

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No.

DWAYNE COFFER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	COMPLAINT
	)	
WARREN COUNTY BOARD	)	
OF EDUCATION,	)	
	)	
Defendant.	)	

Plaintiff Dwayne Coffey, by and through the undersigned attorneys, alleges as follows:

1. This is a civil action brought by Dwayne Coffey based on the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. §§ 4301-4335.
2. Jurisdiction of this Court is invoked under 28 U.S.C. § 1331 and 38 U.S.C. § 4323(b).
3. Venue in this Court is proper under 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2).
4. Defendant Warren County Board of Education (Board) is an elected board of five individuals. Pursuant to North Carolina law, the Board has general control and supervision of all matters pertaining to the public schools in Warren County. N.C.G.S. §§ 115C-35, 36. It conducts its business in and has its mailing address in Warrenton, North Carolina.
5. Plaintiff Dwayne Coffey is a Sergeant First Class in the United States Army Reserve. He has served in the United States Army Reserve for over 20 years. In addition to other periods of service, he served in Kuwait and Afghanistan from February 2004 to

February 2005. He has served as an instructor in the Army Reserve since 2005.

Plaintiff is a resident of Virginia.

6. In 2006, Joyce Long, Principal of Warren County High School (WCHS), interviewed Coffey and recommended him for an open Assistant Principal position at the school.
7. On August 22, 2006, the Board approved a two-year untenured contract for Coffey to serve as an Assistant Principal at WCHS. Mildred Broadnax was the other Assistant Principal at WCHS at the time Coffey assumed his position.
8. In December of 2006, the Board also appointed Carolyn Faucette to be a Curriculum Specialist, a senior position listed on the school's official letterhead along with the Principal and Assistant Principals.
9. Coffey's primary responsibilities as Assistant Principal related to discipline for the ninth and eleventh grades at the High School.
10. In February of 2008, Long left WCHS to undergo back surgery. Long appointed Coffey to be the Acting Principal during her absence, and he carried out the duties of that position.
11. Between March 3, 2008, and April 4, 2008, Coffey was under military orders to conduct an Army leadership course in Bethany Beach, Delaware.
12. Before leaving to begin his military service, Coffey notified WCHS administrators of his impending service and filled out a form to request a military leave of absence. Coffey's request for military leave was approved by an administrator in Warren County Schools.
13. When Coffey left WCHS to perform military service, Faucette was appointed to serve as Acting Principal in Coffey's absence.

14. Following Coffey's return from military service, he and Faucette disagreed as to whether Coffey should return to the Acting Principal position or Faucette should continue in the Acting Principal position.
15. At an April 9, 2008, meeting attended by Faucette, Broadnax, and Priscine Jeffries, Assistant Superintendent of Warren County Schools, Coffey invoked his rights under USERRA. Coffey stated that he should be restored to the same position he had prior to leaving for military service – Acting Principal.
16. Jeffries notified Dr. Ray Spain, Superintendent of Warren County Schools, of the events of the April 9, 2008, meeting discussed in Paragraph 15.
17. Long returned to work within a week of the April 9, 2008, meeting and resumed her position as Principal.
18. Long, who had worked in the Warren County school system for over 30 years, retired as Principal at the end of the 2008 school year.
19. During his two years as Assistant Principal, Coffey's performance evaluations were generally rated as "At Standard" or "Above Standard."
20. In meetings with Spain and Jeffries, Faucette claimed that Coffey went on active duty during the school year rather than perform his military service on weekends. Faucette also told others at WCHS that, if Coffey was really concerned about WCHS, he would do his military service on weekends.
21. Linda Mason, the head of Human Resources for the Warren County School System, heard from staff members that Coffey had a choice as to when to take military training. Mason conveyed this information to Spain.

22. Despite Long's positive views of Coffey's performance, on April 25, 2008, Spain informed Coffey that he would recommend to the Board that it should not renew or extend Coffey's contract.
23. In speaking with Coffey on April 25, 2008, Spain said that he would provide Coffey with information regarding the reason for his recommendation if Coffey voluntarily resigned. Coffey refused to resign.
24. On April 28, 2008, the Board accepted Spain's nonrenewal recommendation and voted not to renew Coffey's contract.
25. In discussing his recommendation not to renew Coffey's contract, Spain told Long that Coffey had a choice as to whether to take military leave during the school year.
26. Spain also told at least one member of the Board that Coffey had a choice as to whether to take military leave during the school year.
27. On June 9, 2008, the Board appointed Faucette as Principal of WCHS.
28. Had the Board voted to renew Coffey's contract, it would have been renewed for a term of four years.

#### FIRST CAUSE OF ACTION

29. Plaintiff incorporates by reference the matters alleged in Paragraphs 1 through 28.
30. Plaintiff's performance of military service was a motivating factor in Spain's recommendation to the Board not to renew Plaintiff's contract.
31. Spain's recommendation to the Board not to renew Plaintiff's contract was a proximate cause of the Board's decision not to renew Coffey's contract.
32. Plaintiff's performance of military service was a motivating factor in the Board's decision not to renew Plaintiff's contract.

33. As a result, the Board violated 38 U.S.C. § 4311(a) (prohibiting discrimination against service members in “initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer” on the basis of military service).

#### SECOND CAUSE OF ACTION

34. Plaintiff incorporates by reference the matters alleged in Paragraphs 1 through 33.

35. Spain’s recommendation to the Board not to renew Plaintiff’s contract – made within a month of Plaintiff’s invocation of his rights under USERRA – was in retaliation to Plaintiff’s invocation of his USERRA rights.

36. Spain’s recommendation to the Board not to renew Plaintiff’s contract was a proximate cause of the Board’s decision not to renew Plaintiff’s contract.

37. In not renewing Plaintiff’s contract within a month of Plaintiff’s invocation of his USERRA rights, the Board took retaliatory action against Plaintiff, in violation of 38 U.S.C. § 4311(b).

#### ALLEGATION OF WILLFULNESS

38. Plaintiff incorporates by reference the matters alleged in Paragraphs 1 through 37.

39. Given that Warren County Schools personnel, including Spain, were made aware of the applicability of USERRA to Plaintiff’s military service, Defendant Board was aware or should have been aware of Plaintiff’s rights not to be subjected to discrimination or retaliation for his military service, his exercise of his rights under the statute, or the assertion of his USERRA rights.

40. Nevertheless, the Board recklessly disregarded Coffey’s rights under USERRA by not renewing his contract due to his military service leave and/or exercise of his rights under the statute. As a result, the Board was willful in its violation of the statute.

## REMEDIES

41. Under USERRA, a court may order equitable remedies, including reinstatement and recoupment of any loss of wages or benefits. 38 U.S.C. § 4323(d)(1)(A, B).
42. USERRA also empowers a court to use “its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits” of the service member. Id. § 4323(e).
43. A court may award the prevailing party reasonable attorneys’ fees, expert witness fees, and other litigation expenses. Id. § 4323(h)(2).
44. Based on the violations discussed previously, Plaintiff asks the Court for the following:
  - a. Declare that Defendant’s failure to renew Plaintiff’s contract because of his military service was unlawful and violated USERRA, 38 U.S.C. § 4311(a);
  - b. Declare that Defendant’s failure to renew Plaintiff’s contract was unlawful retaliatory action in violation of USERRA, 38 U.S.C. § 4311(b);
  - c. Declare that Defendant’s violations of USERRA were willful pursuant to USERRA, 38 U.S.C. § 4323(d)(1)(C);
  - d. Reinstate Plaintiff to the position of Assistant Principal within Warren County Schools, under the type of four-year contract he would have been offered absent Defendant’s violation of USERRA;
  - e. Order Defendant to pay Plaintiff lost wages incurred and the value of benefits lost between the expiration of Plaintiff’s last contract with Warren County Schools and the present;
  - f. Order Defendant to pay prejudgment interest on the amount of wages and lost benefits found due;

g. Order Defendant to pay liquidated damages in the amount of lost wages calculated in Paragraph 44(e), pursuant to 38 U.S.C. § 4323(d)(1)(C); and

h. Order such other relief as may be just and proper.

45. Plaintiff demands a jury trial as to willfulness.

Respectfully submitted, this 19th day of October, 2012.

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