

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

JOHN WALKER,

Plaintiff,

v.

CITY OF BRIDGEPORT,

Defendant.

Civil Action No. 22C-203-1

FILED IN 15TH  
CIRCUIT COURT  
2022 NOV -4 P 1:20

**COMPLAINT**

In furtherance of this Complaint, Plaintiff John Walker ("Plaintiff") states and alleges as follows against the City of Bridgeport ("Defendant" or "City"):

1. The Plaintiff is a resident of Harrison County, West Virginia.
2. The Plaintiff was employed by the Defendant and carried out his job duties for the Defendant in Harrison County, West Virginia.
3. The Defendant is a municipality in Harrison County, West Virginia.
4. Based upon the claims at issue, this Court has jurisdiction over this civil action.
5. The claims asserted herein do not arise out of federal law and do not require interpretation of any collective bargaining agreement.
6. Harrison County, West Virginia, is an appropriate venue for this civil action.

**Factual Background**

7. The Plaintiff hereby incorporates by reference all allegations and averments contained in Paragraphs 1 through 6 of this Complaint.
8. The Plaintiff began his employment with the City of Clarksburg's police department in or about July 1977.

9. The Plaintiff ascended to the rank of Chief of Police for the City of Clarksburg's police department and served in that capacity for approximately 12 years leading up to his retirement from employment with the City of Clarksburg in or about July 2007.

10. On or about April 18, 2008, the Plaintiff was hired by the Defendant to serve as the Chief of Police for the Defendant's police department.

11. The Plaintiff served as the Chief of Police for the Defendant's police department from approximately April 18, 2008, through March 7, 2022.

12. During his employment with the Defendant, the Plaintiff consistently performed his job duties in a satisfactory manner and met the reasonable expectations of the Defendant.

13. In the period leading up to February 22, 2022, the Plaintiff, who is currently 65 years of age, had been asked by Randy Wetmore ("Mr. Wetmore") (the Defendant's City Manager at that time) and Andy Lang ("Mr. Lang") (the Defendant's Mayor) when he would retire.

14. In response to questions about retirement from Mr. Wetmore and Mr. Lang, the Plaintiff informed Mr. Wetmore and Mr. Lang that he did not have plans to retire.

15. The Plaintiff had hoped to continue serving as the Chief of Police for the Defendant's police department for several more years.

16. On February 22, 2022, Mr. Wetmore, in his role as the Defendant's City Manager at that time, informed the Plaintiff, via letter, that the Plaintiff was being "placed on Paid Administrative Leave pending an internal investigation of a complaint received by the City of Bridgeport regarding [the Plaintiff's] interactions with members of the public and the department."

17. On or about February 24, 2022, when asked by a reporter regarding the Plaintiff, Mr. Wetmore replied, "It's a personnel matter, and that's where I'm going to leave that."

18. On or about February 24, 2022, upon further questioning by a reporter regarding the Plaintiff, Mr. Wetmore added, "This is just for the time being, as of now."

19. By February 24, 2022, however, Mark Rogers ("Mr. Rogers") had already been named by the Defendant as the Interim Police Chief of the Defendant's police department.

20. Upon information and belief, Mr. Rogers is substantially younger than the Plaintiff.

21. Upon being named Interim Police Chief of the Defendant's police department, Mr. Rogers, upon information and belief, assumed the job duties the Plaintiff held as Police Chief.

22. Prior to being named Interim Police Chief of the Defendant's police department, Mr. Rogers had served as Deputy Chief of the Defendant's police department since only January 2020.

23. Upon information and belief, the Defendant has removed the interim designation relative to Mr. Rogers, who now serves as the Chief of Police of the Defendant's police department.

24. On February 28, 2022, the Plaintiff voluntarily participated in an interview conducted at the law offices of Steptoe & Johnson PLLC in Bridgeport, West Virginia.

25. The above-referenced interview was conducted by an attorney hired by the Defendant, and the Plaintiff was permitted to have counsel present.

26. In his February 22, 2022, letter to the Plaintiff, Mr. Wetmore referred to the "investigation" as being "conducted by a third party."

27. Despite the above-referenced interview having been characterized to the Plaintiff as being part of a third-party investigation, upon information and belief, the attorney who conducted the interview was hired to represent the Defendant's interests relative to the Plaintiff.

28. Upon information and belief, the Defendant's attorney was not an independent, third-party investigator in the context of the Defendant's purported investigation.

29. Despite Mr. Wetmore's indication that the investigation was related to a single complaint, at the above-referenced interview that occurred on February 28, 2022, the Plaintiff was questioned about three unrelated instances that were entirely separate in time.

30. The Plaintiff was told that one of the instances about which he was being questioned related to the Plaintiff having drawn his sidearm on February 15, 2022.

31. The Plaintiff drew his sidearm on February 15, 2022, while backing up two other Bridgeport police officers.

32. At the above-referenced interview that occurred on February 28, 2022, the Plaintiff was told that a second instance about which he was being questioned dated back to October 2019.

33. The October 2019 instance involved multiple law-enforcement agencies and law-enforcement officials who had responded to a matter, not just the Plaintiff.

34. At the above-referenced interview that occurred on February 28, 2022, the Plaintiff was told that a third instance about which he was being questioned related to an individual who had formerly worked as an office manager for the Defendant.

35. The office manager had purchased a photograph frame for the Plaintiff, who then reimbursed her with his own money.

36. Prior to the above-referenced interview on February 28, 2022, the Defendant had not disciplined the Plaintiff regarding any of the three instances about which the Plaintiff was questioned at the interview.

37. Prior to the above-referenced interview on February 28, 2022, the Defendant had not taken any corrective action toward the Plaintiff regarding any of the three instances about which the Plaintiff was questioned at the interview.

38. Upon information and belief, prior to February 2022, the Defendant had not investigated the Plaintiff regarding any matter.

39. At the above-referenced interview on February 28, 2022, the Defendant's attorney who conducted the interview was notified that the Plaintiff felt he was being discriminated against by the Defendant based upon, at a minimum, the Plaintiff's age.

40. On March 2, 2022, the letter attached as "Exhibit A" to this Complaint was emailed to the Defendant's attorney who conducted the above-referenced interview.

41. On March 5, 2022, the report and two related enclosures (a summary of the above-referenced February 15, 2022, instance and a resume) attached as "Exhibit B" to this Complaint were emailed to the Defendant's attorney who conducted the above-referenced interview.

42. The above-referenced report was prepared and signed by retired First Lieutenant West Virginia State Police ("WVSP") Trooper D. Totten Rectenwald, who served approximately 25 years with the WVSP, including part of that time as a trainer at the WVSP Academy.

43. In her report, retired First Lieutenant West Virginia State Trooper D. Totten Rectenwald concluded that the Plaintiff did absolutely nothing wrong in the context of the above-referenced February 15, 2022, instance.

44. The Defendant, nevertheless, terminated the Plaintiff's employment.

45. By letter dated March 7, 2022, Mr. Wetmore informed the Plaintiff that the Defendant was terminating the Plaintiff's employment effective immediately.

46. In terminating the Plaintiff's employment, the Defendant refused to provide a specific reason, instead more generally referring to the Plaintiff's judgment and leadership and noting that the termination decision "is not based on any single event" and is rather "based on the sum of all the circumstances."

47. The Plaintiff's judgment while serving as the Defendant's Chief of Police had never been a source of any prior discipline relative to the Plaintiff.

48. The Plaintiff's leadership while serving as the Defendant's Chief of Police had never been a source of any prior discipline relative to the Plaintiff.

49. Following the Defendant's termination of the Plaintiff's employment, the Plaintiff filed for unemployment-compensation benefits, and he was awarded such benefits.

50. In West Virginia, two grounds exist for opposing a discharged employee's claim for unemployment-compensation benefits: simple misconduct and gross misconduct.

51. The Defendant did not oppose the Plaintiff's unemployment-compensation claim.

52. To the extent that the Defendant called into question the Plaintiff's judgment and leadership in the March 7, 2022, termination letter, such reason was a mere pretext.

53. The Defendant's Fire Chief sent penis-shaped gummies to a female employee of the Defendant in approximately 2021.

54. The Defendant was aware that its Fire Chief sent penis-shaped gummies to a female employee of the Defendant in approximately 2021.

55. Upon information and belief, the Defendant's female employee to whom the Defendant's Fire Chief sent the penis-shaped gummies complained about such conduct.

56. The Defendant did not terminate the employment of its Fire Chief, despite his actual poor judgment and leadership in, among other things, having sent penis-shaped gummies to a female employee of the Defendant.

57. At the time of the Defendant's termination of his employment, the Plaintiff, who is a 1975 graduate of Bridgeport High School, had over 40 years of service in law enforcement,

including approximately 12 years of service as the Clarksburg Police Chief and nearly 14 years of service as the Bridgeport Police Chief.

58. Upon information and belief, the Defendant's decision to terminate the Plaintiff's employment was made by, at a minimum, Mr. Wetmore (the Defendant's City Manager at the time) and Mr. Lang (the Defendant's Mayor) without consulting, seeking input from, or even informing members of the Bridgeport City Council until after the termination decision was already made.

59. The Defendant is an employer for purposes of the West Virginia Human Rights Act ("WVHRA") and the West Virginia Whistle-blower Law.

**First Cause of Action**  
**Violation of the WVHRA**  
**Age Discrimination**

60. The Plaintiff hereby incorporates by reference all allegations and averments contained in Paragraphs 1 through 59 of this Complaint.

61. The Plaintiff was 64 years of age at the time of the termination of his employment with the Defendant.

62. The Plaintiff falls in a protected class under the WVHRA on the basis of his age.

63. The Defendant replaced the Plaintiff with a substantially-younger individual.

64. In violation of the WVHRA, W. Va. Code §§ 5-11-1, *et seq.*, the Defendant's decision to terminate the Plaintiff's employment and the actual termination of his employment were unlawfully based in whole or in part upon the Plaintiff's age.

65. As a direct and proximate result of the Defendant's age discrimination against the Plaintiff in violation of the WVHRA, the Plaintiff has suffered and will continue to suffer lost wages and benefits in an amount to be determined, as well as indignity, embarrassment, and humiliation in an amount to be determined.

66. As a direct and proximate result of the Defendant's age discrimination against the Plaintiff in violation of the WVHRA, the Plaintiff is entitled to damages in the form of lost wages and benefits in an amount to be determined, reinstatement or (in the alternative) front pay, and damages for indignity, embarrassment, and humiliation in an amount to be determined.

67. Under the WVHRA, the Plaintiff is entitled to an award of his attorney's fees and costs incurred in connection with the Defendant's discriminatory conduct, as addressed in this cause of action in the Complaint.

**Second Cause of Action**  
**Violation of the WVHRA**  
**Reprisal**

68. The Plaintiff hereby incorporates by reference all allegations and averments contained in Paragraphs 1 through 67 of this Complaint.

69. In opposition to the age discrimination to which he was being subjected by the Defendant, the Plaintiff's concern regarding age discrimination was brought to the attention of the Defendant's counsel at the February 28, 2022, meeting at the Defendant's counsel's office.

70. On March 7, 2022, the Defendant terminated the Plaintiff's employment.

71. In violation of the WVHRA, W. Va. Code §§ 5-11-1, *et seq.*, the Defendant's decision to terminate the Plaintiff's employment and the actual termination of his employment were unlawfully based in whole or in part upon reprisal for the Plaintiff's above-referenced concern raised in opposition to the Defendant subjecting the Plaintiff to age discrimination.

72. As a direct and proximate result of the Defendant's reprisal in violation of the WVHRA, the Plaintiff has suffered and will continue to suffer lost wages and benefits in an amount to be determined, as well as indignity, embarrassment, and humiliation in an amount to be determined.



73. As a direct and proximate result of the Defendant's reprisal in violation of the WVHRA, the Plaintiff is entitled to damages in the form of lost wages and benefits in an amount to be determined, reinstatement or (in the alternative) front pay, and damages for indignity, embarrassment, and humiliation in an amount to be determined.

74. Under the WVHRA, the Plaintiff is entitled to an award of his attorney's fees and costs incurred in connection with the Defendant's reprisal, as addressed in this cause of action in the Complaint.

**Third Cause of Action**  
**Violation of West Virginia Whistle-blower Law**

75. The Plaintiff hereby incorporates by reference all allegations and averments contained in Paragraphs 1 through 74 of this Complaint.

76. Although West Virginia has passed a medical cannabis law, as of the date of the Defendant's termination of the Plaintiff's employment, cannabis remained a controlled substance that was illegal under federal law.

77. In his role as the Chief of Police for the Defendant's police department, the Plaintiff opposed plans to open a cannabis dispensary in Bridgeport, West Virginia.

78. The opening of a cannabis dispensary in Bridgeport, West Virginia, would have constituted wrongdoing of a federal nature.

79. The opening of a cannabis dispensary in Bridgeport, West Virginia, would have been a significant violation of a federal law designed to protect the interest of the public.

80. In approximately February 2022, prior to being placed on leave by the Defendant, the Plaintiff made a good-faith report of his opposition to such wrongdoing relative to the cannabis dispensary that was being planned to open in Bridgeport, West Virginia.

81. In approximately February 2022, prior to being placed on leave by the Defendant, the Plaintiff made his good-faith report of wrongdoing to a Director for the Defendant, with the expectation that such report would be forwarded by that Director to the Defendant's Zoning Board.

82. Upon information and belief, for a cannabis dispensary to be opened in Bridgeport, West Virginia, a zoning variance had to be authorized by the Defendant's Zoning Board.

83. The Defendant's Director to whom the Plaintiff made his good-faith report of wrongdoing oversees the Defendant's Zoning Board.

84. The Plaintiff made his good-faith report of wrongdoing without malice or consideration of personal benefit, and he had reasonable cause to believe the truth of his report.

85. In approximately February 2022, prior to being placed on leave by the Defendant, the Plaintiff spoke with a representative of the West Virginia Attorney General's ("WVAG") office regarding the Plaintiff's opposition to locating a cannabis dispensary in Bridgeport, West Virginia. The WVAG representative with whom the Plaintiff spoke agreed with the Plaintiff's analysis in terms of the Plaintiff's opposition to the opening of a cannabis dispensary in Bridgeport.

86. Although the Plaintiff opposed plans to locate a cannabis dispensary in Bridgeport, West Virginia, based upon the federal illegality of doing so, the City of Bridgeport had every intention of moving forward with such plans.

87. Upon information and belief, the Director to whom the Plaintiff made his above-referenced good-faith report of wrongdoing supported the opening of a cannabis dispensary in Bridgeport, West Virginia, at the time of the Plaintiff's report and subsequent termination.

88. As reflected in an article published on February 25, 2022, such Director stated, among other things, the following in the context of a particular cannabis dispensary's plans to locate in Bridgeport, West Virginia, during that approximate timeframe: "They're opening,

dispensaries are opening in the state, so I think that eventually there will be one open in Bridgeport. We'll be working with the same company, if they are interested in locating in Bridgeport we'll make sure we can help them out in any way that we can.”

89. Between the time when the Plaintiff made his above-referenced good-faith report of wrongdoing and when the above-referenced statement was made by a Director for the City of Bridgeport in support of locating a cannabis dispensary in Bridgeport, West Virginia, the Plaintiff was placed on administrative leave by the Defendant. And only slightly over a week after the above-referenced statement was made in support of locating a cannabis dispensary in Bridgeport, West Virginia, the Plaintiff's employment with the Defendant was terminated.

90. The Plaintiff was a whistle-blower pursuant to W. Va. Code §§ 6C-1-1, *et seq.*

91. In violation of the West Virginia Whistle-blower Law, W. Va. Code §§ 6C-1-1, *et seq.*, the Defendant's decision to terminate the Plaintiff's employment and the actual termination of his employment were unlawfully based in whole or in part on the Plaintiff's good-faith report of wrongdoing relative to the proposed opening of a cannabis facility in Bridgeport, West Virginia.

92. As a direct and proximate result of the Defendant's above-referenced violation of the West Virginia Whistle-blower Law, the Plaintiff has suffered and will continue to suffer lost wages and benefits in an amount to be determined, as well as indignity, embarrassment, and humiliation in an amount to be determined.

93. As a direct and proximate result of the Defendant's above-referenced violation of the West Virginia Whistle-blower Law, the Plaintiff is entitled to damages in the form of lost wages and benefits in an amount to be determined, reinstatement or (in the alternative) front pay, and damages for indignity, embarrassment, and humiliation in an amount to be determined.

94. Under the West Virginia Whistle-blower Law, the Plaintiff is entitled to an award of his attorney's fees and costs incurred in connection with the violation addressed in this cause of action in the Complaint.

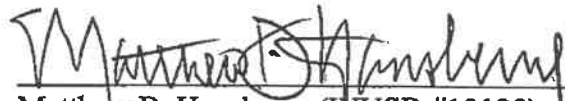
WHEREFORE, the Plaintiff prays for judgment against the Defendant as follows:

- a. damages set forth in the Complaint, including lost wages and benefits, back pay, and damages for indignity, embarrassment, and humiliation in amounts to be determined by a jury;
- b. reinstatement or, in the alternative, front pay;
- c. prejudgment interest as provided by the law;
- d. interest on the judgment at the legal rate, accruing from the date of the judgment;
- e. attorney's fees and costs; and
- f. such further relief as this Court may deem just and equitable.

THE PLAINTIFF DEMANDS A JURY TRIAL.

PLAINTIFF JOHN WALKER,

By Counsel:



Matthew B. Hansberry (WVSB #10128)  
HANSBERRY LAW OFFICE, PLLC  
1400 Johnson Avenue, Suite 4-P  
Bridgeport, WV 26330  
Email: matt@hansberrylaw.com  
Telephone: (304) 842-5135  
Facsimile: (304) 842-0907

2022 NOV -4 P 1:20

FILED IN 15TH  
CIRCUIT COURT

# EXHIBIT A

**Matthew B. Hansberry, Esq.  
Hansberry Law Office, PLLC**

**H** Blake Center  
1400 Johnson Ave., Ste. 4-P  
Bridgeport, WV 26330  
HansberryLaw@gmail.com  
Telephone: (304) 842-5135  
Facsimile: (304) 842-0907

March 2, 2022

**Via Email**

John R. Merinar, Jr., Esq.  
STEPTOE & JOHNSON PLLC  
400 White Oaks Boulevard  
Bridgeport, WV 26330

**Re: Chief John Walker**

Dear Jack:

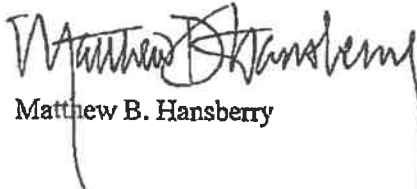
I hope you are well. As mentioned yesterday, I have concerns about the City of Bridgeport's investigation relative to Chief Walker. It has come to my attention that the use of a law firm to investigate an officer drawing his weapon, or any matter regarding a police officer's conduct in terms of responding to a call, is highly unusual and is inconsistent with typical practice or industry norms. If such an investigation is conducted, it should be conducted by law-enforcement officials who have background, training, and experience specific to the area being investigated.

Considering that neither of us has experience working as a law-enforcement officer, I proposed that facts regarding the February 15, 2022 matter recently brought to Chief Walker's attention be submitted to a neutral, experienced individual – perhaps a retired West Virginia State Trooper – who has worked as a law-enforcement officer and who has trained law-enforcement officers. In speaking with you this afternoon, it is my understanding the City of Bridgeport has refused my above proposal. I must, therefore, object to the investigation as improper.

Given the improper nature of the investigation, before you and I spoke today, I had already contacted Retired First Lieutenant D. Totten Rectenwald, a retired West Virginia State Trooper who has impeccable credentials, who was third in charge at the West Virginia State Police Academy for several years, and who has no connection to Chief Walker or the City of Bridgeport. I anticipate having a report from her by the end of the week, and I will forward that report to you upon receipt.

Based upon our conversation this afternoon, it is my understanding that the City of Bridgeport has already made the decision that Chief Walker will be terminated unless he resigns. Candidly, the City of Bridgeport's refusal to properly investigate this matter – or even consider the opinion of a qualified, neutral with a strong background of having worked as a law-enforcement officer for over two decades and having trained law-enforcement officers at the West Virginia State Police Academy – is one of multiple strong indicators of the improper and pretextual nature of the process to which Chief Walker has been subjected and the termination decision.

Very truly yours,

  
Matthew B. Hansberry

# EXHIBIT B

Matthew B. Hansberry, Attorney-at-law  
Hansberry Law Office, PLLC  
1400 Johnson Avenue, Suite 4-P  
Bridgeport, WV 26330

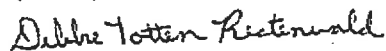
Dear Mr. Hansberry,

As requested, I am writing in regard to our prior phone conversations and written summary, concerning an incident involving Chief Walker with Bridgeport Police Depart. I am a retired West Virginia State Police 1/Lieutenant who honorably retired on July 31, 2008. During my twenty- five years of service, my duties consisted of criminal investigations, accident investigations, road patrol, and numerous other law enforcement duties. I spent approximately ten years in the field with the remainder of my career being assigned to Department Headquarters, Governors Security, and the West Virginia State Police Training Academy. The last eight years of my career were spent at the WVSP Training Academy, where I was third in charge with duties which included supervising, teaching, and assisting in the overall day to day function of the Academy.

Upon reviewing the circumstances of this incident as reflected in the attached summary, It is my opinion to a reasonable degree of certainty based upon my professional experience, that Chief Walker's actions were appropriate and consistence with acceptable practice.

A law enforcement officer may only have a second to react if a suspect(s) draws a weapon. By having a duty weapon drawn in a ready position, it gives the officer a quicker response time to a potential threat, and increases officer safety. Unholstering a weapon is a decision that can only be made at the officer's discretion, based upon the specific set of circumstances. I am not aware of any law or practice that would prohibit an officer from drawing his weapon as such in this situation. Based on my twenty- five years in law enforcement, and from a training standpoint, I feel Chief Walker's actions were reasonable and justifiable.

Respectfully,



Debbie Totten Rectenwald



On February 15, 2022, Chief Walker received a transmission via police scanner regarding a hit and run involving two vehicles. The victim had followed the perpetrator to Sheetz in Bridgeport.

Chief Walker, who was in the area at the time of the transmission, pulled into Sheetz and observed the perpetrator's vehicle, which had a Georgia license plate. Chief Walker did not leave his vehicle at that time. While at Sheetz, Chief Walker observed that the perpetrator was out of his (*i.e.*, the perpetrator's) vehicle and had something in his (*i.e.*, the perpetrator's) hand. The perpetrator then got back into his vehicle and left Sheetz, at which point Chief Walker began to follow him.

Chief Walker did not know the perpetrator's purpose for stopping at Sheetz. Chief Walker did not see the perpetrator getting gas. Chief Walker assumed the perpetrator was confirming in his mind (*i.e.*, the perpetrator's mind) the victim had been following him (*i.e.*, following the perpetrator).

From Sheetz, Chief Walker followed the perpetrator to the Crestview apartment complex, which is approximately three minutes from Sheetz in Bridgeport. Chief Walker observed three individuals exit the perpetrator's vehicle and enter a second-floor apartment at the Crestview apartment complex. Thereafter, two Bridgeport police officers arrived at the apartment complex.

The two Bridgeport police officers ultimately proceeded to the second-floor apartment. One officer was near the door of the apartment, and one officer was near a window to the apartment. Chief Walker was positioned on a landing below where the two officers were standing. It was nighttime.

Given the circumstances (*e.g.*, nighttime, position of the two police officers and their surroundings, response to a hit and run, Chief Walker having observed the perpetrator out of his car with something in his hand at Sheetz, three individuals having exited the perpetrator's vehicle and entered the second-floor apartment, and Chief Walker's suspicion the perpetrator knew he had been followed), Chief Walker drew his sidearm to the high-and-ready position, not aimed directly at anyone, as the officer at the apartment door attempted to have the perpetrator respond to the door. Chief Walker felt it was appropriate to do so to ensure the safety of the two officers above him and to mitigate against any potential threat under the circumstances. Chief Walker held his sidearm in the high-and-ready position for approximately five seconds. Once he felt the two officers above him were sufficiently safe, Chief Walker holstered his sidearm.