

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

BRYAN BURTON, )  
)  
Plaintiff, )  
)  
vs. )  
) Cause No. 17-cv-2130  
CITY OF FRANKLIN and TIMOTHY )  
O’SULLIVAN, Individually and in his )  
Official Capacity as Chief of Police, )  
)  
Defendants. )

**COMPLAINT**

Plaintiff Bryan Burton, by counsel, respectfully makes his Complaint for Damages.

**Nature of Case**

1. This lawsuit seeks redress from a police executive who terminated Plaintiff’s employment on account of his age.

**Jurisdiction**

2. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to redress Defendants’ violations of his rights under Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This Court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. § 1333 and § 1343.

3. Venue is proper in the Indianapolis Division because the parties reside in this Division and the events complained of occurred in this division.

### **Parties**

6. Bryan Burton is an adult citizen of the United States residing in Johnson County, Indiana. He is forty-two (42) years old.
12. The City of Franklin is a government unit located in Johnson County, Indiana. It operates the Franklin Police Department.
14. Timothy O’Sullivan is a U.S. citizen who resides in Johnson County, Indiana. He is sued both individually and his capacity as the Chief of Police of the Franklin Police Department.

### **Factual Allegations**

15. Bryan Burton was employed as a merit officer by the Franklin Police Department (“FPD”) from January 1, 2001 until May 2, 2017.
16. On October 23, 2016 officers of FPD responded to a 9-1-1 call reporting a domestic disturbance at the Burton residence.
17. When the officers realized that the persons involved included Burton and his wife Jordan, the FPD officers remained at the scene but conducted no investigation.
18. Instead, the officers requested assistance from the Johnson County Sheriff’s Department (“JCSD”) so that an investigation could be conducted without a conflict of interest.

19. Deputy Evan Preston of the JCSD arrived at the scene and determined that both Bryan and Jordan should be arrested and they were booked into the Johnson County Jail and promptly released.
20. The Johnson County Prosecutor found that probable cause did not exist for the arrest of either Bryan or Jordan Burton and declined to file charges.
21. Two Special Prosecutors were subsequently assigned to investigate the incident and both declined to bring criminal charges against Burton.
22. The day after Burton's arrest, on October 24, 2016, Chief of Police Timothy O'Sullivan ("O'Sullivan") brought a charge against Burton before the City of Franklin Police Merit Commission (the "Commission") for Conduct Unbecoming an Officer. Later he brought a second charge of Conduct Injurious to the Public Peace or Welfare.
23. O'Sullivan asked the Commission to terminate Burton's employment at FPD, which it did in May 2017.
24. Prior to his termination Burton had a distinguished career at FPD, was satisfactorily performing the duties of a police officer, and received excellent performance evaluations.
25. O'Sullivan has allowed several younger officers to remain at FPD when they faced allegations of criminal conduct that did not result in criminal charges.
26. O'Sullivan has hired several officers in their twenties who had prior criminal convictions.

27. O'Sullivan's termination of Burton was part of a systematic effort to drive out older, experienced officers who possessed independent judgment and to replace them with a younger force.
28. O'Sullivan acted at all times in the scope of his employment by the City of Franklin and under color of Indiana law.
29. Ryan has been damage by the loss of his employment, reputation, and livelihood.

**Legal Claim**

30. O'Sullivan terminated Bryan's employment on the basis of his age, in violation of the Equal Protection Clause of the Fourteenth Amendment.

**Relief**

31. Plaintiff seeks all available relief allowable by law, including punitive and compensatory damages, attorney's fees, and costs.

**WHEREFORE**, Plaintiff prays that the Court will enter judgment in his favor and grant him all just and proper relief.

Respectfully submitted,

/s/ Jeffrey S. McQuary

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