

IN THE CIRCUIT COURT
FOR McCracken County, Kentucky

DANIELLE WOLFE,
Plaintiff,
v.
McCracken County Fiscal Court,
and DAVID KNIGHT, individually and in his
official capacity as McCracken County Jailer,
Defendants.
Civil Action, Case No.:
JURY DEMAND

COMPLAINT

COMES NOW the Plaintiff, Danielle Wolfe, by and through her undersigned counsel, and
for her Complaint states as follows:

NATURE OF THE COMPLAINT

1. This is a civil action arising under the laws of the Commonwealth of Kentucky and
is brought pursuant to the Kentucky Whistleblower Act, Ky. Rev. Stat. § 61.101 et seq., the
Kentucky common law wrongful termination cause of action, and the Kentucky Civil Rights Act,
Ky. Rev. Stat. § 344.010 et seq.

THE PARTIES

2. Plaintiff Danielle Wolfe is a resident of McCracken County, Kentucky. Ms. Wolfe
was, at all relevant times, an employee of Defendants McCracken County Fiscal Court and David
Knight.

3. Defendant McCracken County Fiscal Court is a political subdivision of the
Commonwealth of Kentucky that constitutes the governmental unit for McCracken County,

Kentucky. Its registered agent for service of process is Judge Executive Craig Z. Clymer, who may be served at Defendant's principal business location at 300 South 7th Street, Paducah, KY 42003.

4. Defendant David Knight was, at all relevant times, the McCracken County Jailer with responsibility for ensuring the McCracken County Detention Center operates in a lawful manner. He may be served at the McCracken County Detention Center, 400 South 7th Street, Paducah, KY 42003.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Ms. Wolfe's claims pursuant to Ky. Rev. Stat. § 23A.010(1).

6. Venue is proper in this Court pursuant to Ky. Rev. Stat. § 452.450 because a substantial part of the acts giving rise to this lawsuit occurred in this judicial circuit and Defendants employed Ms. Wolfe in McCracken County, Kentucky, which is located within this judicial circuit.

FACTUAL BACKGROUND

7. Ms. Wolfe is a Registered Nurse.

8. In October 2018, Southern Health Partners, which was then the medical contractor for the McCracken County Detention Center, hired Ms. Wolfe as a part-time mental health nurse for the facility.

9. In November 2018, Defendant Knight was elected as the McCracken County Jailer.

10. As the McCracken County Jailer, Defendant Knight had full responsibility for overseeing the operations of the McCracken County Detention Center, including hiring, firing, and supervising employees.

11. Although she was then employed by Southern Health Partners, Defendant Knight told Ms. Wolfe that he was responsible for all hiring and firing decisions within the medical department.

12. In late-July or early-August 2019, Defendant McCracken County Fiscal Court terminated the contract of Southern Health Partners and converted Ms. Wolfe and the other medical department employees into employees of Defendants.

13. Ms. Wolfe was, at all relevant times, the only Registered Nurse in the medical department at the McCracken County Detention Center.

14. As the mental health nurse, Ms. Wolfe's job was to meet with inmates who had mental health needs either upon submission of a sick call request from an inmate or upon referral by a deputy jailer who observed an acute need or one of the Licensed Practical Nurses ("LPNs") in the medical department.

15. For the first several months of her employment, despite her objections, Ms. Wolfe was required to meet with inmates in the attorney meeting room where other inmates and attorneys were present with no privacy for her inmate-patients.

16. After an inmate submitted a grievance alleging a violation of the Health Insurance Portability and Privacy Act ("HIPAA") based on medical staff directing Ms. Wolfe to speak with the inmate through his cell door, in or about the spring of 2019, Ms. Wolfe stated that she would no longer see inmates in the attorney meeting room and, instead, began meeting inmates in the property room by the booking desk in order to avoid the risk of violating HIPAA, though the Chief Deputy stated that it was not a big deal and past mental health employees had not been bothered by the arrangement.

17. In response, Melanie Tynes, the LPN in charge of the medical department, and the Chief Deputy told deputy jailers to make taking inmates to see Ms. Wolfe their last priority, which made Ms. Wolfe's job more difficult.

18. Also during the fall of 2018, Ms. Wolfe began observing a number of improper, illegal, unethical, and unsafe practices in the medical department as well as inhumane treatment of inmates on suicide watch, which she opposed.

19. Ms. Wolfe saw an LPN make up or falsify vital signs both for inmates on medical watch and during the booking process for newly booked-in inmates for whom the LPN often would falsify the entire intake form without seeing the inmate by using vital signs recorded during past incarcerations.

20. Ms. Wolfe went to Ms. Tynes, but Ms. Tynes said that she would not do anything to resolve the falsified vital signs issue, although she was aware of it.

21. Ms. Wolfe also observed all of the LPNs putting loose pills into white envelopes with only an inmate's name on it for other medical staff members to pass out to inmates, which is an illegal practice that led to many inmates getting the wrong medications and/or wrong dosages.

22. Ms. Wolfe again complained to Ms. Tynes, who scolded Ms. Wolfe by saying "you're mental health; you're not medical."

23. The medical department did not have an EKG machine for use in evaluating whether an individual complaining of chest pains was having an actual cardiac event or merely anxiety, leading LPNs to guess at whether an inmate was having a true cardiac problem.

24. Ms. Wolfe consulted with a past jail employee, who indicated the facility had an EKG machine in the past, after which she suggested to Ms. Tynes that they obtain an EKG machine and forward evaluation reports to the Emergency Room for review but Ms. Tynes rejected the idea.

25. Ms. Wolfe also complained to Ms. Tynes that, in a medical department staffed entirely by LPNs, the LPNs handling sick call requests from inmates evaluated conditions and determined which medications to provide, although the scope of the LPN practice does not permit LPNs to perform patient assessments without the presence of a Registered Nurse or a Nurse Practitioner to verify the diagnoses.

26. The medical department had an off site medical director and Nurse Practitioner, but Ms. Tynes forbade staff members from contacting them, instead having LPNs perform sick calls and referring to her for verification of diagnoses and prescriptions and for determination of the need for hospitalization.

27. Ms. Wolfe also observed both staff from the medical department and deputy jailers destroying inmate grievances regarding medical treatment.

28. Ms. Wolfe had tried to resolve all these issues by identifying the improper procedures to Ms. Tynes without going to Defendant Knight because, beginning in or about January 2019, Defendant Knight began making unwanted sexual overtures to Ms. Wolfe.

29. Defendant Knight frequently spoke about sexual matters and sent sexual messages to Ms. Wolfe by Facebook Messenger that, by the end of May 2019, became very dirty and included nude videos and inappropriate photos.

30. In continuing to try to perform her job, after seeing a patient, Ms. Wolfe often would recommend that the inmate-patient see the Nurse Practitioner for medication.

31. Ms. Tynes, however, told Ms. Wolfe that she could not schedule inmates to see the Nurse Practitioner and had to, instead, make a recommendation to Ms. Tynes, who would decide which inmates could see the Nurse Practitioner, even though overruling an RN is beyond the scope of the LPN practice.

32. Despite her disagreement, Ms. Wolfe abided by the new rule to avoid discipline from Ms. Tynes but Ms. Tynes soon changed the policy again to provide that an inmate who had not been on psychiatric medication for three months prior to incarceration had to see Ms. Wolfe for three full months before being eligible for placement on the list of individuals Ms. Wolfe recommended to see the Nurse Practitioner, but Ms. Tynes forbade Ms. Wolfe from documenting in inmates' medical charts that they were awaiting a future visit with the Nurse Practitioner per orders of Ms. Tynes.

33. To that point, Ms. Wolfe had worked the part-time schedule with flexible hours she needed to care for her children to which all parties had agreed when she took the job.

34. On February 10, 2020, however, Ms. Tynes gave Ms. Wolfe a written warning for alleged tardiness, even though she had never been given any prior verbal warnings and she had arrived at a time permissible under her flexible schedule.

35. The same day, Ms. Tynes told Ms. Wolfe that, in order to keep her job, she would have to agree to a new fixed schedule that Ms. Tynes had designed and said could not be modified, including working a day on which Ms. Tynes knew Ms. Wolfe could not work.

36. On February 24 and 25, 2020, Ms. Wolfe spoke with an Emergency Medical Technician and a Medical Assistant and discovered that they were also required to perform acts, such as injecting insulin, that they should not have performed without supervision from a nurse.

37. After learning of these additional improper practices, following months of unsuccessfully opposing the practices with Ms. Tynes, on February 27, 2020, Ms. Wolfe was going to speak with Defendant Knight.

38. Soon after arriving at work on February 27, 2020, however, Defendant Knight called Ms. Wolfe to his office and terminated her for an alleged HIPAA violation.

39. Ms. Wolfe had not, in fact, violated HIPAA.

COUNT I

VIOLATION OF THE KENTUCKY WHISTLEBLOWER ACT

40. Ms. Wolfe realleges and incorporates herein the allegations contained in Paragraphs 1 – 39.

41. Ms. Wolfe made reports of mismanagement, abuse of authority, unsafe practices, and violations of law to the head of the medical department at the McCracken County Detention Center.

42. Ms. Wolfe made her reports to an appropriate authority or body.

43. Ms. Wolfe's reports were a contributing factor in Defendants' decision to write her up, change her schedule, and terminate her in violation of the Kentucky Whistleblower Act, Ky. Rev. Stat. § 61.101 *et seq.*

44. As a direct and proximate result of her termination by Defendants in violation of the Whistleblower Act, Ms. Wolfe was injured and suffered damages.

45. Ms. Wolfe has sustained a loss of back pay, benefits, incidental expenses, and front pay.

COUNT II

WRONGFUL TERMINATION

46. Ms. Wolfe realleges and incorporates herein the allegations contained in Paragraphs 1 – 45.

47. Ms. Wolfe had a legal right to oppose and refuse to participate in the improper and illegal activities identified to the head of the medical department.

48. Ms. Wolfe's exercise of her legal right was a motivating factor in Defendants' decision to terminate her.

49. As a direct and proximate result of her wrongful termination by Defendant, Ms. Wolfe was injured and suffered damages.

50. Ms. Wolfe has sustained a loss of back pay, benefits, incidental expenses, and front pay.

COUNT III

DISCRIMINATION IN VIOLATION OF THE KENTUCKY CIVIL RIGHTS ACT

Hostile Work Environment

51. Ms. Wolfe realleges and incorporates herein the allegations contained in Paragraphs 1 – 50.

52. Defendants' actions constitute discrimination on the basis of sex in violation of the Kentucky Civil Rights Act, Ky. Rev. Stat. § 344.010 *et seq.*

53. Defendants' actions created an unwelcome and hostile working environment for Ms. Wolfe.

54. Defendants failed to take any corrective action in order to protect Ms. Wolfe and to prevent a hostile working environment.

55. Ms. Wolfe's sex was a motivating factor in Defendants' adverse treatment of her.

56. Defendants' discriminatory actions on the basis of Ms. Wolfe's sex were willful and knowingly committed.

57. As a direct and proximate result of the Defendants' adverse treatment of Ms. Wolfe in violation of the Kentucky Civil Rights Act, Ms. Wolfe was injured and suffered damages.

58. Ms. Wolfe has sustained a loss of back pay, incidental expenses, and severe emotional distress as a result of Defendants' actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays as follows:

1. That Defendant be served and required to answer within the time prescribed by law;
2. That a jury of twelve try this cause;
3. That, upon the trial of this matter, Plaintiff be awarded judgment for damages of the lost compensation she has suffered from the date of Defendants' unlawful actions in an amount to be proven at trial;
4. That the Court issue an award of front pay in an amount to be proven at trial in lieu of reinstatement because the actions described herein and the circumstances surrounding the place of employment have made reinstatement impossible;
5. That the Plaintiff be awarded additional compensatory damages, including, but not limited to, damages for emotional distress, pain and suffering, embarrassment, and humiliation, in an amount to be proven at trial;
6. That costs and discretionary costs be taxed against Defendant;
7. That Defendant be ordered to pay punitive damages pursuant to Counts I – II in an amount to be determined at trial, pursuant to Ky. Rev. Stat. § 411.184;
8. That costs and attorneys' fees be assessed against Defendant pursuant to Ky. Rev. Stat. § 61.990(4) and Ky. Rev. Stat. § 344.450;
9. That such other remedies as shall be necessary and proper to eliminate all violations complained of herein be awarded as provided by law; and

10. For such other and further relief as the Court may find appropriate.

Respectfully submitted,

s/ D. Wes Sullenger
D. Wes Sullenger, KY BAR # 91861
TN BPR # 021714
IL ARDC # 6322019

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*Attorney for the Plaintiff,
Danielle Wolfe*



Commonwealth of Kentucky
Kim Channell, McCracken Circuit Clerk

Case #: 20-CI-00323

Envelope #: 2418680

Received From: DONALD WES SULLENGER

Account Of: DONALD WES SULLENGER

Case Title: WOLFE, DANIELLE VS. MCCRACKEN COUNTY **Confirmation Number:** 108082948

FISCAL COURT, ET AL
 Filed On 4/30/2020 10:21:20PM

#	<u>Item Description</u>	<u>Amount</u>
1	Access To Justice Fee	\$20.00
2	Civil Filing Fee	\$150.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Library Fee	\$3.00
5	Court Facilities Fee	\$25.00
6	Money Collected For Others(Attorney Tax Fee)	\$5.00
7	Charges For Services(Jury Demand / 12)	\$70.00
8	Money Collected For Others(Postage)	\$25.30
9	Charges For Services(Copy - Photocopy)	\$2.40
TOTAL:		<u>\$320.70</u>

A0522072-67F0-4438-AE0C-4501ECB1A3BC : 000011 of 000014



CIVIL SUMMONS

Plaintiff, **WOLFE, DANIELLE VS. MCCRACKEN COUNTY FISCAL COURT, ET AL**, *Defendant*

TO: DAVID KNIGHT

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

McCracken Circuit Clerk

Date: **4/30/2020**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title



A0522072-67F0-4438-AE0C-4501ECB1A3BC : 000012 of 000014

Presiding Judge: HON. W. A. KITCHEN (602373)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, WOLFE, DANIELLE VS. MCCRACKEN COUNTY FISCAL COURT, ET AL, Defendant

**TO: MCCRACKEN COUNTY FISCAL COURT
300 SOUTH 7TH STREET
PADUCAH, KY 42003**

Memo: Registered Agent of Service exists.

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

McCracken Circuit Clerk

Date: **4/30/2020**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title





CIVIL SUMMONS

Plaintiff, **WOLFE, DANIELLE VS. MCCRACKEN COUNTY FISCAL COURT, ET AL**, *Defendant*

**TO: CRAIG Z CLYMER
300 SOUTH 7TH STREET
PADUCAH, KY 42003**

Memo: Related party is MCCRACKEN COUNTY FISCAL COURT

The Commonwealth of Kentucky to Defendant:
MCCRACKEN COUNTY FISCAL COURT

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

McCracken Circuit Clerk
Date: **4/30/2020**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title

