

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:18-CV-513

Plaintiff, )  
 )  
v. ) COMPLAINT AND JURY DEMAND  
 )  
BOBBY W. LANGSTON, II, and )  
THE TOWN OF ROLESVILLE, )  
Defendants. )

, hereby files the following complaint against Defendants as captioned above.

INTRODUCTION

This is a suit for sexual harassment and battery authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. and North Carolina state law.

JURISDICTION AND VENUE

1. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1331, 1343, 1367 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. The jurisdiction of this Court is invoked to secure protection and redress deprivation of rights guaranteed by federal law, which rights provide for injunctive relief and other relief for illegal employment discrimination. This Court has supplemental jurisdiction of the North Carolina state law claims pursuant to 28 U.S.C. § 1367. The amount in controversy in this action exceeds the jurisdictional limits of this Court.

2. This action is also brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the Fourteenth Amendment of the United States Constitution.
3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), since all defendants reside or resided in this district and the event giving rise to the claims occurred in this district.

### PARTIES

- 4.
5. At the time of the events complained of herein, Plaintiff was a Rolesville Police Officer.
6. At all material times, Defendant Bobby W. Langston, II ("Langston"), in his official capacity, was employed by the Defendant Town of Rolesville as the Rolesville Chief of Police and was acting within the scope, course, and authority of his employment and under color of statutes, rules and regulations, customs and usage of the Defendant Town of Rolesville. Defendant Langston was Plaintiff's supervisor.
7. Defendant Town of Rolesville is a municipal entity organized under the laws and Constitution of the State of North Carolina and is a corporate entity capable of suing and being sued. Defendant Town of Rolesville maintains and operates the Town of Rolesville Police Department. At all times material hereto, the Defendant Town of Rolesville employs more than 50 people.

### FACTUAL BACKGROUND

8. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.
9. Plaintiff first met Defendant Langston in November of 2015.
10. Plaintiff told Defendant Langston that he wanted to be a police officer.

11. Defendant Langston offered Plaintiff a \$300 scholarship to attend basic law enforcement training (“BLET”).
12. Plaintiff completed BLET in 2016.
13. Upon information and belief, once Plaintiff completed BLET, Defendant Langston arranged for the hiring freeze to be lifted.
14. Plaintiff was sworn in as a Rolesville Police Officer on August 16, 2016.
15. In January 2017, Plaintiff was selected to attend a law enforcement training in Charlotte, North Carolina.
16. The training was scheduled for March 25-29, 2017.
17. The training was paid for by Defendant Town of Rolesville.
18. The hotel room was paid for by Defendant Town of Rolesville.
19. Upon information and belief, it was the Defendant Town of Rolesville’s custom or policy that if two or more police officers of the same sex traveled overnight on official business, the hotel room would be shared.
20. Defendant Langston agreed to attend the training with Plaintiff.
21. On March 25, 2017, Defendant Langston picked up Plaintiff to travel to Charlotte to attend the training.
22. Defendant Langston and Plaintiff drove to Charlotte in an official work car.
23. Once Defendant Langston and Plaintiff arrived at the Embassy Suites, Defendant Langston instructed Plaintiff to park the car.
24. Upon information and belief, during hotel check-in, Defendant Langston reserved one room with a single king-sized bed.
25. Plaintiff agreed to sleep on the couch in the hotel room.

26. Plaintiff and Defendant Langston ate dinner together and consumed alcoholic beverages.
27. When Plaintiff and Defendant Langston arrived back at their hotel room, Defendant Langston told Plaintiff that they could share the king-sized bed.
28. Defendant Langston told Plaintiff that he would place a pillow between the two of them on the bed.
29. Plaintiff agreed to sleep on one side of the bed.
30. During the night, Defendant Langston got up to use the restroom.
31. When Defendant Langston returned to the bed, he asked Plaintiff if Plaintiff was posing for him.
32. Plaintiff replied, "No."
33. Defendant Langston rolled over to face the Plaintiff and grabbed Plaintiff's penis.
34. Plaintiff pushed Defendant Langston's hand away.
35. Defendant Langston grabbed Plaintiff's penis a second time.
36. Plaintiff pushed Defendant Langston's hand away.
37. Defendant Langston grabbed Plaintiff's penis a third time.
38. Defendant Langston asked Plaintiff if Plaintiff was "hard."
39. Plaintiff pushed Defendant Langston's hand away and replied, "No."
40. Plaintiff feared repercussions, so he remained in bed but did not sleep that night.
41. Early the following morning, Plaintiff contacted his fiancée and asked her to come pick him up from the training in Charlotte.
42. During breakfast, Defendant Langston apologized for his behavior.

43. Plaintiff attempted to attend law enforcement workshops separate from Defendant Langston.
44. Plaintiff tried to stay out in public until he fiancée arrived to avoid being alone with Defendant Langston.
45. That evening, Plaintiff informed Defendant Langston that he felt uncomfortable and awkward around him.
46. Defendant Langston apologized and stated that he was not “like that.”
47. Defendant Langston told Plaintiff that he would go back and resign right now.
48. Plaintiff’s fiancée arrived that evening and drove Plaintiff back home.
49. Plaintiff did not attend the remaining sessions of the law enforcement training.
50. When Plaintiff returned home, Plaintiff was instructed to file a written complaint.
51. Defendant Langston took his own life.
52. Plaintiff has never been informed about the outcome of the investigation into his allegations.
53. Defendant Town of Rolesville has not provided adequate anti-harassment training since Plaintiff filed his allegation.
54. Prior to March 2017, Plaintiff had not received adequate training on Defendant Town of Rolesville’s anti-harassment policy or complaint procedure.
55. Plaintiff timely filed a charge of discrimination with the Equal Employment Opportunity Commission.
56. Plaintiff received a notice of right to sue dated July 31, 2018 and files this action within 90 days of the receipt of the notice of right to sue.

FIRST CAUSE OF ACTION  
SEX HARASSMENT IN VIOLATION OF  
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000e et seq

57. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

58. During the time referenced herein, Plaintiff was subjected to unwelcome, offensive, and harassing sexually discriminatory conduct during his employment with Defendant Town of Rolesville which was perpetrated upon him by his supervisor, Defendant Langston, and that this conduct was based upon and directed at Plaintiff by reason of his gender.

59. The actions of Defendant Langston towards Plaintiff, his subordinate, as described herein, were sufficiently severe and pervasive so as to unreasonably interfere with Plaintiff's physical health, work performance, and so to create an intimidating, hostile and offensive working environment.

60. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame and embarrassment, all to the Plaintiff's damage in an amount to be proven at the time of trial.

SECOND CAUSE OF ACTION  
FAILURE TO TRAIN AND SUPERVISE AS TO RESPONSE TO SEXUAL ASSAULT AS  
TO DEFENDANT TOWN OF ROLESVILLE

61. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

62. Under the Equal Protection Clause of the Fourteenth Amendment, Plaintiff had the right to equal access to a work environment free from harassment.

63. Defendant Town of Rolesville violated Plaintiff's right to equal access by:

- a. Failing to provide adequate training about the grievance procedure for employees to file complaints of sexual discrimination; and,

- b. Failing to notify Plaintiff of the outcome of his complaint.
- 64. Defendant Town of Rolesville violated Plaintiff's Fourteenth Amendment right to equal protection by failing to properly train and supervise its employees as to these mandated investigative requirements.
- 65. Defendant Town of Rolesville failed to take all reasonable and necessary steps to eliminate sex discrimination from the workplace and to prevent it from occurring in the future.
- 66. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered substantial emotional distress, humiliation, shame, and embarrassment, all to the Plaintiff's damage in an amount to be proven at the time of trial.

THIRD CAUSE OF ACTION

COLOR OF STATE LAW

- 67. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.
- 68. This cause of action is to redress the deprivation under the color of policy, custom, and practice of rights.
- 69. Defendant Town of Rolesville's custom of requiring two officers of the same sex to share a hotel room while traveling on official business.
- 70. This custom or policy was actually known, constructively known and/or ratified by Defendant Town of Rolesville and Rolesville Police Department.
- 71. Plaintiff alleges that the above-mentioned policy or custom actually aided or caused Langston to violate Plaintiff's constitutional rights and commit battery against Plaintiff.

THIRD CAUSE OF ACTION  
BATTERY  
(Defendant Langston)

72. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

73. Defendant Langston committed battery against Plaintiff when he groped Plaintiff's penis for sexual pleasure against Plaintiff's will.

74. As a direct and proximate result of Defendant Langston's conduct, Plaintiff has suffered and will continue to suffer pain, suffering, mental anguish, loss of enjoyment of life and other non-pecuniary loss.

75. Further, Defendant Langston acted with actual malice toward Plaintiff or with reckless disregard of the protected rights of the Plaintiff so as to support an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount which will compensate him for:

1. Violation of his rights under Title VII of the Civil Rights Act of 1964;
2. Damages for emotional distress and humiliation, past and future medical expenses;
3. Punitive damages to punish Defendants for its willful, wanton, oppressive, malicious, and/or grossly negligent conduct;
4. Trial by jury on all issues so triable;
5. Costs expended herein, including reasonable attorneys' fees;
6. Pre-judgment and post-judgment interest; and
7. Any and all other relief to which he may be entitled.



Respectfully submitted the 29<sup>th</sup> day of October 2018.

BY: