IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

SHAWN D. JACKSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**CIVIL ACTION FILE NO.**
	)	**2:10-CV-0070-WCO-SSC**
HALL COUNTY SHERIFF'S OFFICE, SHERIFF STEVE CRONIC, and COLONEL JEFF STRICKLAND,	)	
	)	
Defendants.	)	

ANSWER

COME NOW, Hall County Sheriff's Office, Sheriff Steve Cronic, and Colonel Jeff Strickland, all of the Defendants herein and file this, their Answer to Plaintiff's Complaint, and by way of said Answer respectfully show the following:

FIRST DEFENSE

Plaintiff's Complaint and each of its causes of action fail to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claims are barred for insufficiency of service of process.

THIRD DEFENSE

Some or all of Plaintiff's claims are barred by the applicable statute of limitations, including the failure to file the instant lawsuit within the time period required by the applicable statute.

FOURTH DEFENSE

Plaintiff's damages are limited to those remedies and those amounts provided for by the applicable statute.

FIFTH DEFENSE

Even if any adverse actions were taken against the Plaintiff for reasons related to Plaintiff's protected class status or any exercise by Plaintiff of protected rights, Plaintiff would have been subject to adverse employment actions or otherwise for reasons unrelated to any protected class status or activities, including after-acquired evidence.

SIXTH DEFENSE

Any adverse action taken against Plaintiff was done so in good faith without malice or reckless indifference to Plaintiff's protected rights.

SEVENTH DEFENSE

All claims of the Plaintiff brought pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., are barred to the extent that they were never made the subject of a charge of discrimination within the time required by law with the Equal

Employment Opportunity Commission or because the claims are not within the scope of any charge of discrimination filed by Plaintiff.

EIGHTH DEFENSE

Any adverse employment action taken with respect to the Plaintiff was based on business necessity.

NINTH DEFENSE

Conduct of the Defendants named in their individual capacities did not violate any clearly established statutory or constitutional right of which a reasonable person would have known and hence they enjoy qualified and good faith immunity.

TENTH DEFENSE

The Defendants sued in their official capacity or otherwise are not liable for the individual acts of any of the Defendants.

ELEVENTH DEFENSE

Defendants named in both their individual and official capacity are improperly joined as parties to the extent that they are named in their official capacity.

TWELFTH DEFENSE

Defendants are immune from some or all of Plaintiff's claims.

THIRTEENTH DEFENSE

Plaintiff has failed to mitigate damages as required by law.

FOURTEENTH DEFENSE

Plaintiff has unclean hands.

FIFTEENTH DEFENSE

The individual Defendants, to the extent sued in their individual capacity, are not proper parties to some or all of the claims pled in this civil action.

SIXTEENTH DEFENSE

Even if Plaintiff was subject to unlawful conduct based on Plaintiff's protected class status, Defendants exercised reasonable care to prevent and correct the actions which support Plaintiff's claim and Plaintiff unreasonably failed to avail himself of preventive or corrective opportunities or to avoid harm otherwise.

SEVENTEENTH DEFENSE

The Defendants reserve the right to assert any additional affirmative defenses allowed by Rule 8 depending up on any evidence discovered in pursuit of this litigation.

EIGHTEENTH DEFENSE

For answer to the respective paragraphs of the Complaint, these Defendants show as follows:

1.

Defendants admit that Plaintiff alleges that he seeks relief under the statutes referenced in paragraph 1 of the Complaint, and deny the remaining allegations pled in said paragraph.

2.

Defendants admit that Plaintiff seeks to invoke jurisdiction, and deny the remaining allegations pled in paragraph 2 of the Complaint.

3.

Defendants admit that venue is appropriate.

4.

Defendants admit that Plaintiff filed a Charge with the Equal Employment Opportunity Commission, and deny the remaining allegations pled in paragraph 4 of the Complaint.

5.

Defendants are without knowledge that Plaintiff received a notice of rights letter from the Equal Employment Opportunity Commission on or about January 21, 2010, and deny the remaining allegations pled in paragraph 3 of the Complaint.

6.

Upon information and belief, Defendants admit that Plaintiff is an African-American and a citizen, and admit the remaining allegations pled in paragraph 6 of the Complaint.

7.

Defendants admit that the Sheriff's Office is located in Hall County and deny the remaining allegations pled therein.

8.

Answering paragraph 8, Defendants admit that Sheriff Steve Cronic is Caucasian and employed by Hall County Sheriff's Office and deny each and every remaining allegation pled therein.

9.

Answering paragraph 9, Defendants admit that Colonel Jeff Strickland is Caucasian and employed by the Hall County Sheriff and deny each and every remaining allegation pled therein.

10.

Defendants deny each and every allegation pled in paragraph 10 of the Complaint.

11.

Defendants admit the allegations pled in paragraph 11 of the Complaint.

12.

Defendants admit the allegations pled in paragraph 12 of the Complaint.

13.

Defendants deny each and every allegation pled in paragraph 13 of the Complaint.

14.

Answering paragraph 14, Defendants admit that Ian McIntosh is African-American and a Sergeant with Hall County Sheriff's Office and deny each and every remaining allegation pled therein.

15.

Defendants admit the allegations pled in paragraph 15 of the Complaint.

16.

Defendants admit the allegations pled in paragraph 16 of the Complaint.

17.

Answering paragraph 17, Defendants admit that Plaintiff applied for promotion to sergeant in March 2007 and deny each and every remaining allegation pled therein.

18.

Defendants deny each and every allegation pled in paragraph 18 of the Complaint.

19.

Answering paragraph 19, Defendants admit that Jacob Haney is Caucasian and was promoted to sergeant on or about April 12, 2007, and deny each and every remaining allegation pled therein.

20.

Answering paragraph 20, Defendants admit that Kelley Edwards is Caucasian and was promoted to sergeant on or about July 11, 2007, and deny each and every remaining allegation pled therein.

21.

Defendants deny each and every allegation pled in paragraph 21 of the Complaint.

22.

Defendants deny each and every allegation pled in paragraph 22 of the Complaint.

23.

Defendants show that the content of the referenced document speaks for itself,

and deny the remaining the allegations pled in paragraph 23 of the Complaint.

24.

Defendants deny each and every allegation pled in paragraph 24 of the Complaint.

25.

Defendants deny each and every allegation pled in paragraph 25 of the Complaint.

26.

Defendants deny each and every allegation pled in paragraph 26 of the Complaint.

27.

Answering paragraph 27, Defendants admit that Plaintiff filed a charge with the Equal Employment Opportunity Commission, and deny each and every remaining allegation pled therein.

28.

Answering paragraph 28, Defendants admit that Plaintiff submitted a memo to Sergeant Pearson on January 4, 2008; admit that Plaintiff filed grievances with Internal Affairs and Charles Nix, Director of Human Resources, on or about January 4, 2008;

admit that Plaintiff met with Mr. Nix on or about January 8, 2008; and deny each and every remaining allegation pled therein.

29.

Answering paragraph 29, Defendants admit that Plaintiff received correspondence from Captain Donnie Jarrard dated January 9, 2008 and deny each and every remaining allegation pled therein.

30.

Answering paragraph 30, Defendants admit that Plaintiff received a memorandum from Lieutenant Kemp on or about January 9, 2008, and deny each and every remaining allegation pled therein.

31.

Answering paragraph 31, Defendants admit that Plaintiff met with Captain Jarrard in on January 11, 2008, and deny each and every remaining allegation pled therein.

32.

Answering paragraph 32, Defendants admit that Plaintiff received a memo from Captain Jarrard informing that his previously scheduled vacation day for January 18, 2008 was canceled because his presence in superior court was mandatory and deny

each and every allegation pled in paragraph 32 of the Complaint.

42 U.S.C. § 1983 Violation of Equal Protection

33.

Defendants incorporate by reference their responses to paragraphs 1 through 32 of the Complaint as though set forth specifically herein.

34.

Defendants show that the content of the referenced Equal Protection Clause of the Fourteenth Amendment speaks for itself and deny the allegations pled in paragraph 34 of the Complaint.

35.

Defendants deny the allegation pled in paragraph 35 of the Complaint.

36.

Defendants deny each and every allegation pled in paragraph 36 of the Complaint.

37.

Defendants deny each and every allegation pled in paragraph 37 of the Complaint.

38.

Defendants deny each and every allegation pled in paragraph 38 of the Complaint.

39.

Defendants deny each and every allegation pled in paragraph 39 of the Complaint.

40.

Defendants deny each and every allegation pled in paragraph 40 of the Complaint.

42 U.S.C. § 1981 and 1983 – Intentional Race Discrimination

41.

Defendants incorporate by reference their responses to paragraphs 1 through 40 of the Complaint as though set forth specifically herein.

42.

Defendants deny each and every allegation pled in paragraph 42 of the Complaint.

43.

Defendants deny each and every allegation pled in paragraph 43 of the Complaint.

44.

Defendants deny each and every allegation pled in paragraph 44 of the Complaint.

45.

Defendants deny each and every allegation pled in paragraph 45 of the Complaint.

42 U.S.C. § 1985 – Conspiracy to Deprive Plaintiff of his Civil Rights

46.

Defendants incorporate by reference their responses to paragraphs 1 through 45 of the Complaint as though set forth specifically herein.

47.

Defendants deny each and every allegation pled in paragraph 47 of the Complaint.

48.

Defendants deny each and every allegation pled in paragraph 48 of the Complaint.

49.

Defendants deny each and every allegation pled in paragraph 49 of the

Complaint.

50.

Defendants deny each and every allegation pled in paragraph 50 of the Complaint.

51.

Defendants deny each and every allegation pled in paragraph 51 of the Complaint.

52.

Defendants deny each and every allegation pled in paragraph 52 of the Complaint.

Retaliation

53.

Defendants incorporate by reference their responses to paragraphs 1 through 52 of the Complaint as though set forth specifically herein.

54.

Defendants deny each and every allegation pled in paragraph 54 of the Complaint.

55.

Defendants deny each and every allegation pled in paragraph 55 of the Complaint.

56.

Defendants deny each and every allegation pled in paragraph 56 of the Complaint.

42 U.S.C. § 1983 – Violation of First Amendment Rights

57.

Defendants incorporate by reference their responses to paragraphs 1 through 56 of the Complaint as though set forth specifically herein.

58.

Defendants deny each and every allegation pled in paragraph 58 of the Complaint.

59.

Defendants deny each and every allegation pled in paragraph 59 of the Complaint.

60.

Defendants deny each and every allegation pled in paragraph 60 of the Complaint.

61.

Defendants deny each and every allegation pled in paragraph 61 of the Complaint.

62.

Defendants deny each and every allegation pled in paragraph 62 of the Complaint.

63.

Defendants deny each and every allegation pled in paragraph 63 of the Complaint.

64.

Defendants deny each and every allegation pled in paragraph 64 of the Complaint.

42 U.S.C. § 1988 – Attorney Fees

65.

Defendants incorporate by reference their responses to paragraphs 1 through 64 of the Complaint as though set forth specifically herein.

66.

Defendants deny each and every allegation pled in paragraph 66 of the

Complaint.

67.

Defendants admit that Plaintiff has demanded a trial by jury.

68.

Defendants deny that Plaintiff is entitled to any of the relief set forth in his requests in Sections (a) through (d) of the Complaint.

69.

Any allegations in the Complaint not heretofore answered, qualified or denied are here and now denied as though set forth specifically and denied.

WHEREFORE, the Defendants in the above-referenced civil action respectfully request that this Court:

1. Dismiss with prejudice Plaintiff's Complaint;

2. Award Defendants their reasonable attorney's fees, costs, and expenses pursuant to 42 U.S.C. § 1988 or otherwise; and

3. Award any and all other relief to Defendants that this Court may deem necessary and proper.

DEMAND FOR TRIAL BY JURY

Defendants demand trial by jury as to all issues alleged in this civil action.

Respectfully submitted,

FREEMAN MATHIS & GARY, LLP

/s/ Benton J. Mathis, Jr.
Benton J. Mathis, Jr.
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Defendants.	)	

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing **ANSWER** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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PRO HAC VICE

This 7th day of June, 2010.

s/ Benton J. Mathis, Jr.
Benton J. Mathis, Jr.
Georgia Bar No. 477019

Attorney for the Defendants

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