

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

WILLIAM PIERCE,

Plaintiff,

VERSUS

SHERIFF LOUIS M. ACKAL, CAPTAIN RYAN
TURNER, AND CAPTAIN RICKEY J.
BOUDREAUX, in their official capacities with
the Iberia Parish Sheriff's Office,

Defendants.

* CIVIL ACTION NO.

*

* JUDGE:

*

* MAGISTRATE JUDGE:

*

*

*

*

*

*

COMPLAINT

Plaintiff William Pierce ("Pierce") brings this lawsuit alleging unlawful employment discrimination by officials of the Iberia Parish Sheriff's Office ("IPSO") when the officials rescinded a job offer to Pierce to become an IPSO deputy sheriff because he is a person living with the human immunodeficiency virus ("HIV"). Specifically, Pierce files this complaint against Louis M. Ackal, in his official capacity as Sheriff of Iberia Parish ("Sheriff Ackal"); Ryan Turner, in his official capacity as a Captain and the Human Resources Director with the Iberia Parish Sheriff's Office ("Captain Turner"); and Rickey J. Boudreaux, as to actions he took in his former official capacity as a Captain with the Iberia Parish Sheriff's Office ("Captain Boudreaux", and collectively with Sheriff Ackal and Captain Turner, "Defendants") seeking appropriate relief and compensation for harms resulting from Defendants'

unlawful employment practices under Title I of the Americans with Disabilities Act (“ADA”).

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of Pierce’s claims pursuant to 28 U.S.C. §§ 1331 and 1343.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1392(b)(1) and (2), because Defendants reside in this judicial district and division, and a substantial part of the events giving rise to Pierce’s claims occurred in this judicial district and division.

PARTIES

3. Pierce is a resident and domiciliary of Plaquemines Parish, Louisiana. Pierce is a person living with HIV and is protected from unlawful discrimination based on his HIV-positive status by the ADA.

4. Sheriff Ackal is the decision maker and governing authority for the Iberia Parish Sheriff’s Office (“IPSO”). On information and belief, Sheriff Ackal is a resident and domiciliary of Iberia Parish, Louisiana. He can be served at IPSO, which is located at 300 Iberia Street, Suite 120, New Iberia, Louisiana 70560.

5. On information and belief, Captain Turner is a resident and domiciliary of Iberia Parish, Louisiana. He can be served at IPSO, which is located at 300 Iberia Street, Suite 120, New Iberia, Louisiana 70560.

6. On information and belief, Captain Boudreaux is a resident and domiciliary of Lafayette Parish, Louisiana. He can be served at the Youngsville Police Department, which is located at 304 Fourth Street, Youngsville, Louisiana 70592. At

all times relevant to this action, Captain Boudreaux was employed as a Captain with IPSO.

7. At all times relevant to this action, IPSO has continuously had at least fifteen (15) employees, thereby qualifying IPSO as a “covered entity” under Section 101(2) and (5) of the ADA. 42 U.S.C. § 12111(2), (5).

DEFENDANTS' UNLAWFUL EMPLOYMENT PRACTICE

8. Pierce has long been devoted to a life of public service in health and public safety. For more than a decade while living in Ohio, he served in various jobs, including Paramedic, EMS Instructor, National Disaster Life Support Training Center Coordinator, and HIV/STD Educator.

9. In 2005, moved by the tragedy of Hurricane Katrina, Pierce came to Louisiana to volunteer his assistance to the hurricane relief efforts. He developed warm relationships with and affection for the people of Louisiana and ultimately relocated and became a resident.

10. After the Katrina relief efforts diminished, Pierce spent a short time as Offshore Paramedic/Medical and Safety Officer for a private company. Thereafter, he began his career as a full-time police officer in 2008—first with Arnaudville Police Department and later Abbeville Police Department.

11. On February 20, 2012, Pierce applied for the position of Sheriff's Deputy with IPSO. On March 27, 2012, Pierce participated in an in-person job interview with members of IPSO.

12. On March 29, 2012, Captain Boudreaux informed Pierce that Pierce was going to be hired as Sheriff's Deputy, subject to a medical examination.

13. Pierce went to Teche Occupational Medical Clinic for the required medical examination. On April 16, 2012, a physician signed and dated Pierce's medical examination results and forwarded them to IPSO. In the results, the examiner noted Pierce's status as a person with HIV, but otherwise indicated "no significant abnormalities or medical findings," with all physical findings "within normal limits."

14. Despite having passed the physical examination, Pierce received a letter dated April 18, 2012, signed by Captain Turner, Human Resources Director at IPSO, stating that Pierce would not be hired as Sheriff's Deputy.

15. Defendants decided to rescind Pierce's employment offer based on Pierce's status as a person living with HIV.

16. Defendants' conduct in rescinding Pierce's employment offer with IPSO based on Pierce's status as a person living with HIV is a violation of Pierce's rights under the ADA.

17. Pierce's HIV is a physical impairment that substantially limits one or more of his major life activities, such that he is a person with a disability as defined under the ADA.

18. Pierce has a record of physical impairment (his HIV) that substantially limits one or more of his major life activities, such that he is a person with a disability as defined under the ADA.

19. Pierce was, and is, fully qualified to serve as a Sheriff's Deputy with IPSO. Pierce previously served as a full-time police officer with the Abbeville City

Police and the Arnaudville Police Department. At the time that Pierce applied for the position of Sheriff's Deputy with IPSO, he had approximately twelve years of experience as an emergency medical care provider and approximately four years of experience as a law enforcement officer. Additionally, at the time that Pierce applied for the position of Sheriff's Deputy with IPSO, he had held an EMS certification for twenty-five years. Pierce's expertise in emergency medical care has proved useful in his work as a law enforcement officer.

20. Pierce's HIV does not present a significant risk to the health or safety of himself or others in the performance of his duties as a Sheriff's Deputy.

THE EFFECTS OF DEFENDANTS' UNLAWFUL EMPLOYMENT DECISION

21. As a result of Defendants' rescission of their offer to employ Pierce as Sheriff's Deputy, Pierce experienced lost wages, emotional pain and suffering, stress, anxiety, loss of enjoyment of life, humiliation, inconvenience, and other monetary and dignitary harms

22. As a result of Defendants' rescission of their offer to employ Pierce as Sheriff's Deputy, Pierce was forced to find alternative employment.

23. After Defendants rescinded their offer to employ Pierce, he found a new job in Singapore. However, at the time Singapore barred individuals living with HIV from entry. Pierce thus sustained additional mental distress and anxiety because he was forced to conceal his HIV status, for fear of deportation, corporal punishment (e.g., caning) and other harms.

PIERCE'S EXHAUSTION OF AVAILABLE ADMINISTRATIVE REMEDIES

24. Defendants' conduct in rescinding Pierce's employment offer with IPSO based on Pierce's status as a person living with HIV is a violation of Pierce's rights under the ADA.

25. On October 15, 2012, Pierce filed a timely Charge of Discrimination with the U.S. Equal Opportunity Employment Commission ("EEOC") alleging that Defendants' rescission of Pierce's employment offer with IPSO constituted unlawful discrimination under federal law.

26. On February 19, 2016, the EEOC issued a Determination of Probable Cause to Mr. Pierce, stating that "[t]he evidence shows that [IPSO] received the results of [Pierce's] physical examination and more likely that not made the decision to rescind the job offer after becoming knowledgeable of [Pierce's] HIV diagnosis, in violation of the Americans with Disabilities Act Amendment's [sic] Act of 2008."

27. On July 26, 2017, the U.S. Department of Justice issued Pierce a Notice of Right to Sue letter. Pierce received the Notice letter on August 1, 2017. This suit is timely commenced within 90 days of Pierce's receipt of the Notice letter.

28. Pierce has exhausted all administrative remedies available to him. All conditions precedent to the institution of this suit have been fulfilled.

CAUSE OF ACTION

Count 1: Violation of the Americans with Disabilities Act

(42 U.S.C. § 12111 *et seq.*)

29. Pierce realleges and incorporates the allegations above as if fully set forth herein.

30. At all times relevant to this action, IPSO has continuously had at least fifteen (15) employees, thereby qualifying IPSO as a “covered entity” under Section 101(2) and (5) of the ADA. 42 U.S.C. § 12111(2), (5).

31. Pierce is an individual with a disability as defined in 42 U.S.C. § 12102(2)(B).

32. At all times relevant to this action, Pierce has been able to perform the essential functions and duties of Sheriff’s Deputy, the position for which he applied with IPSO.

33. In accordance with 42 U.S.C. § 12122(d), Defendants made an offer of employment to Pierce conditioned only on successfully completing a medical examination. The Employee Examination Results report dated April 16, 2012, indicated Mr. Pierce’s HIV-positive status, but otherwise that his physical findings were within normal limits with no significant abnormalities or medical findings.

34. When Defendants learned from the medical examination report that Pierce was HIV positive, they rescinded their offer to employ Pierce as a Sheriff’s Deputy based on Pierce’s status as a person living with HIV.

35. Defendants’ decision to rescind their offer to employ Pierce as Sheriff’s Deputy based on Pierce’s status as a person living with HIV constitutes unlawful discrimination prohibited under 42 U.S.C. § 12112.

36. Pierce experienced lost wages, emotional pain and suffering, stress, anxiety, loss of enjoyment of life, humiliation, inconvenience, and other monetary and dignitary harms as a result of Defendants’ actions.

PRAYER FOR RELIEF

WHEREFORE, Pierce respectfully requests that this Court:

A. Order Defendants to reinstate Pierce to the position of Sheriff's Deputy with IPSO;

B. Award Pierce appropriate lost wages, bonuses, benefits, and other compensation to which he would have been entitled but for Defendants' unlawful conduct;

C. Award Pierce other affirmative relief necessary, including but not limited to front pay, to eradicate the effects of Defendants' disability-based discrimination;

D. Award Pierce compensation for the nonpecuniary damages he suffered as a result of Defendants' unlawful discriminatory actions described above, including damages for emotional pain and suffering, anxiety, stress, loss of enjoyment of life, humiliation, and other dignitary harms;

E. Enjoin and permanently restrain Defendants from categorically denying employment to all applicants who are HIV positive without any independent assessment as to whether their HIV status renders them incapable of performing their jobs;

F. Order Defendants to institute and implement policies at IPSO that provide equal employment opportunities for all current and future employees living with HIV;

G. Award Pierce costs and attorneys' fees;

H. Award Pierce prejudgment interest on any damages and/or costs and attorneys' fees award;

I. Provide such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pierce hereby demands a trial by jury for all issues in this case.

Date: October 24, 2017

Respectfully submitted,

/s/ J. Dalton Courson

J. Dalton Courson, La. Bar No. 28542

dcourson@stonepigman.com

Annie G. McBride, La. Bar No. 36902

amcbride@stonepigman.com

STONE PIGMAN WALTHER WITTMANN L.L.C.

909 Poydras Street, Suite 3150

New Orleans, Louisiana 70112

Telephone: (504) 581-3200

Facsimile: (504) 581-3361

Kenneth D. Upton, Jr.*

kupton@lambdalegal.com

LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.

3500 Oak Lawn Avenue, Suite 500

Dallas, Texas 75219

Telephone: (214) 219-8585

Facsimile: (214) 219-8585

Scott A. Schoettes*

sschoettes@lambdalegal.com

LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.

105 W. Adams, Suite 2600

Chicago, IL 60603

Telephone: (312) 663-4413

Facsimile: (312) 663-4307

** pro hac vice motions pending*

COUNSEL FOR WILLIAM PIERCE, PLAINTIFF

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

William Pierce

(b) County of Residence of First Listed Plaintiff Plaquemines Parish, La.
(EXCEPT IN U.S. PLAINTIFF CASES)

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

See Attachment

DEFENDANTS

Sheriff Louis M. Ackal, Captain Ryan Turner, and Captain Rickey J. Boudreaux

County of Residence of First Listed Defendant Iberia Parish, La.
(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 | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 12111 et seq.

Brief description of cause:
employment discrimination

VII. REQUESTED IN COMPLAINT:

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

DEMAND \$ unspecified

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
10/24/2017

SIGNATURE OF ATTORNEY OF RECORD

[Handwritten Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment to Civil Cover Sheet

I. (c) PLAINTIFF'S ATTORNEYS

J. Dalton Courson, La. Bar No. 28542

dcourson@stonepigman.com

Annie G. McBride, La. Bar No. 36902

amcbride@stonepigman.com

STONE PIGMAN WALTHER WITTMANN L.L.C.

909 Poydras Street, Suite 3150

New Orleans, Louisiana 70112

Telephone: (504) 581-3200

Facsimile: (504) 581-3361

Kenneth D. Upton, Jr.*

kupton@lambdalegal.com

LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.

3500 Oak Lawn Avenue, Suite 500

Dallas, Texas 75219

Telephone: (214) 219-8585

Facsimile: (214) 219-8585

Scott A. Schoettes*

sschoettes@lambdalegal.com

LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.

105 W. Adams, Suite 2600

Chicago, IL 60603

Telephone: (312) 663-4413

Facsimile: (312) 663-4307

* *pro hac vice* motions pending