

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DIVISION OF OHIO
EASTERN DISTRICT**

AMY MENGAY,
4504 Gamma Avenue
Newburgh Heights, OH 44105,

Plaintiff,

) CASE NO.: 1:07CV1541

) JUDGE DONALD C. NUGENT

-vs-

) **COMPLAINT**

) Trial by Jury Endorsed Hereon

**THE VILLAGE OF WOODMERE,
OHIO**

27899 Chagrin Boulevard
Woodmere, OH 44122

and

YOLANDO E. BROADIE, individually
and in her official capacity as Mayor AND
Safety Director, Village of Woodmere, Ohio
27899 Chagrin Boulevard
Woodmere, OH 44122

and

JAMES JORDAN, individually and in his
official capacity of President and Member of
Council, Woodmere City Council

27899 Chagrin Boulevard
Woodmere, OH 44122

and

CAROLYN L. PATRICK, individually and
in her official capacity as Member of Council,

Woodmere City Council)
27899 Chagrin Boulevard)
Woodmere, OH 44122)

and)

SHELLEY B. ROSS, individually and in her)
official capacity as Member of Council,)
Woodmere City Council)
27899 Chagrin Boulevard)
Woodmere, OH 44122)

and)

GERALD CARRIER, individually and in)
his official capacity as Member of Council,)
Woodmere City Council)
27899 Chagrin Boulevard)
Woodmere, OH 44122)

and)

JOYCE HOLBERT, individually and in her)
official capacity as Member of Council,)
Woodmere City Council)
27899 Chagrin Boulevard)
Woodmere, OH 44122)

)

Defendants.)

NATURE OF THE ACTION

1. This is an action under instituted, *inter alia*, under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-1, *et seq.*, as amended (2007 Supp.), and the Civil Rights Act of 1991, 42 U.S.C. §1981a, as amended (2007 Supp.), the Civil Rights Act of 1871, 42 U.S.C. § 1983 (2007 Supp.) and the Ohio Civil Rights Act, Ohio Revised Code §§4112.01, *et seq.* (2007 Supp.) to vindicate state

and federally protected rights against unlawful employment practices on the basis of race and retaliation.

JURISDICTION AND VENUE

2. This present and continuing action is authorized and instituted pursuant to Section 706(f) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-6(f) (2007 Supp.) (hereinafter referred to as "Title VII") with the U.S. Equal Employment Opportunity Commission entering a finding that the evidence obtained during the investigation established a violation of Title VII on or about May 9, 2005 and timely filed in a motion of intervention as of right with the case of *United States of America vs. The Village of Woodmere, Ohio* filed on May 25, 2007. With respect to federal claims under 42 U.S.C. §§1981a and 1983, jurisdiction is asserted pursuant to 28 U.S.C. §§1343 (3) and (4) and jurisdiction is asserted likewise with respect to declaratory relief pursuant to 28 U.S.C. §§ 2202-2202. With respect to state claims, jurisdiction is asserted pursuant to 28 U.S.C. §1367.

3. More than thirty days prior to the institution of this lawsuit, plaintiff Amy Mengay filed charges with the U.S. Equal Employment Opportunity Commission alleging violations of Title VII by the defendants and with respect to present and continuing claims under the Civil Rights Act of 1991, 42 U.S.C. § 1981a (2005 Supp.), jurisdiction of this Court is invoked pursuant to 28 U.S.C.

§§ 451, 1331, 1337, 1343(3) and (4) and 1345 and, with respect to pendent state claims and claims under the Ohio Civil Rights Act, 42 U.S.C. §§ 4112.01, *et seq.*, jurisdiction is invoked pursuant to 28 U.S.C. §1367.

4. The unlawful employment practices alleged were and continue to be committed within the jurisdiction of the United States District Court for the Northern District of Ohio, Eastern Division.

PARTIES

5. Plaintiff, AMY MENGAY, is a white citizen of the United States who, at all relevant times, was employed by the defendants, all of whom are black, and who has sought and continues to seek to perform her duties as a police officer free from restrictions of race and retaliation.

6. Defendant, THE CITY OF WOODMERE, OHIO is an “employer” as defined by Title VII.

7. Defendants, YOLANDO E. BROADIE, JAMES JORDAN, SHELLEY B. ROSS, CAROLYN L. PATRICK, GERALD CARRIER, and JOYCE HOLBERT, individually and collectively operated under color of state law to deprive the plaintiff of equal employment opportunities on account of race and color and are employers for purposes of §1981a, §1983 and Chapter 4112.

8. At all relevant times, defendant has been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. § 2000e-1(b), (g) and (h).

Count I

9. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

10. Plaintiff was hired by defendant Village of Woodmere, Ohio on May 9, 2002 as a police officer.

11. Because of her performance, defendant Village of Woodmere promoted the plaintiff to a full time police officer on December 18, 2002.

12. Plaintiff was kept as a probationary officer even though defendants' policy entitles the officer to automatic full time status, which status was supported by the Chief of Police, but opposed by defendant Broadie.

13. Woodmere Black officers who complete their probationary period are automatically given full time status.

14. Defendant Broadie attempted to prolong plaintiff's probationary status in a manner inconsistent with the rights provided to Woodmere black officers.

15. Beknownst to the plaintiff, defendant Broadie who served as both mayor and safety director of defendant Village of Woodmere, make clear to plaintiff's superior, Chief of Police Lamont Lockhart, that because the Village of Woodmere was a predominantly black city, she preferred by her actions to have black officers on the Woodmere police force rather than white officers.

16. On or about July 20, 2003, plaintiff was involved in a minor traffic accident which was determined to be the fault of the other driver, but was ordered to be disciplined for it by the defendants.

17. Woodmere Black officers involved in significantly more serious infractions and misbehavior were not disciplined.

18. Woodmere black officer Benny Baker was involved in a serious traffic accident, but was not disciplined at all by the defendants.

19. On or about February 7, 2004, plaintiff was involved in a minor traffic accident which was determined to be the fault of the other driver.

20. Although plaintiff was cleared and the other driver cited, defendant Broadie decided to use the February 7, 2004 as a means to fire plaintiff even though it was the fault of a third person and not the plaintiff.

21. On May 2, 2004, plaintiff scraped a front bumper on a concrete base causing several hundred dollars in damages.

22. Acting under color of state law, defendant Broadie in her official position as the city's safety director and as superior to Police Chief LaMont Lockhart intervened and ordered that she be fired.

23. Police Chief Lockhart objected to defendant Broadie that the discipline of termination against the plaintiff was disproportionate and racially discriminatory.

24. Defendant Broadie punished Police Chief Lockhart as insubordinate for initially refusing to fire the plaintiff.

25. Defendant Broadie overrode the police chief in furtherance of her official plan to rid the police department of white officers.

26. Defendants were fully aware that black officers are treated more favorably than white officers and would not be terminated for minor violations.

27. Defendants were aware that Woodmere black officer Masai Brown was arrested for felonious assault with a firearm, kidnapping with a firearm and possession of criminal tools, but was not fired.

28. Defendants were aware that Woodmere black officer Masai Brown falsified and destroyed public records, lied to superior officers, found to have been engaged in incompetence and neglect of duty, but was not fired.

29. Despite the foregoing and over objection by Police Chief LaMont Lockhard, defendant Broadie, with the support of the other defendants, promoted Officer Brown.

30. Defendants were aware that Woodmere black officer John Patterson was found to have engaged in conduct unbecoming an officer arising out of road rage where he threatened to kill a citizen, but was not fired.

31. Defendants were aware that Woodmere black officer John Patterson also damaged a bumper, but was not fired.

32. On July 15, 2004, defendants acting under color of state law and despite their awareness that black officers engaged in more serious infractions are not terminated, approved the termination of the plaintiff.

33. Defendants, acting in their official capacities, furthered the village's plan of racial preference by terminating the plaintiff and terminating another white officer while being aware that black officers are not disciplined for actions significantly more serious than those asserted by the plaintiff and by another white officer.

34. The acts and conduct of the defendants have been and continue to be intentional and in wanton and reckless disregard of the rights and feelings of the plaintiff.

35. As a direct and proximate result of the acts and conduct of the defendant, plaintiff has suffered and continues to suffer extreme emotional distress, humiliation, anxiety and loss of esteem and self-worth as well as loss of productive ability in comparison to that which he could have performed except for discrimination on account of race.

Count II

36. Plaintiff reasserts the foregoing allegations and incorporates them by reference as if fully set forth herein.

37. Defendants have denied and continue to deny to the plaintiff the statutory right to enter into and maintain an employment contractual

relationship with the defendants free of discrimination and retaliation on the basis of his race.

38. Defendant has purposefully deprived plaintiff equal contract opportunities on the job on the basis of race.

39. The acts and conduct of the defendant have been and continue to be intentional, retaliatory and in wanton and reckless disregard of the rights and feelings of the plaintiff.

40. As a direct and proximate result of the acts and conduct of the defendant, plaintiff has suffered and continues to suffer extreme emotional distress, humiliation, anxiety and loss of esteem and self-worth as well as loss of productivity in comparison to that which he could have performed except for retaliation and discrimination by the defendant on account of race.

WHEREFORE, plaintiff respectfully requests the Court to grant the following relief:

A. Declare that the acts and conduct of the defendants constitute violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e, *et seq.*, the Civil Rights Act of 1991, 42 U.S.C. §1981a, as amended, the Civil Rights Act of 1871, 42 U.S.C. §1983, and the Ohio Civil Rights Act, Ohio Revised Code §§4112.01, *et seq.*;

B. Grant a permanent injunction enjoining defendants, their officers, agents, employees, successors, assigns, and all persons in active concert

of participation with it, from engaging in any employment practices which discriminate on the basis of race, and further enjoin any acts or conduct which has the purpose or effect of retaliating against the plaintiff for asserting rights against discrimination based on race;

C. Order defendants to institute and to otherwise carry out policies, practices and programs which provide equal employment opportunities for black employees, and which eradicate the effects of its past and present unlawful employment practices;

D. Order defendants to reinstate the plaintiff and to make whole the plaintiff by providing appropriate back pay with prejudgment interest and for other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

E. Grant to plaintiff appropriate compensatory, exemplary and punitive damages;

F. Award the plaintiff costs in this action including statutory reasonable attorney fees as provided by statute;

G. Grant such further relief as the Court deems necessary and proper and in the public interest.

/s/ Avery Friedman

AVERY S. FRIEDMAN (0006103)
701 The City Club Building
850 Euclid Avenue
Cleveland, Ohio 44114-3358
(216)-621-9282
FAX 621-9283
averyfriedman@hotmail.com

Attorney for Plaintiff Amy Mengay

TRIAL BY JURY DEMANDED

Plaintiff hereby demands trial by jury.

/s/ Avery Friedman
AVERY S. FRIEDMAN