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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF INDIANAPOLIS,

Defendant.

1:07-cv-0897-DFH-WTL
Civil Action No. _____

COMPLAINT

Plaintiff United States of America ("United States") alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*

2. This Court has jurisdiction of this action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1345 and 28 U.S.C. § 1331.

3. Defendant City of Indianapolis ("City") is a consolidated city and political subdivision created pursuant to the laws of the State of Indiana.

4. Defendant City is a person within the meaning of 42 U.S.C. § 2000e(a) and an employer within the meaning of 42 U.S.C. § 2000e(b).

5. Defendant City maintains a police department, the Metropolitan Law Enforcement Agency a/k/a the Indianapolis Metropolitan Police Department ("IMPD"), which Section 279-102(b) of the Revised Code of the Consolidated City and County designates as the legal

successor-in-interest to the former Indianapolis Police Department ("IPD"), and employs police officers who, among other things, are responsible for law enforcement, including protecting individuals and property.

6. Defendant City is responsible for establishing the terms, conditions and other practices which bear upon the employment and promotion of police officers in the IMPD, and formerly the IPD.

7. Defendant City has maintained and continues to maintain competitive promotions processes by which applicants for promotion and appointment to the merit ranks of Sergeant and Lieutenant in the IMPD, and formerly the IPD, are screened, ranked and selected.

Defendant City's Promotion to the Merit Rank of Sergeant of Lower Ranked Black and/or Female Candidates over Higher Ranked White Male Candidates

Promotions to Sergeant Made by Defendant City in 2005

8. On January 20, 2005, defendant City promoted fifteen (15) patrol officers to the merit rank of Sergeant, including a white female ranked 33rd, three (3) black females ranked 27th, 35th, and 50th, and a black male ranked 55th on the eligibility list then in effect for such promotions. Each of the other ten (10) patrol officers promoted to the merit rank of Sergeant on January 20, 2005 ranked among the top fifteen (15) places on the eligibility list then in effect for such promotions.

9. On August 24, 2005, defendant City promoted two (2) patrol officers to the merit rank of Sergeant from the same eligibility list that was used on January 20, 2005. On September 15, 2005, defendant City promoted three (3) patrol officers to the merit rank of Sergeant from the

same eligibility list that was used on January 20 and August 24, 2005. On December 15, 2005, defendant City promoted six (6) patrol officers to the merit rank of Sergeant from the same eligibility list that was used on January 20, August 24 and September 15, 2005. The promotions to the merit rank of Sergeant that were made on August 24, September 15 and December 15, 2005 were made in the rank order of the candidates who remained on the eligibility list at those times.

10. Defendant City has discriminated against Scott A. Hessong, Benjamin D. Hunter, Brandon C. Laser, Brent E. Hendricks, Brent D. Miller, Daniel R. Green and similarly situated individuals presently and/or formerly employed as patrol officers in the IMPD and/or the former IPD on the basis of their race (white) and/or sex (male), in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a), among other ways by:

a. failing or refusing to promote or timely promote such individuals to the merit rank of Sergeant on the basis of their race and/or sex; and

b. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

Determinations by the Equal Employment Opportunity Commission

11. The Equal Employment Opportunity Commission ("EEOC") received timely charges of discrimination filed by Scott A. Hessong (Charge No. 240-2005-7908), Benjamin D. Hunter (Charge No. 240-2005-7910), Brandon C. Laser (Charge No. 240-2006-0830), Brent E. Hendricks (Charge No. 240-2006-1618), Brent D. Miller (Charge No. 470-2006-4140) and Daniel R. Green (Charge No. 470-2006-4141), in which these Charging Parties alleged, *inter*

alia, that (i) they were not promoted to the merit rank of Sergeant; (ii) other lower ranking black and/or female candidates were promoted to the merit rank of Sergeant; and (iii) in failing to promote the higher ranking white male candidates, defendant City discriminated against them because of their race and/or sex in violation of Title VII of the Civil Rights Act of 1964, as amended.

12. In accordance with Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the charges of discrimination filed by Scott A. Hessong, Benjamin D. Hunter, Brandon C. Laser, Brent E. Hendricks, Brent D. Miller and Daniel R. Green, and found reasonable cause to believe that defendant City violated Title VII of the Civil Rights Act of 1964, as amended, with respect to the Charging Parties and all those similarly situated. The EEOC attempted unsuccessfully to achieve a voluntary resolution of the charges through conciliation, and subsequently referred the matters to the United States Department of Justice.

Defendant City's Promotion to the Merit Rank of Lieutenant of Lower Ranked Female Candidates over Higher Ranked Male Candidates

Promotions to Lieutenant Made by Defendant City in 2005

13. On January 20, 2005, defendant City promoted eleven (11) sergeants to the merit rank of Lieutenant, including a white female ranked 16th and a black male ranked 21st on the eligibility list. Each of the other nine (9) sergeants promoted to the merit rank of Lieutenant on January 20, 2005 ranked among the top eleven (11) places on the eligibility list then in effect for such promotions.

14. On December 15, 2005, defendant City promoted one (1) sergeant to the merit rank of Lieutenant from the same eligibility list that was used on January 20, 2005. The promotion to the merit rank of Lieutenant that was made on December 15, 2005 was made in the rank order of the candidates who remained on the eligibility list at that time.

15. Defendant has discriminated against Robert M. McClary, Thomas I. Black and similarly situated individuals presently and/or formerly employed as sergeants in the IMPD and/or the former IPD on the basis of their sex (male), in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a), among other ways by:

a. failing or refusing to promote or timely promote such individuals to the merit rank of Lieutenant on the basis of their sex; and

b. failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

Determinations by the Equal Employment Opportunity Commission

16. The EEOC received timely charges of discrimination filed by Robert M. McClary (Charge No. 240-2006-0807) and Thomas I. Black (Charge No. 240-2006-0145), in which these Charging Parties alleged, *inter alia*, that (i) they were not promoted to the merit rank of Lieutenant; (ii) other lower ranking female candidates were promoted to the merit rank of Lieutenant; and (iii) in failing to promote the higher ranking male candidates, defendant City discriminated against them because of their sex in violation of Title VII of the Civil Rights Act of 1964, as amended.

17. In accordance with Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the charges of discrimination filed by Robert M. McClary and Thomas I. Black, and found reasonable cause to believe that defendant City violated Title VII of the Civil Rights Act of 1964, as amended, with respect to the Charging Parties and all those similarly situated. The EEOC attempted unsuccessfully to achieve a voluntary resolution of the charges through conciliation, and subsequently referred the matters to the United States Department of Justice.

18. All conditions precedent to the filing of this suit have been performed or have occurred.

WHEREFORE, plaintiff United States prays that the Court grant the following relief:

Enjoin defendant City from failing or refusing to:

a. provide remedial relief sufficient to make whole Charging Parties Scott A. Hessong, Benjamin D. Hunter, Brandon C. Laser, Brent E. Hendricks, Brent D. Miller, Daniel R. Green and all other similarly situated individuals; and Charging Parties Robert M. McClary, Thomas I. Black and all other similarly situated individuals for the losses they have suffered as a result of the discrimination against them as alleged in this Complaint; and

b. take other appropriate nondiscriminatory measures to overcome and remedy the effects of the discrimination.

Enjoin defendant City from engaging in race and sex discrimination in promoting police officers in the IMPD.

Award such additional relief as justice may require, together with plaintiff United States' costs, fees and disbursements in this action.

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