

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

MICHAEL WIGGINGTON, JR.

PLAINTIFF

V.

Civil Case No. 3:15CV 003-NBB-RP

THE UNIVERSITY OF MISSISSIPPI,
CHANCELLOR DANIEL W. JONES individually
and in his official capacity as Chancellor,
PROVOST MORRIS H. STOCKS, individually
and in his official capacity as Provost, DEAN JOHN Z. KISS,
individually and in his official capacity as Dean, DEAN
VELMER BURTON, individually and in his
official capacity as Dean, CHAIR ERIC LAMBERT,
individually and in his official capacity as
Department Chair

DEFENDANTS

JURY VERDICT

Question No. 1

Has Dr. Wigginton proved that, but for his age, the defendant University of Mississippi would not have denied his application for tenure and promotion and subsequently terminated his employment?

Yes _____ No

Question No. 2

Did Defendant Lambert deprive Dr. Wigginton of his due process rights during his consideration of his application for tenure and promotion?

Yes No _____

Question No. 3

Did Defendant Burton deprive Dr. Wigginton of his due process rights during his consideration of his application for tenure and promotion?

Yes No

Question No. 4

Did Defendant Kiss deprive Dr. Wigginton of his due process rights during his consideration of his application for tenure and promotion?

Yes No

Question No. 5

Did Defendant Stocks deprive Dr. Wigginton of his due process rights during his consideration of his application for tenure and promotion?

Yes No

Question No. 6

Did Defendant Jones deprive Dr. Wigginton of his due process rights during his consideration of his application for tenure and promotion?

Yes No

If you have answered "No" to *all* of the above, please stop and inform the Court.

If you have answered "Yes" to *any* of the above, please continue filling out this form.

Question No. 7

Did Dr. Wigginton suffer damages as a result of Defendant's deprivation of his due process rights?

Yes No

Question No. 8

What sum of money, if paid now in cash, would fairly and reasonably compensate Dr. Wigginton for the damages, if any, you have found Defendant's wrongful conduct, if any, caused Dr. Wigginton?

Answer in dollars and cents for the following items, and no others:

1. Past wages and benefits from May 1, 2014 to present.

\$ 18,000⁰⁰

2. Past pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life.

\$ 100,000⁰⁰

3. Future pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life.

\$ 100,000⁰⁰

Chancie Joynor
Foreperson

10-27-17
Date

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

MICHAEL WIGGINTON, JR.

PLAINTIFF

V.

CIVIL ACTION
NO. 3:15-CV-093-NBB-RP

THE UNIVERSITY OF MISSISSIPPI, CHANCELLOR
DAN JONES, PROVOST MORRIS STOCKS, DEAN JOHN
KISS, DEAN VELMER BURTON, AND CHAIR ERIC
LAMBERT

DEFENDANTS

PRETRIAL ORDER

1. A pretrial conference was held on September 25, 2017 at 10:00 a.m. in the United States Courthouse in Oxford, Mississippi before United States Magistrate Judge Roy Percy

2. The following counsel appeared:

a. For the Plaintiff:

Sam Begley

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b. For the Defendants:

J. Cal Mayo, Jr.
Paul B. Watkins, Jr.

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7. The following motions remain pending:

- Defendants' Motion in Limine regarding Dissimilar Employment Decisions [Doc. 115];
- Defendants' Motion in Limine regarding Plaintiff's Qualification for Tenure [Doc. 116];
- Defendants' Motion in Limine regarding Miscellaneous Allegations [Doc. 117];
- Defendants' Motion in Limine regarding Plaintiff's Alleged Lost Wages [Doc. 118];
- Defendants' Motion in Limine regarding Plaintiff's Alleged Medical Damages [Doc. 119]; and
- Defendants' Motion in Limine regarding Private and Unrelated Information [Doc. 122].

8. The parties accept the following **concise** summaries of the ultimate facts as claimed by:

a. **Plaintiff:**

Plaintiff was employed as an Assistant Professor at the University of Mississippi ("University") in the Department of Legal Studies for over six years. He joined the University's Department of Legal Studies ("Department") as a tenure-track Assistant Professor of Criminal Justice on August 21, 2008. Under Plaintiff's contract with the University, he became eligible for tenure and promotion during his sixth full year of employment. Upon eligibility in the 2013-2014 academic year, Plaintiff promptly commenced the tenure and promotion application process.

Plaintiff's application for tenure and promotion was discriminatorily discredited because of his race, age, internal disagreement with his constitutionally protected free speech, and Defendants' unlawful attempts to "clean house." Ultimately, Plaintiff's application was denied because of Defendants' arbitrary and capricious decisions.

Specifically, on or about November 8, 2013, the Promotion and Tenure Committee for the Department of Legal Studies voted 5-2 in favor of Plaintiff's tenure and promotion application. Subsequently, Defendant Lambert recommended denying Plaintiff's tenure and promotion application, ignoring the Promotion and Tenure Committee for the Department. On or about December 4, 2013, an Advisory Committee to the Dean convened and recommended approval of Plaintiff's tenure and promotion application by a vote of 3-2. Nevertheless, on or about December 9, 2013, Defendant Burton recommended that Plaintiff's tenure and promotion application be denied, contradicting the recommendation of his own Advisory Committee. Likewise, on or about January 13, 2014, Defendant Kiss recommended denying Plaintiff's tenure and promotion application. On or about March 20, 2014, Defendant Stocks also recommended denying Plaintiff's tenure and promotion application.

Plaintiff appealed Defendant Stocks' decision to the University Tenure and Promotion Appeals Committee ("Committee") which held a hearing on April 14, 2014. In its April 17, 2014 decision, the Committee found that the University acted in an arbitrary and capricious manner regarding its review of Plaintiff's tenure and promotion application. Despite the decision of the Committee, on May 1, 2014, Defendant Jones denied Plaintiff's application for tenure and promotion and refused to extend Plaintiff's probationary period.

b. Defendant:

In Mississippi's public university system, certain faculty members are eligible to apply for "tenure" and promotion after they complete a probationary period. At the University of Mississippi, tenure applicants prepare a portfolio demonstrating their activity and work product during the probationary period. Under the University's written tenure policy, various persons evaluate the portfolio for evidence of the applicant's achievement in three areas: research and scholarly activity, teaching, and service. The University's Chancellor considers recommendations from these reviewers and decides whether or not to nominate the applicant for tenure to the Board of Trustees for the Mississippi Institutions of Higher Learning. Once awarded tenure, a faculty member is entitled to continued employment absent certain extraordinary circumstances.

The University hired Michael Wigginton in 2008 as a tenure-track associate professor in the Department of Legal Studies within the School of Applied Sciences. After his five-year probationary period, he applied for tenure and promotion to the rank of assistant professor in 2013. After reviewing Wigginton's tenure portfolio, the Chair of his Department, the Dean of his School, the Dean of the Graduate School, and the University's Provost all concluded that Wigginton had not demonstrated sufficient evidence of research and scholarly activity to support an award of tenure.

Chancellor Dan Jones then reviewed Wigginton's portfolio and the recommendations from the other University administrators and declined to nominate Wigginton for tenure and promotion. Chancellor Jones wrote that Wigginton's "number of peer-reviewed publications is low and there is no evidence of scholarly impact." Wigginton appealed to the IHL Board, which took no action to overturn Chancellor Jones' decision.

9. a. The following facts are established by the pleadings, by stipulation, or by admission:
- (1) Plaintiff joined the Department of Legal Studies at Defendant University of Mississippi as an Assistant Professor in 2008; and