On the presentation of the charges, Taylor was offered three (3) choices:

- (a) Self-demote from Captain to Firefighter;
- (b) Resign from MFPD; or
- (c) Proceed to a hearing.

32. Upon presentation of the charges, Taylor was immediately locked out of the Fire Department's computer, denied access to her e-mails and which status would be maintained during the three and one-half (3 1/2) months of Taylor's suspension. No other Captain, subject to disciplinary action, has been similarly denied access to the Department computer and his e-mails.

33. The charges against Plaintiff Taylor were as follows:

That on November 24, 2014, within the Middletown Fire Protection District, Jefferson County, Kentucky, the above-named member of the Middletown Fire Protection District engaged in misconduct by engaging in the following activities:

1. Captain Taylor attended an Officer's Training Session at MFPD Station 1 conducted by Chief Michael Morgan, President of the Kentucky Association of Fire Chiefs and the Chief of the Union Emergency Services District. During this session, and in the presence of the entire MFPD command staff, Capt. Taylor made disparaging, disrespectful and inappropriate remarks about her subordinates, peers, and superior officers of the District while claiming to represent the views of other members and officers of the District.

34. This conduct was determined to be a violation of certain rules of the Middletown Fire Protection District, namely Policies 306.01.III.B and 306.01.V.A.3.c.

B. Any conduct on the part of any member, whether within or out of the boundaries of the District, which tends to undermine the good order, efficiency or discipline, or which reflects discredit upon the Department or any member thereof, even though these offences may not be specifically outlined, shall be prohibited conduct.

A.3.C. Members shall be subject to dismissal if they knowingly promote, encourage or engage in, or publicly endorse, condone or advocate conduct which involves:

Any other like conduct or activity to that set forth in the above paragraphs which would result in internal discard, adversely affect morale, or retard the efficiency of any public service.

35. The second preferred charge is as follows:

That on November 20, 2014, November 24, 2014, and other occasions between the 1st day of July, 2011, and the present date, within the Middletown Fire Protection District, Jefferson County, Kentucky, the above-named member of the Middletown Fire Protection District engaged in misconduct by engaging in the following activities:

1. Captain Taylor, while participating in an officer training session made disparaging, disrespectful and inappropriate remarks about her subordinates, peers, and superior officers. Captain Taylor had previously been instructed by Major Bradford Michel on the proper and expected conduct of officers of the

Middletown Fire Protection District in regards to professional communication and the use of the Chain-of-Command.

- a. On July 1, 2011 Captain Taylor was counseled by her supervisor, Major Michel, regarding proper communication and use of the Chain-of-Command.
- b. On December 19, 2011 Captain Taylor was counseled by her supervisor, Major Michel, regarding proper communication.
- c. On March 21, 2012, Captain Taylor was counseled by her supervisor, Major Michel, regarding the use of the Chain-of-Command.
- d. On August 6, 2012 Captain Taylor was counseled by her supervisor, Major Michel, regarding proper communication.
- e. On October 29, 2012 Captain Taylor was issued a written warning in accordance with MFPD Policy 302.01 for failure to follow the Chain-of-Command.
- f. On November 1, 2012 Captain Taylor was counseled by her supervisor, Major Michel, regarding proper communication.

36. These were determined to be a violation of MFPD Policy 307.10.III.F, which provides as follows: Treat superior Officers with respect and professional demeanor.

37. The above charge II was further amplified in the more definite statement of facts supporting the charges issued against Captain Taylor, as follows:

Captain Taylor violated policy on November 20, 2014 in a public setting by:

1. Voicing opinions criticizing her superior officers with the following statements:

- a. "We are in a leadership crisis"
- b. "The leadership thinks we are great today, but we are a joke"

2. Demonstratively and aggressively attacking Chief Riddle by pointing a finger at him and declaring "this man had better start listening to us."

Captain Taylor violated policy on November 24, 2014 in failing to treat superior officers with respect and professional demeanor by:

1. Directly accusing Assistant Chief Longstreet of not being a good leader—stating that she did not trust him.
2. Stating that she did not trust Chief Riddle.
3. Stating that she trusted other command officers only “sometimes”
4. Stating her allegedly learned opinion that the Chief Officers of MFPD do not know what they are doing when it comes to good leadership.
5. Arguing that MFPD did not have an “open door policy”
6. Repeating her past disagreement with superior officers about her station reassignment.

38. In order to support this preferred charge II, the Defendants relied inappropriately, in whole or in part, upon personal notes of supervisory sessions over two (2) years prior to the alleged incident of November 20, 2014.

39. This use of personal notes is directly contrary to the provision of the disciplinary policy applicable to the Fire Protection District, KRS 75.130, and the MFPD Discipline Procedure 302.00.

40. The third charge brought against Taylor in the disciplinary proceedings asserted a violation of Policy 307.10.III.G. which, inter alia, describes the duties of a career Captain, at G., “Do not publicly criticize instructions or orders they have received.”

41. Charges brought against Captain Taylor assert that she violated this policy, as stated in the preferred charges as follows:

1. Captain Taylor attended an Officer’s Training Session at MFPD Station 1 conducted by Chief Michael Morgan, President of the Kentucky Association of Fire Chiefs and the Chief of the Union Emergency Services District. During this session Capt. Taylor made disparaging, disrespectful and inappropriate remarks about her subordinates, peers, and superior officers of the District while claiming to represent the views other members and officers of the District.

42. It is only written warnings, which may be relied upon to support charges such as those brought against Captain Taylor. The only written warning received by Natalie Taylor during her tenure at MFPD was one dated October 29, 2012, where she was cited for having violated the policy of failure to follow the Chain-of-Command in the Fire Protection District, by failing to properly advise superiors of changes in crew staffing. A refusal or neglect to notify command therefore indicates disrespect of superior officers and lack of professional demeanor.

43. During her tenure, Natalie Taylor has received no other written warnings.

44. The initial charges preferred against Captain Taylor failed to satisfy the provisions of KRS Chapter 75 and MFPD Discipline Policy 302.00 as the charges were not specific. Captain Taylor and her counsel were required to request, and thereafter received a more definite statement of the preferred charges.

45. Following the charges being preferred, Captain Taylor was suspended from her duties as a Captain and subjected to a disciplinary hearing before the Board of Trustees of MFPD.

VII.

SUSPENSION

46. Following the charges being preferred against her, Captain Taylor was suspended from December 3, 2014 to March 21, 2015. Captain Taylor was immediately suspended with pay from the evening of December 3, 2014 to February 5, 2015, twenty-one (21) shifts. Thereafter she was suspended without pay from February 5 through March 18, 2015, fourteen (14) shifts.

47. Captain Taylor was suspended a total of thirty-five (35) twenty-four (24) hour shifts. During the period of unpaid shift suspensions, she was able to obtain unemployment insurance benefits.

VIII.

HEARING AND DECISION

48. Captain Taylor was subject to four (4) sessions of disciplinary hearings: Wednesday, December 17, 2014; Friday, January 16, 2015, continued to Thursday, February 5, 2015; Wednesday, March 18, 2015.

49. Following the four (4) hearing sessions, Natalie Taylor was completely vindicated. She was awarded back pay for those shifts wherein she was suspended without pay, subject to an offset for benefits received from Unemployment Insurance; returned to her position as Captain at MFPD.

50. In issuing its decision, the Board of Trustees of MFPD noted that Charge III had previously been dismissed by agreement of the parties.

51. As to Count I, Part 1, Policy 306.01.III.B, the Board found that it was unsubstantiated; a similar finding was made as to Part 2 of Count I, Policy 306.101.V.A.3.c, that it was substantiated.

52. Similarly, the Board found that Part 2 asserting a violation of Policy 307.10.III.F was unsubstantiated.

IX.

PROPOSED SETTLEMENT

53. During the hearing on the charges brought against Natalie Taylor, counsel for MFPD proposed that a settlement might be entered into to resolve the charges.

54. It was proposed by Bryon Dillon, attorney for the Middletown Fire Protection District ("MFPD"), that Taylor would (a) plead guilty to the charges; (b) apologize to the Board

of Trustees of the MFPD; (c) agree to a nine-shift suspension; and (d) agree to a one (1) year probation.

55. Finally, and in addition, she (a) would be demoted from Captain to Sergeant if she violated any of the policies specified in the disciplinary charges, Chief Riddle being the sole decision maker regarding any violation; (b) waive a right to protest either the violation or a demotion to a Sergeant; (c) require Taylor to participate in the EAP (Employee Assistance Program) process.

56. The one year probation could result in further discipline or dismissal if she were to violate the terms of probation.

57. The terms of probation were not discussed at the time of the settlement proposal, except to state that Captain Taylor would not violate any of the policies that were specified in the charges brought against her.

58. Insubordination is mentioned as another culpable offense; however, Defendant's counsel could never define it.

59. Captain Taylor would be subject to the afore-described discipline for having provided an opinion in an environment, a training meeting on November 20, 2014, wherein comments were solicited.

60. Fire Chief Riddle, and the command hierarchy of MFPD, did not agree with the expressed opinions of Captain Taylor, and initiated disciplinary charges against her.

61. The charges preferred against Plaintiff Taylor were contrary to the provisions of KRS 75.130, as to the discipline of fire district members and its employees, and the MFPD Administrative Policy Manual, Section 302.00, related to discipline, adopted pursuant to KRS 75.130.

X.

DISPARATE TREATMENT

62. Three (3) similarly situated male Captains were disciplined, all of who had been previously disciplined. Each was offered a ten (10) shift suspension; two would agree to self-demotion to the rank of Sergeant; the other Captain would experience no self-demotion. However, none of these Captains were actually required to accept the demotion.

63. During the tenure of Chief Jeff Riddle, since late 2008, the time when Natalie Taylor obtained the rank of Captain, there have been three (3) other incidents of disciplinary action taken against Captains, namely Captain David Dittmer, Captain Mark Carnes, Captain John Wheatley.

64. **Captain Dave Dittmer:** In Spring, 2009, Captain Dittmer repeatedly spoke negatively about Natalie Taylor, upon her promotion to Captain in February, 2009. Captain Dittmer had previously been a supervisor of Natalie Taylor. During the last few months assigned together, they had many conflicts due to personal issues with which Captain Dittmer was dealing.

Captain Dittmer made public comments about a negative evaluation which he had given Plaintiff Taylor, and insinuated that she should not have been promoted to Captain due to his negative comments. As a result of his negative comments, Captain Dittmer was subjected to discipline, which would include the following charges and subsequent hearing. However, Captain Dittmer and MFPD agreed upon a 10-shift suspension, without any demotion in rank. Consequently, Captain Dittmer apologized to Captain Taylor. The two of them presently enjoy a very good working relationship.

65. **Captain Mark Carnes:** Captain Carnes lost his temper and berated a superior officer in front of his subordinates. Captain Carnes was accused of conduct unbecoming an officer and given two discipline options: self-demote to the rank of Sergeant, and accept a 10-shift suspension without pay; or go to a hearing. Captain Carnes chose neither, and decided to resign.

66. **Captain John Wheatley:** In Spring, 2014, Captain Wheatley was accused of jeopardizing an almost one million dollar (\$1,000,000.00) apparatus bid by contacting a vendor outside of the bid process. As a result, he was offered a self-demotion to Sergeant, would be no longer eligible to serve on any department committee.

67. After discussing the matter with Chief Riddle and Assistant Chief Longstreet, Wheatley was given the option of keeping his rank, being subjected to 10-shift suspension without pay, and not working on any committees; or proceeding to a disciplinary hearing. Captain Wheatley chose to retain his rank and accept the 10-shifts off without pay.

68. Taylor was contacted on May 30, 2014 by Captain Wheatley and his wife Mary about the disciplinary action proposed to be taken against him related to the apparatus committee bidding process. Chief Riddle and Assistant Longstreet presented a draft complaint and charge letter and gave him the choice of self-demotion to Sergeant along with no longer serving on any committee or go to a hearing. They allowed Captain Wheatley to go home sick and think about it. Taylor offered the Union's assistance to fight it out during a hearing. On Sunday, June 1, 2014, Captain Wheatley met with Chief Riddle and Assistant Chief Longstreet where he asked to keep his rank of Captain, but serve a 10-shift suspension without pay. They agreed.

69. Chief Riddle had discussions with each of the above-described individuals concerning the process of preparing charges to be preferred against these three (3) Captains. Each was afforded the opportunity to accept the terms of discipline or to proceed to a hearing.

70. No such discussion or conversation was had with Captain Taylor prior to the charges being preferred against her.

71. Further, Natalie Taylor is the only Captain who was ever presented with a self double demotion from Captain to Firefighter; resign; proceed to a hearing.

XI.

REASSIGNMENTS AND RUN CHECKS

72. Captain Taylor has been subjected to random, unnecessary, reassignments between and among the three (3) stations of MFPD, all within a nine (9) month period, contrary to her status as a Senior Captain.

73. Other similarly situated male Captains were not subjected to such random reassignments between and among stations.

74. By memo dated Friday, May 29, 2015, Major Brad Michel notified Natalie Taylor by way of an email of twenty-nine (29) fire runs which needed to be quality checked. What Mr. Michel failed to note was that only three (3) of the quality question runs were those which involved Natalie Taylor.

75. Similarly situated male Captains, and Senior Officers, were not so requested to undertake quality checks for runs which they were not involved.

XII.

PERFORMANCE EVALUATION

76. Throughout her tenure with MFPD, Taylor has received very favorable, strong, positive performance evaluation ratings. That is until the rating of April 29, 2015, following the disciplinary hearing, where negative comments were included in the evaluation, which matters had not previously been discussed with Taylor in the Chain-of-Command. Comments include the following: “Captain Taylor has stated previously that she is confused about the direction the Department is headed. ... Captain Taylor’s relationship with her peers/superior officers, however, is suffering.”

77. Much of Taylor’s evaluation session involved discussion and comments related to the training meeting of November 24, 2014, including the charges which were brought against Captain Taylor, and the result dismissal of those charges.

78. Despite the negative environment, Taylor has successfully met and exceeded the challenges of serving as a Captain, in excess of basic requirements.

CONCLUSION

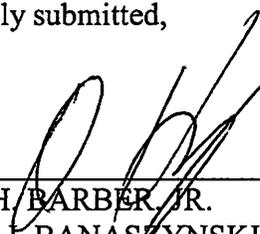
Plaintiff Natalie Taylor because of her gender has been subjected to discriminatory acts on the part of the Middletown Fire Protection District and subjected to disparate treatment, for which she is entitled to relief.

WHEREFORE, based upon the foregoing, Plaintiff Taylor respectfully requests this Court to:

1. Enter judgment in her favor;
2. Award her compensatory damages for the discriminatory and disparate treatment she has received at MFPD;

3. Award her attorney's fees;
4. Grant her leave to amend this Complaint;
5. Grant her a jury trial on all matters so triable; and
6. Any and all other relief to which she may appear entitled.

Respectfully submitted,



OLIVER H. BARBER, JR.
THOMAS J. BANASZYNSKI
BARBER, BANASZYNSKI & HIATT, P.S.C.
802 Lily Creek Road, Suite 101
Louisville, Kentucky 40243
(502) 585-2100
Counsel for Plaintiff

VERIFICATION

Comes the Plaintiff, Natalie Taylor, and states that she has read the foregoing Complaint, and the statements contained therein are true to the best of her belief.



NATALIE TAYLOR

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

9th Subscribed, sworn to and acknowledged before me by NATALIE TAYLOR, on this the day of November, 2015.

My Commission Expires: 11-23-2017.



NOTARY PUBLIC
KENTUCKY, STATE AT LARGE