

FILED
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KAREN BOEHM, CLERK
SCOTT CIRCUIT COURT

COMMONWEALTH OF KENTUCKY
14th JUDICIAL CIRCUIT
SCOTT CIRCUIT COURT – DIVISION 1
CIVIL ACTION NO. 13-CI- 00227

ROBERT F. GROSSL, ADAM T. ZORNES,
ANNE NORTHCUTT, RICHARD LEDOUX, JR.,
JOE STAMPER, FRED THOMAS WILLIAMSON,
JOHNDA M. GANT

PLAINTIFFS

vs.

Complaint

SCOTT COUNTY FISCAL COURT

DEFENDANT

Serve: Hon. George Lusby
Scott County Courthouse
101 E. Main Street
Georgetown, KY 40324

* * * * *

Plaintiffs Robert F. Grossl, Adam T. Zornes, Anne Northcutt, Richard Ledoux, Jr., Joe Stamper, Fred Thomas Williamson and Johnda M. Gant for their Complaint against defendant Scott County Fiscal Court state as follows:

I

Nature of the Action

1. The plaintiffs are all deputy jailers working at the Scott County Detention Center and are employed by the Scott County Fiscal Court. They seek pursuant to the Kentucky wage and hour law, KRS Chapter 337, recovery of wages and other compensation owed them by the defendant along with liquidated damages, costs, expenses and attorney's fees.

II

Jurisdiction and Venue

2. This Court has jurisdiction over this matter pursuant to KRS 23A.010 and KRS 337.385. Venue is proper herein because the claims arose in Scott County.

III

Parties

3. Plaintiff Robert F. Grossl is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

4. Plaintiff Adam T. Zornes is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

5. Plaintiff Anne Northcutt is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

6. Plaintiff Richard Ledoux Jr. is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

7. Plaintiff Joe Stamper is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

8. Plaintiff Fred Thomas Williamson is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

9. Plaintiff Johnda M. Gant is an employee of the Scott County Fiscal Court and works as a deputy jailer at the Scott County Detention Center in Georgetown, Scott County, Kentucky.

10. Defendant Scott County Fiscal Court is a political subdivision of the Commonwealth of Kentucky and the local government unit for Scott County, Kentucky.

IV

Statutory and Legal Background

11. This case regards the interplay of the powers and authority of the Scott County Jailer, an elected constitutional officer, and the Fiscal Court of Scott County, which is also an elected body headed by the Judge-Executive. As most pertinent to this case, Kentucky law endows the Fiscal Court with general budgetary authority and oversight over the Jailer. As pertinent here, this oversight authority means that the Fiscal Court must approve a budget for the Jailer including a line item for payment of wages and salaries to deputy jailers. Once the Fiscal Court approves the Jailer's budget including a line item for payment of wages and salaries to deputy jailers, the Jailer has discretionary authority to determine the pay and pay rates of deputy jailers, *provided* those wages and/or salaries are within the budget line item authorized and approved by the Fiscal Court. This statutory scheme is most directly set forth at KRS 441.225:

(1) Except for capital improvements, utilities and building insurance and except as provided in subsection (2) of this section, the jailer shall have authority to authorize expenditures from the jail budget. Such

expenditures shall only be made in accordance with the line item jail budget duly adopted or amended by the fiscal court and the established county procurement code or purchase order procedure of the county. Payment for purchases for the jail shall be subject to fiscal court approval prior to payment. *The fiscal court shall not withhold approval of payment for jail expenditures which are within the jail budget and not unlawful.* (emphasis supplied).

(2) The jailer shall submit, in accordance with county payroll procedures, time reports for all full-time and part-time jail personnel and employees to the county treasurer or other designated payroll official. The county treasurer shall review and pay such claims in accordance with policies and procedures for the payment of other county employees.

12. The definition of “wages” under Kentucky law embraces and includes compensation that an employer promises to pay an employee as set forth at KRS 337.010(1)(c):

“Wages” includes any compensation due to an employee by reason of his or her employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy.

13. Kentucky law grants the Scott County Jailer power and authority to grant pay raises to deputy jailers, *provided* any pay raise does not cause the jailer’s expenditures for wages paid to staff to exceed the budget line item general sum authorized by the Fiscal Court.

14. The Scott County Fiscal Court is the “employer” of the plaintiffs within the meaning of KRS Chapter 337, specifically, KRS 337.010(1)(d). The plaintiffs are each an “employee” of the Scott County Fiscal Court within the meaning of KRS Chapter 337, specifically, KRS 337.010(1)(e).

Facts Giving Rise to the Lawsuit

(1) Jail Budgets Approved by Fiscal Court for Fiscal Years 2011-2013

15. For fiscal year 2011, beginning July 1, 2010, the Scott County Fiscal Court authorized a budget for the Scott County Jailer providing, among other things, line items for payment of staff wages and salaries in total sum of \$1,051,225. A true copy of the jail budget approved by the Scott County Fiscal Court for fiscal year 2011 is attached to this complaint and marked Ex. 1.

16. For fiscal year 2012, beginning July 1, 2011, the Scott County Fiscal Court authorized a budget for the Scott County Jailer providing, among other things, line items for payment of staff wages and salaries in total sum of \$1,051,225. A true copy of the jail budget approved by the Scott County Fiscal Court for fiscal year 2012 is attached to this complaint and marked Ex. 2.

17. For fiscal year 2013, beginning July 1, 2012, the Scott County Fiscal Court authorized a budget for the Scott County Jailer providing, among other things, line items for payment of staff wages and salaries in total sum of \$850,000. A true copy of the jail budget approved by the Scott County Fiscal Court for fiscal year 2013 is attached to this complaint and marked Ex. 3.

(2) Promotion and Pay Raise Authorized for Robert F. Grossl

18. On or about January 14, 2012, the Scott County Jailer promoted plaintiff Robert F. Grossl to the position of Lieutenant and granted him a pay increase of \$1.00 per hour.

19. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Robert F. Grossl.

20. The pay raise for Grossl was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2013.

21. Although the pay raise granted Grossl by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Grossl in accordance with the pay raise lawfully granted him by the Scott County Jailer.

(3) Promotion and Pay Raise Authorized for Adam T. Zornes

22. On or about September 29, 2010, the Scott County Jailer promoted plaintiff Adam T. Zornes to the position of Administrative Sargeant and granted him a pay increase of \$0.50 per hour.

23. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Adam T. Zornes.

24. The pay raise for Zornes was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2011.

25. Although the pay raise granted Zornes by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Zornes in accordance with the pay raise lawfully granted him by the Scott County Jailer.

(4) Promotion and Pay Raise Authorized for Anne Northcutt

26. On or about October 3, 2011, the Scott County Jailer promoted plaintiff Anne Northcutt to the position of Lieutenant and granted her a pay increase of \$1.00 per hour.

27. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Anne Northcutt.

28. The pay raise for Northcutt was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2012.

29. Although the pay raise granted Northcutt by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Northcutt in accordance with the pay raise lawfully granted her by the Scott County Jailer.

(5) Promotion and Pay Raise Authorized for Richard Ledoux, Jr.

30. On or about August 20, 2012, the Scott County Jailer promoted plaintiff Richard Ledoux, Jr. to the position of Sargeant and granted him a pay increase of \$1.00 per hour.

31. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Richard Ledoux, Jr..

32. The pay raise for Ledoux was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2013.

33. Although the pay raise granted Ledoux by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Ledoux in accordance with the pay raise lawfully granted him by the Scott County Jailer.

(6) Promotion and Pay Raise Authorized for Joe Stamper

34. On or about March 12, 2012, the Scott County Jailer promoted plaintiff Joe Stamper to the position of Sargeant and granted him a pay increase of \$1.00 per hour.

35. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Joe Stamper.

36. The pay raise for Stamper was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2013.

37. Although the pay raise granted Stamper by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court

refused and has continued to refuse to pay Stamper in accordance with the pay raise lawfully granted him by the Scott County Jailer.

(7) Promotions & Pay Raises for Fred Thomas Williamson

38. On or about October 1, 2010, the Scott County Jailer promoted plaintiff Fred Thomas Williamson to the position of backup Sargeant and granted him a pay increase of \$0.50 per hour.

39. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Fred Thomas Williamson.

40. The pay raise for Williamson was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2011.

41. Although the pay raise granted Williamson by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Williamson in accordance with the pay raise lawfully granted him by the Scott County Jailer.

42. On or about October 3, 2011, the Scott County Jailer promoted plaintiff Fred Thomas Williamson to the position of Seargant, second squal and granted him a pay increase of \$1.00 per hour.

43. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Fred Thomas Williamson.

44. The pay raise for Williamson was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2012.

45. Although the pay raise granted Williamson by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Williamson in accordance with the pay raise lawfully granted him by the Scott County Jailer.

46. On or about August 20, 2012, the Scott County Jailer promoted plaintiff Fred Thomas Williamson to the position of lieutenant and granted him a pay increase of \$1.00 per hour.

47. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Fred Thomas Williamson.

48. The pay raise for Williamson was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2013.

49. Although the pay raise granted Williamson by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Williamson in accordance with the pay raise lawfully granted him by the Scott County Jailer.

(8) Promotion & Pay Raise for Johnda M. Gant

50. On or about October 19, 2012, the Scott County Jailer promoted plaintiff Johnda M. Gant to the position of Sargeant and granted her a pay increase of \$1.00 per hour.

51. Scott County Jailer Larry Covington submitted the appropriate personnel forms to the Scott County Fiscal Court to process the promotion and pay raise for plaintiff Johnda M. Gant.

52. The pay raise for Gant was fully within and in accordance with the jail budget for staff authorized and approved by the Scott County Fiscal Court for Fiscal Year 2013.

53. Although the pay raise granted Gant by the Scott County Jailer was within the jail budget and was lawful, the Scott County Fiscal Court refused and has continued to refuse to pay Gant in accordance with the pay raise lawfully granted him by the Scott County Jailer.

VI

Causes of Action

Count 1 – for Unpaid Wages Pursuant to KRS 337.385

54. Plaintiffs incorporate as if fully set forth herein the foregoing paragraphs 1 through 53.

55. The pay raise granted by the Scott County Jailer to each of the plaintiffs (to Grossl as set forth in paragraphs 18 to 21, to Zornes as set forth in paragraphs 22 to 25, to Northcutt as set forth in paragraphs 26 to 29, to Ledoux as set forth in paragraphs 30 to 33, to Stamper as set forth in paragraphs 34 to 37, to Williamson as set forth in paragraphs 38 to 49, and to

Gant as set forth in paragraphs 50 to 53) constituted a promise to pay "wages" within the meaning of KRS 337, since payment to each of the plaintiffs at the applicable increased wage rate was in accordance with the budget line item for deputy jailers wages and salaries as approved by the Fiscal Court.

56. Since payment to each of the plaintiffs at the applicable increased wage rate was within the jail budget and was lawful, the Fiscal Court was obliged to honor each of these pay raises and pay each of the plaintiffs at the applicable increased pay rate.

57. The Fiscal Court's failure and refusal to pay the plaintiffs at the applicable increased pay rate constitutes a failure and refusal to pay plaintiffs their earned wages within the meaning of KRS Chapter 337.

58. Pursuant to KRS 337.385 each of the plaintiffs is entitled to recover from the Fiscal Court the sum of unpaid wages he or she has earned and which are owed him by the Fiscal Court.

59. Since the Fiscal Court's failure and refusal to pay plaintiffs their earned wages is contrary to the command of KRS 441.225(1) that the "fiscal court shall not withhold approval of payment for jail expenditures which are within the jail budget and not unlawful," the failure should be deemed willful within the meaning of KRS 337.385(1) and plaintiffs are entitled accordingly to recover a sum equal to the amount of unpaid wages owed him or her as liquidated damages.

VII

Demand for Relief

WHEREFORE, plaintiffs respectfully demand that the Court enter judgment in their favor as follows:

(1) ordering defendant to pay them all wages and other compensation owed them together with prejudgment interest thereon;

(2) ordering defendant to pay them liquidated damages in a sum equal to the wages and compensation owed them;

(3) ordering defendant to pay, in accordance with CR 54 and KRS 337.385, attorney's fees, costs and litigation expenses associated with prosecution of this action;

(4) allowing them trial by jury on all issues herein so triable; and,

(5) granting them such other and further relief to which they are entitled.

Respectfully submitted,



Robert L. Abell
120 N. Upper Street
Lexington, KY 40507
859-254-7076
Robert@RobertAbellLaw.com
COUNSEL FOR PLAINTIFFS