

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Ira Craig Baxley,)	
)	
Plaintiff,)	COMPLAINT
)	Jury Trial Demanded
vs.)	
)	
Jon E. Ozmint and Robert Ward,)	
)	
Defendants.)	
_____)	

The plaintiff, Ira Craig Baxley (“Baxley”), by and through his undersigned counsel, would respectfully allege as follows:

1. The plaintiff is a citizen and resident of Lexington County, South Carolina, residing at 407 Guildhall Drive, Columbia, South Carolina.

2. The defendant Jon E. Ozmint (“Ozmint”) is a citizen and resident of Richland County, South Carolina; the defendant Robert Ward (“Ward”) is a citizen and resident of Lexington County, South Carolina. At all times relevant hereto, the defendants were the Director of the South Carolina Department of Corrections (“SCDC”) and Director of Operations and as such were high ranking employees and agents thereof.

3. This action arises under 42 U.S.C. Section 1983 and the First Amendment to the Constitution of the United States, as well as the common law of the State of South Carolina.

4. Jurisdiction exists pursuant to 28 U.S.C. Section 1343(4) which gives the District Court original jurisdiction over any civil action authorized by law to be commenced by any person to recover damages under any Act of Congress providing for the protection of civil rights.

5. Venue lies within the Columbia Division pursuant to 28 U.S.C. Section 1391(b)

because the defendants both reside in this judicial district and the events giving rise to this action occurred in the Columbia Division.

6. The plaintiff served SCDC as a loyal and effective employee for 22 years until the events related herein proximately caused and aggravated by the personal actions of the defendants caused him to take disability retirement and leave his job in early summer of 2007.

7. For the last several years of his service, the plaintiff was a Major and in charge of SCDC's SORT/SWAT Team frequently used in institutional emergencies statewide. He earned this position and retained the same through dedication and service to the department.

8. Although not a part of the plaintiff's duties or job description, the defendant Ward made it clear that he could not acquire and hold the team leader position unless he agreed to act as an executioner of condemned inmates, a position which was outwardly represented as "voluntary." During the course of this service, the plaintiff killed eight inmates and participated in two other executions.

9. Although these executions were barbaric, gruesome and repulsive to the plaintiff, he continued to perform them under the implied threat by the defendant Ward that such service was necessary if he was to continue to act as team leader and to receive the salary supplement and other benefits of his Major's position.

10. Upon information and belief, the defendant Ward, with the knowledge and concurrence of the defendant Ozmint, also made two others continue to act as executioners when it was apparent that neither wished to do so voluntarily, afforded no counseling or "break time" to them; one of whom eventually committed suicide and the other forced into disability retirement as the plaintiff.

11. In the spring of 2007, the plaintiff discovered that Michael Sheedy, then SCDC's

Director of Security, was using his departmental computer to display and transmit pornography, a direct violation of department procedures and law.

12. The plaintiff reported the same to the defendant Ozmint and the matter was also reported to the defendant Ward, who allowed Sheedy, the plaintiff's supervisor, to know the identity of his informer.

13. Sheedy then began a relentless campaign of retaliation against the plaintiff, excluding him from meetings, isolating the plaintiff, having his movements and actions followed and generally creating a hostile and abusive work environment for the plaintiff.

14. The plaintiff reported the matters to the defendant Ozmint who took no action, having taken none previously against Sheedy which was totally inconsistent with the action taken against others by Ward and Ozmint for similar and less serious alleged offenses.

15. After the plaintiff filed a hostile work environment complaint with no success, he sent email correspondence to Ozmint and voiced his concerns about being forced to be an executioner against his will in order to hold his job as team leader. Ozmint responded to the plaintiff that if he did not like it, he could transfer (losing his position and supplement) and additionally if he was being treated badly by Sheedy, he could do something else.

16. Ozmint and Ward, in order to protect their friend and guilty subordinate, chose to punish and retaliate against the plaintiff, all of which is a violation of 42 U.S.C. Section 1983 and the plaintiff's rights of freedom of speech and freedom of association. All of such actions as described herein were outside the course and scope of the defendants' employment.

17. The plaintiff's rights to free speech and association as set forth herein involved matters of public concern, including but not limited to reports of wrongdoing and corruption, undue and improper pressure upon employees to perform what should be voluntary acts of

murder, some of which had already been reported to Ward and Ozmint without corrective action on their part.

18. The defendants became aware of the plaintiff's speech, associations, contacts and assistance, which involved matters of public concern, and greatly resented his actions and speech. Based upon the same, in spite of the plaintiff's stellar record of service and his deserved promotions and increases in pay and responsibility, the defendants, while acting under color of state law, began a ruthless and unrelenting campaign of retaliation, harassment, threats and criticisms ultimately and proximate resulting in the plaintiff's physical and emotional collapse, loss of his job and career and a destruction of his quality of life after 22 years of outstanding service to SCDC.

FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANTS
(Violation of First Amendment and 42 U.S.C. Section 1983)

19. The plaintiff realleges paragraphs 1 through 18 aforesaid.

20. The actions taken against the plaintiff by the defendants, while acting under the color of state law and in their individual capacities as set forth herein, violated the plaintiff's rights of freedom of speech and association guaranteed to him by the First Amendment to the United States Constitution, as well as a violation of 42 U.S.C. Section 1983.

21. As a direct and proximate result of the violation of the plaintiff's rights, he has lost his position and stature within the department, adversely affecting his future earnings and retirement prospects, both within and outside of the same. The plaintiff further has sustained great reputational loss, mental and emotional suffering and pain and suffering, which will continue into the future. The plaintiff is entitled to compensatory damages and an award of punitive damages against the individual defendants for their malice, intent to harm and deliberate

conduct knowingly in violation of the plaintiff's constitutional rights.

FOR A SECOND AND SEPARATE PENDENT STATE CAUSE OF ACTION
AGAINST THE DEFENDANTS
(Intentional Infliction of Emotional Distress)

22. The plaintiff realleges paragraphs 1 through 21 aforesaid.

23. The actions described herein also amount to outrageous conduct and the intentional infliction of emotional distress for which the defendants are liable.

24. In addition to the forcing of the plaintiff to do a "voluntary" task against his will as a condition of achieving and holding a responsible position which he had earned and for which he was qualified was compounded by the retaliation imposed by Ozmint and Ward as set forth herein which is conduct not to be tolerated in a civilized society and which no reasonable human being should be required to endure.

25. Requiring persons to perform executioner's services against their will - a position which the defendants claimed to others was "voluntary" was particularly outrageous, particularly when considering the following instances:

- a) executions where the plaintiff alone caused the death of an inmate;
- b) where the plaintiff was exposed to poison, blood and a horrible death scene where the lethal syringe came out of the inmate's arm during the execution;
- c) in not preparing the plaintiff for his first electrocution after the electric chair had not been used for many years with its shocking smell and the scene of agony presented; and
- d) in failing to provide training or instruction in the performance of his executioner functions.

26. As a direct and proximate result of the outrageous treatment and intentional infliction of emotional distress inflicted by the defendants in their personal and individual capacities, the

plaintiff has sustained the loss of his quality of life, shock, humiliation and embarrassment, as well as the loss of earning capacity. The plaintiff is further entitled to an award of punitive damages to be assessed by a jury.

WHEREFORE, the plaintiff prays for judgment against the defendants individually and collectively in an amount not to exceed \$1,000,000 actual damages, an award of punitive damages in the discretion of a jury and for the costs of this action.

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