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FILED  
CUSTODY SERVICE TEAM

APR 08 2012

SUPERIOR COURT OF NEW JERSEY  
COUNTY OF HUDSON  
CIVIL DIVISION

**MICHAEL J. PRINS**

Plaintiff,

vs.

**HUDSON COUNTY DEPARTMENT OF  
CORRECTIONS; OSCAR AVILES,  
individually and as an employee and/or agent  
of the Hudson County Department of  
Correction; LIEUTENANT TISH NALLS,  
individually and as an employee and/or agent  
of the Hudson County Department of  
Corrections; JOHN DOES 1-10 (said names  
being fictitious) and ABC CORPS. 1-10 (said  
names being fictitious),**

Defendants.

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY  
DOCKET NO.:**

L-1773-12

**CIVIL ACTION**

**COMPLAINT, JURY DEMAND and  
DESIGNATION OF TRIAL COUNSEL**

Plaintiff, MICHAEL J. PRINS, complaining of Defendants, say:

**PARTIES**

1. Plaintiff, Michael J. Prins (hereinafter "Sgt. Prins" or "Plaintiff"), an individual, residing at [REDACTED], Jersey City, State of New Jersey.
2. Plaintiff, Sgt. Prins is an individual who, at all times relevant in this Complaint, was a Correction Officer at the Hudson County Correctional Center.

3. At all times relevant in this Complaint, Sgt. Prins was an employee of Defendant, Hudson County Department of Corrections, working at its Kearny, New Jersey location under the direction and/or supervision of the individual named Defendant, Oscar Aviles.

4. Defendant, Hudson County Department of Corrections (hereafter "HCDC"), is a public entity, which at all times relevant in this Complaint was the employer of Plaintiff, along with the individual named Defendants.

5. Defendant, Director Oscar Aviles (hereinafter "Director Aviles"), is an individual who, at all times relevant in this Complaint, was the Director of the HCDC and a supervisor of the Plaintiff.

6. Defendant, Lieutenant Tish Nalls (hereafter "Nalls") is an individual who, at all times relevant in this Complaint, was a Correction Officer at the HCDC, and a supervisor of Plaintiff.

7. Defendants, John Does 1-10 are presently unidentified individuals who were employees of Defendant, HCDC, and, who otherwise exercised supervision, control, management, interest and/or otherwise, were involved in the employment and/or discriminatory treatment of Plaintiff that is the subject of the within Complaint. Plaintiff reserves the right to amend the Complaint to include these parties should their identities be revealed during the course of further discovery.

8. Defendants XYZ Corporations 1-10 are presently unidentified entities that were employers of Plaintiff and/or otherwise had, with regard to Defendants, an interest and/or control and/or management interest and/or otherwise were involved in the employment and discriminatory treatment of Plaintiff that is the subject of the within Complaint. Plaintiff

reserves the right to amend the Complaint to include these parties should their identities be revealed during the course of further discovery.

**STATEMENT OF FACTS AS TO ALL COUNTS**

9. During his tenure as a Hudson County Correctional Officer, Sgt. Prins performed his job in a professional and competent manner.

10. On October 21, 2009, Sgt. Prins was on duty at the HCDC, in particular, the Keaney prison.

11. On or about October 21, 2009, Sgt. Prins made a ghost mask for a fellow correction officer, nicknamed "Ghost", as a joke for Halloween.

12. Ricky Johnson, (hereafter "Johnson") a civilian employee, claimed that Sgt. Prins was discussing President Obama and health care issues with several other officers and made a mask which he thought was a Ku Klux Klan (hereafter "KKK") mask.

13. Based upon Johnson's mistaken belief, the HCDC terminated Sgt. Prins for misconduct.

14. On October 22, 2009, HCDC served Sgt. Prins with a Preliminary Notice of Disciplinary Action.

15. The Discipline Action charged Sgt. Prins with inefficiency, incompetence, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(7); discrimination that affects equal employment opportunity in violation of N.J.A.C. 4A:2-2.3(a)(9); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(11). As a result, HCDC sought his removal and suspended Sgt. Prins indefinitely pending a departmental hearing.

16. Sgt. Prins denied having discussions regarding President Obama and explained that the mask was a joke.

17. As a result of the above referenced incident, Nalls conducted a cursory and flawed investigation and requested reports from eight (8) officers who were present and witnessed the event.

18. In their reports, only two of the officers stated that there were any discussions about President Obama and none of the officers indicated that there were any racial overtones to the discussion.

19. None of the officers who wrote reports mentioned a KKK mask.

20. After filing her report, Nalls never followed up with an interview of Sgt. Prins.

21. In investigating the above referenced incident, Nalls failed to conduct personal interviews with any of the other officers who submitted reports regarding the above incident.

22. Nalls merely relied upon what Johnson had told her about the incident.

23. Although the mask was retrieved from the garbage, Nalls did not even look at it, let alone determine it was a KKK mask or ghost mask.

24. At Sgt. Prins' departmental hearing, when the mask was examined, it had "Young's Halloween Costume" written in black marker right on it.

25. On November 23, 2009, HCDC served Sgt. Prins with an amended Preliminary Notice of Disciplinary Action to include additional specifications. The exact specifications are as follows:

During the political discussion concerning President Obama's health plan, Sgt. Prins as supervisor of receiving, in which civilian Ricky Johnson and officers worked around inmates of all races, allowed, condoned and/or permitted two officers, .i.e. Clemente and Araujo, to make sounds and actions mimicking a monkey and to utter the word "Monkey, Monkey," thus creating and/or fostered an atmosphere and environment hostile and prejudicial to African American. Sgt.

Prins also fostered an atmosphere and environment conducive to the use of symbols which are known to be antithetical to African Americans and to other employees of various social, ethnic and religious backgrounds; i.e. employment of the Nazi arm salute and creation and brandishing of a mask-like visage which reasonably appeared to be a facsimile of a Ku Klux Klan mask.

26. On December 11, 2009, a departmental hearing was held and all of the charges against Sgt. Prins were sustained.

27. As a result, Sgt. Prins was removed from his position as a County Correction Sergeant effective April 10, 2010.

28. At Sgt. Prins' disciplinary hearing, Nalls testified that she based her report on the reports she collected and on her review of the surveillance recording of the events of October 21, 2009 (hereafter "surveillance recording").

29. At Sgt. Prins' disciplinary hearing, Johnson testified that the sound "co-qui" made no impression on him at the time and it wasn't until Nalls played the surveillance recording for him and presented it to him as, "monkey, monkey" that he was offended.

30. At Sgt. Prins' disciplinary hearing, Nalls further testified that she did not interview any of the officers to confirm what she thought she saw and/or heard on the surveillance recording of the events surrounding Prins' suspension and ultimately his termination and she relied upon her own interpretation of the surveillance recording instead.

31. At Sgt. Prins' disciplinary hearing, Nalls testified that the HCDC Administration ("Administration") based its charges on her interpretation of the surveillance recording.

32. At Sgt. Prins' disciplinary hearing, Kirk Eady, Hudson County Deputy Director (hereafter "Director Eady"), testified that Nalls told him, before she even completed her investigation, that the incident was a racial one, wherein someone had made a KKK mask, so he

waited for Nalls to complete her investigation before he reviewed the reports and surveillance recording himself.

33. Based upon information and belief, Nalls had a pending lawsuit based upon racial discrimination within the workplace against the Defendants, and, as such, without a proper and thorough investigation, immediately came to the conclusion that the incident involved with Plaintiff was also racially motivated in support of her own allegations of racial misconduct within the workplace.

34. Nalls believed that the incident was a racial incident from the start; thus, she failed to conduct a thorough investigation and confirm the facts contained in the reports and what she purported to see on the surveillance recording of the incident.

35. The Administration erroneously relied upon Nalls' assessment of the incident as a racial incident, despite that none of the evidence supports this conclusion; nonetheless, charges were brought and sustained against Sgt. Prins.

36. Director Aviles accepted Nalls' determination and relied upon same.

37. Nalls and the Administration relied upon a flawed investigation and, therefore, improperly brought charges against Sgt. Prins, ultimately leading to his termination.

#### **COUNT ONE**

(The New Jersey Civil Rights Act  
*N.J.S.A. 10:6-1 et. seq.*)

38. Plaintiff Sgt. Prins repeats and realleges the allegations set forth above as if set forth more fully at length herein.

39. Defendants HCDC is a, State Agency and at all relevant times and as to all relevant actions described herein, were acting under the color of the State Law.

40. At all relevant times, Sgt. Prins possesses a constitutionally and statutorily protected property interest in his employment with the HCDC.

41. The Defendants individual and collective actions were taken with reckless disregard for Sgt. Prins' constitutional rights.

42. On or about October 21, 2009, the plaintiff was the supervising Corrections Officer on duty when he engaged in conversations with his fellow officers, which were mistakenly identified as an inappropriate racial incident.

43. Nalls was Sgt. Prins' supervisor and, as such, was assigned to investigate the alleged incident.

44. Nalls acted under the appearance of authority and under the color of state law and the Administration relied upon the flawed investigation acted in terminating Sgt. Prins and harming his career and reputation.

45. The Administration adopted Nalls' flawed and negligent investigation and summarily terminated Prins.

46. By failing to conduct the required appropriate investigation, Defendants and the HCDC caused the deprivation of substantive rights and/or manifested a deliberate indifference to Plaintiff's constitutional rights in violation of the Eighth and Fourteenth Amendment to the United States Constitution and of Title 42, United States Code, Section 1983 and the New Jersey Civil Rights Act (*N.J.S.A. 10:6-1 & 2*)

47. The Defendants individually and in the collective were able to seize upon the delays inherent with the Office of Administrative Law while Sgt. Prins termination was on appeal and the limitations upon the remedy afforded for a prevailing employee in that process, to inflict harm upon Prins, his rights and his interests in the manner has not been redressed.

48. As a direct and proximate result of Defendants individual and collective actions, Sgt. Prins suffered the damages.

49. The outrageous actions, conduct and discriminatory treatment committed by the Defendant employer, Defendant supervisory employees, and other employees; agents and/or representatives reveal that said parties are in any way responsible for the damages sustained by Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

**COUNT TWO**  
(42 U.S.C. Section § 1983.)

50. Plaintiff Sgt. Prins repeats and reiterates the allegations set forth above as if set forth more fully at length herein

51. Defendants HCDC is a, State Agency and at all relevant times and as to all relevant actions described herein, were acting under the color of the State Law.

52. At all relevant times, Sgt. Prins possesses a constitutionally and statutorily protected property interest in his employment with the HCDC.

53. The Defendants individual and collective actions were taken with reckless disregard for Sgt. Prins' constitutional rights.



54. On or about October 21, 2009, the Plaintiff was the supervising Corrections Officer on duty when he engaged in conversations with his fellow officers, which were mistakenly identified as an inappropriate racial incident.

55. Nalls was Sgt. Prins' supervisor and, as such, was assigned to investigate the alleged incident.

56. Nalls acted under the appearance of authority and under the color of State Law and the Administration relied upon the flawed investigation acted in terminating Sgt. Prins and harming his career and reputation.

57. The Administration adopted Nalls' flawed and negligent investigation and summarily terminated Prins.

58. By failing to conduct the required appropriate investigation, Defendants and the HCDC caused the deprivation of substantive rights and/or manifested a deliberate indifference to Plaintiff's constitutional rights in violation of the Eighth and Fourteenth Amendment to the United States Constitution and of Title 42, United States Code, Section 1983 and the New Jersey Civil Rights Act (*N.J.S.A. 10:6-1 & 2*).

59. The Defendants individually and in the collective were able to seize upon the delays inherent with the Office of Administrative Law while Sgt. Prins termination was on appeal and the limitations upon the remedy afforded for a prevailing employee in that process, to inflict harm upon Prins, his rights and his interests in the manner has not been redressed.

60. As a direct and proximate result of Defendant's individual and collective actions, Sgt. Prins suffered the damages.

61. The outrageous actions, conduct and discriminatory treatment committed by the Defendant employer, Defendant supervisory employees, and other employees; agents and/or

representatives reveal that said parties are in any way responsible for the damages sustained by Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

**COUNT THREE**

(New Jersey Law Against Discrimination N.J.S.A. 10:5-1 *et seq.*)

62. Plaintiff realleges each of the allegations set forth above as if set forth herein at length.

63. Since Nalls, an African-American female, who upon information and belief was a Plaintiff in her own racial discrimination lawsuit against the Defendants, failed to complete an accurate and thorough investigation of Prins, a Caucasian white male, it became reasonably foreseeable that, without Administration overseeing the process, Nalls, could not make a determination about an alleged racial incident without fully investigating what actually occurred and whether it was, in fact, a racial incident.

64. Plaintiff believes that Nalls conducted an inadequate investigation in order to bolster her own claim of widespread racial discrimination in the workplace, and it further became reasonably foreseeable that, without Administration oversight, she willfully and wantonly failed to conduct a thorough and accurate investigation regarding the events surrounding Sgt. Prins on October 21, 2009.

65. No legitimate non-discriminatory business reason existed for the Plaintiff's termination from his employment with HCDC.

66. Defendants terminated Plaintiff's employment because of his race/color.

67. Based upon the aforementioned acts, the Defendants discriminated against the Plaintiff on the basis of his race in violation of N.J.S.A. 10:5-1 et. seq.

68. As a direct and proximate result of Defendants' discriminatory, willful, intentional, wanton and/or malicious behavior, the Plaintiff has suffered and will continue to suffer economic damages, including loss of income and benefits, and emotional distress, humiliation, emotional distress, and pain and suffering.

69. Defendants' conduct was egregious, willful, wanton and in reckless disregard of Plaintiff's rights, and involved the participation of upper management, for which punitive damages are appropriate.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

#### **COUNT FOUR**

##### **(Administrative Negligence/Respondent Superior)**

70. Plaintiff realleges each of the allegations set forth above as if set forth herein at length.

71. The employer, HCDC, employed Nalls who committed wrongful conduct by failing to conduct an adequate and substantive investigation into the allegations of racial behavior as to the alleged conduct of Sgt. Prins and, therefore, is strictly liable to Sgt. Prins for equitable damages and remedial measures.

72. HCDC adopted the false and inadequate report as a result of the flawed investigation conducted by Nalls on behalf of the HCDC.

73. The employer was reckless and/or failed to exercise reasonable care when it terminated Sgt. Prins as a result of Nalls' investigation.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

**COUNT FIVE**  
**(Negligent Supervision)**

74. Plaintiff realleges each of the allegations set forth above as if set forth herein at length.

75. In employing Hudson County Correction officers, as well as other civilian employees, Defendants affirmatively undertook the obligation of supervising their employees, including the Plaintiff.

76. In so doing, Defendants had a duty to exercise reasonable supervisory care of their employees who are charged with the supervisory duties and responsibilities to carry out

full, complete, and accurate investigations of alleged incidents within the workplace for Plaintiff's safety and protection.

77. Nalls, an African-American female, who upon belief and understanding was a Plaintiff in her own racial discrimination suit, failed to complete an accurate and thorough investigation of Sgt. Prins, a Caucasian white male, it became reasonably foreseeable that, without Administration overseeing the process, Nalls, could not make a determination about an alleged racial incident without fully investigating what actually occurred and whether it was, in fact, a racial incident.

78. Thus, Defendants' duty included exercising reasonable care to prevent discrimination in the exercise of Nalls' duties, implementation and responsibilities engaging in conduct, which conduct was foreseeable.

79. The erroneous report, leading to Plaintiff's termination and damage to his reputation, was the foreseeable result of the failure of the Defendants' agents, servants and/or employees to exercise reasonable supervisory care over Nalls, wherein supervision would have prevented the wrongful termination of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

**COUNT SIX**  
**(Negligent Infliction of Emotional Distress)**

80. Plaintiff realleges each of the allegations set forth above as if set forth herein at length.

81. As a result of Defendants' negligence, the Plaintiff has suffered compensatory damages, as well as, emotional distress.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for money damages, including but not limited to, lost past and future wages, bonuses, employee benefits and other perquisites, damages for pain and suffering, humiliation and other compensatory damages, attorneys' fees, costs of suit, punitive damages, interest at the maximum legal rate on all sums awarded with pre judgment and post judgment interest and such other and further relief as the Court may deem appropriate and equitable in the premises.

**DESIGNATION OF TRIAL COUNSEL**

Bruce L. Atkins, Esq., is hereby designated as trial counsel pursuant to Court Rule 4:5-1.

**JURY DEMAND**

Plaintiff demands a trial by jury as to all issues of fact and damages.

**DEUTSCH ATKINS, P.C.**  
Attorneys for Plaintiff

Dated: April 4, 2012

By: Sheila O'Shea-Criscione  
SHEILA O'SHEA-CRISCIONE

**CERTIFICATION PURSUANT TO RULE 4-5-1**

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and further that no action or arbitration proceeding is contemplated.

**DEUTSCH ATKINS, P.C.**  
Attorneys for Plaintiff

Dated: April 4, 2012

By Sheila O'Shea-Criscione  
SHEILA O'SHEA-CRISCIONE