

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

HEATHER S. TIMOTHY, an individual,

Plaintiff,

v.

ONEIDA COUNTY, a political
subdivision of the State of Idaho;
DUSTIN W. SMITH, in his capacity as
Prosecuting Attorney for Oneida County,
Idaho; DUSTIN W. SMITH, an
individual,

Defendants.

Case No. 4:14-cv-00362-BLW

MEMORANDUM DECISION AND
ORDER

INTRODUCTION

Before the Court is Plaintiff Heather S. Timothy's Motion to Set Bond (Dkt. 2). The Court has reviewed the record and determined that oral argument will not aid the decisional process. The Motion is therefore at issue. For the reasons set forth below, the Court will set the bond amount at \$5000.

ANALYSIS

Plaintiff Heather S. Timothy brings this lawsuit against Oneida County, and Dustin Smith, in his capacity as the prosecuting attorney for Oneida County and individually, alleging that Defendant unlawfully terminated her employment after she reported to law enforcement that Smith was allegedly misappropriating and misusing public funds from the Prosecutor Officer's budget. Timothy brings both state law wrongful termination claims and federal law due process claims. She asks the Court to set a bond amount.

Section 6-610(2) of the Idaho Code requires a plaintiff to post bond before it initiates suit against a law enforcement officer. The bond requirement does not apply to Timothy's federal claims but it does apply to Timothy's state law claims. *Hyde v. Fisher*, 152 P.3d 653 (Id.Ct.App. 2007).

The Court has reviewed the Complaint and finds an appropriate bond amount in this case to be \$5,000. The Court therefore orders Timothy to obtain the requisite statutory securities within 20 days of the date of this Order and to file such notice with the Court. Failure to obtain the requisite security will result in the dismissal of the state law claims against the individual law enforcement officer. Alternatively, Timothy may file a motion to waive the bond requirement within 20 days of the date of this Order along with the requisite financial affidavits and the Court will determine if the indigency requirements for a waiver have been established.

ORDER

IT IS ORDERED:

1. Plaintiff Heather S. Timothy's Motion to Set Bond (Dkt. 2) is GRANTED.
2. The Court finds an appropriate bond amount in this case is \$5000, to be secured and posted within 20 days of this Order. Alternatively, Timothy may file a motion to waive the bond requirement within 20 days of the date of this Order along with the requisite financial affidavits and the Court will determine if the indigency requirements for a waiver have been established.



DATED: September 3, 2014

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court