

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

DONALD GUYTON,

*Plaintiff,*

*VS.*

CITY OF BRENHAM, TEXAS.

*Defendant.*

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CAUSE NO. 1:20-CV-00412

JURY DEMANDED

**PLAINTIFF DONALD GUYTON'S ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DONALD GUYTON, Plaintiff, and files this his Original Complaint against the CITY OF BRENHAM, TEXAS (hereinafter referred to as "the City" or "Defendant"), its affiliates, subsidiaries and other related entities, under any name by which they are known, and for his causes of action would show the Court as follows:

INTRODUCTION

1. Plaintiff Donald Guyton was employed as a maintenance worker for nearly a decade before being terminated by the Defendant City of Brenham, Texas.
2. The City of Brenham falsely claimed that Mr. Guyton's termination was a reduction in force despite the fact that the City did not terminate white maintenance workers with less seniority than Guyton and despite the fact that the City posted an opening for a new maintenance position in Guyton's department almost immediately following its termination of Mr. Guyton.

3. Plaintiff Donald Guyton brings suit against Defendant City of Brenham, Texas for terminating his employment because of his race, African-American, in violation of the Title VII of the Civil Rights Act of 1964, as amended.

PARTIES

4. Plaintiff DONALD GUYTON is a Texas Citizen and resident of Bellville, Texas and a former employee of the Defendant CITY OF BRENHAM.
5. Defendant CITY OF BRENHAM is an incorporated city in the County of Washington, State of Texas. At all relevant times, the Defendant has continuously had at least fifteen employees. Service may be effectuated on the Defendant by serving Brenham City Secretary Jeana Bellinger by certified mail at: City of Brenham, P. O. Box 1059, Brenham, TX 77834-1059 or by personal delivery at City of Brenham, City Secretary's Office, 200 W. Vulcan, Suite 206, Brenham, Texas 77833.

FACTS OF THE CASE

6. Plaintiff Guyton is a black, African-American male, who was employed by Defendant City for nearly nine (9) years, from approximately November of 2010 through September 6, 2019. At all relevant times, Plaintiff Guyton was qualified for his job position. Plaintiff Guyton had an excellent work record with the Defendant City.
7. Plaintiff Guyton was employed as a maintenance worker in the Defendant's Public Works Department. Guyton's title at the time of his termination was "Parks Electrician" however his job consisted of duties beyond merely electrician work. His duties included maintaining park and athletic field facilities, assisting in the maintenance of athletic facilities, buildings, playgrounds and fences, operating and maintaining equipment and machinery, and assisting other city employees with various maintenance tasks.

8. According to the United States census conducted in the year 2000, Defendant City of Brenham's population is 21.91% African-American and 10.25% Hispanic or Latino.
9. On information and belief, 0% of the Defendant City of Brenham's management team is African-American.
10. At all times relevant to this Complaint, Mr. Dane Rau served as the Director of the Department of Public Works for the Defendant City.
11. Mr. Rau is a white, Caucasian male.
12. On multiple occasions throughout 2018 and 2019, Plaintiff Guyton witnessed Dane Rau following Guyton around town as Guyton attended to his duties. On information and belief, Dane Rau was not following white maintenance employees as he was following Plaintiff Guyton.
13. On information and belief, Guyton was being paid less per hour than similarly-situated non-black maintenance employees who had less experience and seniority.
14. At all relevant times, Rau was acting in his official capacity and under color of state law with actual and/or apparent authority of Defendant City of Brenham.
15. On or about September 4, 2019, Defendant City of Brenham notified Plaintiff Guyton that his employment with the City was terminated, effective September 6, 2019.
16. Defendant City of Brenham's stated reason for the termination of Plaintiff Guyton was that the maintenance staff needed to be reduced and that his position was being eliminated for the budget year beginning October 1, 2019.
17. Plaintiff Guyton was selected for termination while other maintenance employees within the Public Works department who had less experience and less seniority were

were not selected for termination. The employees not selected for termination were not black African-American.

18. The Defendant's stated reason for discharge was false. In late September of 2019, the City posted an opening for a new maintenance department position in the City's Public Works / Parks Department. The duties for the new position posted were substantially similar to the duties being performed by Plaintiff Guyton at the time of his termination. On information and belief, the open position was offered/awarded to a white Caucasian individual.

CAUSES OF ACTION

COUNT I - TITLE VII DISCRIMINATION

19. The preceding paragraphs 1 through 18 are hereby incorporated by reference.
20. Plaintiff Guyton is African-American and a member of a protected class because of his race.
21. Defendant has engaged in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964, as amended (hereinafter "Title VII" or "the Act") 42 U.S.C. § 2000e *et seq.* These practices include but are not limited to paying the Plaintiff less due to his race and discharging the Plaintiff based on his race.
22. The effect of the discrimination complained of above has been to deprive Plaintiff Guyton of equal employment opportunities and to otherwise affect Plaintiff's status as an employee because of Plaintiff's race.
23. The unlawful employment practices complained of above were intentional.
24. Defendant City of Brenham is responsible for the acts and/or omissions of its agents and employees, including Mr. Dane Rau, under the theory of *respondeat superior*, vice-

principal, apparent/ostensible agency, and/or agency by estoppel as those concepts are understood under applicable law.

25. As a proximate result of Defendant's actions, Plaintiff Guyton suffered the following damages:
- a. back pay;
  - b. lost benefits in the past and in the future;
  - c. emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life in the past and in the future;
  - d. Reinstatement or front pay in an amount the Court deems equitable and just to make Plaintiff whole;
  - e. reasonable attorney's fees, expert fees, other litigation expenses, and court costs; and
  - f. pre-judgment interest.

#### JURISDICTION & VENUE

26. The Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331 based upon federal question subject matter jurisdiction. Personal jurisdiction over the Defendant is proper in Texas because the Defendant is a Texas municipality incorporated in Texas and/or maintains its principal place of business in Texas.
27. Venue is proper in the Austin Division of the Western District of Texas under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this lawsuit occurred in the Austin division.

#### ADMINISTRATIVE PREREQUISITES

28. Plaintiff has fulfilled all conditions precedent to filing of this suit under the applicable statutes and has duly exhausted all administrative prerequisites prior to instituting this action in accordance with the law. Plaintiff timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission and Texas Workforce

Commission – Civil Rights Division within 300 days of the date of his termination. Plaintiff has been issued a Right to Sue Letter by the EEOC and this suit is being filed within 90 days of Plaintiff's receipt of said Right to Sue Letter.

JURY DEMAND

29. Plaintiff respectfully requests that this Court impanel a lawful jury to hear this case.

PRAYER

30. WHEREFORE, PREMISES CONSIDERED, Plaintiff Donald Guyton prays that the Defendant be cited to appear and to answer herein and that upon final hearing, the Court enter judgment in favor of Plaintiff against Defendant for backpay, front pay or reinstatement, compensatory damages, expert fees, and attorney's fees, together with pre- and post-judgment interest at the highest rate allowed by law; costs of court; and all such other and further relief at law or at equity to which the Plaintiff may be entitled.

Respectfully submitted,

By: /s/ Christopher J. McKinney  
CHRISTOPHER MCKINNEY  
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