

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

MAY 21 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

JAMES W. McCORMACK, CLERK
By: [Signature]
DEP CLERK

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
THE CITY OF MARION, ARKANSAS,)
)
)
Defendant.)

Civil Action No. **3-09-CV-0073SWW**
JURY TRIAL DEMANDED

This case assigned to District Judge [Signature]
and to Magistrate Judge _____

COMPLAINT

Plaintiff, United States of America, 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.* ("Title VII").
2. This Court has jurisdiction over the action under 42 U.S.C. § 2000e-5(f) and 28 U.S.C. §§ 1331 and 1345.
3. Defendant City of Marion, Arkansas ("Marion" or "City") is a corporate, governmental body and a political subdivision of the State of Arkansas, established pursuant to the laws of the State of Arkansas.
4. Marion 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. Stacy D. Allen ("Allen"), a black male, was employed as a part-time patrol officer by Marion, in its Police Department ("MPD"), from on or about September 9, 2005 until on or about September 9, 2007.

6. Allen graduated from Arkansas State University in December 2004, with a Bachelor of Science degree in Criminal Justice.
7. Allen's supervisors in the MPD were the late Chief John Griffin and Assistant Chief and presently Chief Gary Kelley.
8. Before Allen was hired in the MPD and during the time he worked there, a practice existed in the MPD whereby, when a senior part-time patrol officer was selected for a full-time patrol officer position, the part-time officer so selected would be the most senior part-time officer, as long as that senior part-time patrol officer had no performance issues.
9. This practice was used in each situation in which a part-time officer in the MPD was selected for a full-time officer position in the MPD from at least January 1, 2000 through August 1, 2007, except when Allen was the part-time officer, based on seniority, who was next in line to be selected for a full-time officer position.
10. Robert Williams, a white male, was the part-time officer who was selected for a full-time patrol officer position in the MPD on or about April 4, 2006. Williams is a high school graduate and, at the time he was selected for a full-time patrol officer position in the MPD, did not have a degree from a college or university. Williams and Allen were hired on the same day, on or about September 9, 2005, as part-time officers in the MPD.
11. Before the full-time officer position in the MPD was filled on or about April 4, 2006, Allen informed then-Chief Griffin that he wanted a full-time officer position in the MPD.
12. Allen was not offered the full-time officer position in the MPD filled on or about April 4, 2006.

13. Scott Glass, a white male, was the part-time officer who was selected for a full-time patrol officer position in the MPD on or about May 21, 2007. Glass' start date as a part-time officer in the MPD was October 26, 2005. Glass is a high school graduate and, at the time he was selected for a full-time patrol officer position in the MPD, did not have a degree from a college or university.
14. Before the full-time officer position in the MPD was filled on or about May 21, 2007, Allen informed then-Chief Griffin that he wanted a full-time officer position in the MPD.
15. Allen was not offered the full-time officer position in the MPD filled on or about May 21, 2007.
16. Jennifer Dorin, a white female, was the part-time officer who was selected for a full-time patrol officer position in the MPD on or about July 23, 2007. Dorin's start date as a part-time patrol officer in the MPD was February 14, 2006. Dorin is a high school graduate and, at the time she was selected for a full-time patrol officer position in the MPD, did not have a degree from a college or university.
17. Before the full-time officer position in the MPD was filled on or about July 23, 2007, Allen informed then-Chief Griffin that he wanted a full-time officer position in the MPD.
18. Allen was not offered the full-time officer position in the MPD filled on or about July 23, 2007.
19. Allen met with then Chief Griffin each time he was not selected for the full-time officer positions filled on or about April 4, 2006, May 21, 2007 and July 23, 2007 to determine why he had been passed over for these positions.

20. Then-Chief Griffin told Allen that the full-time officer positions went to Williams, Glass and Dorin because they needed full-time jobs, and because Allen already had a full-time job.
21. Allen, however, told then Chief Griffin that he was willing to quit his full-time outside employment if he were offered a full-time patrol officer position in the MPD.
22. Allen resigned from the MPD on or about September 9, 2007 to work as a full-time police officer at the West Memphis Police Department.
23. Then-Chief Griffin gave a positive recommendation to the West Memphis Police Department with respect to Allen's application to work as a full-time officer in that department.
24. Marion, in the MPD, has discriminated against Allen, on the basis of his race, black, in violation of § 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) denying to him full-time patrol officer positions that were filled on or about May 21, 2007 and July 23, 2007; and
 - (b) failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment of Allen.
25. The Equal Employment Opportunity Commission ("EEOC") received a timely charge filed by Allen against the MPD (Charge No. 493-2007-02080), in which he alleged that he was denied a position of full-time patrol officer in the MPD because of his race.
26. Pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, the EEOC investigated the above-referenced charge filed by Allen

against the MPD, found reasonable cause to believe that the allegations of race discrimination in employment were true, attempted unsuccessfully to achieve through conciliation a voluntary resolution of the matter, and subsequently referred the charge to the Department of Justice.

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

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

- (a) Enjoin Marion from failing and refusing to:
 - (i) Provide remedial relief, including back pay with interest, to the charging party, Stacy D. Allen, to make him whole for the loss he has suffered as a result of the discrimination against him as alleged in this complaint;
 - (ii) Adopt written employment policies that prohibit employment discrimination on the basis of race in the MPD, and that include clear written objectives and nondiscriminatory guidelines for hiring and promotion in the MPD so that all applicants will know, in advance, what criteria are being used to make employment decisions;
 - (iii) Distribute written employment policies that prohibit discrimination on the basis of race in the MPD and that include clear written objectives and nondiscriminatory guidelines for hiring and promotion in the MPD to all employees and potential employees in the MPD;
 - (iv) Provide mandatory training covering non-discrimination in employment on the basis of race for all supervisors who make or have input in hiring and promotion decisions in the MPD; and

- (v) Take other appropriate non-discriminatory measures to overcome the effects of race discrimination against blacks in the MPD.
- (b) Award compensatory damages to Stacy D. Allen as would fully compensate him for the injuries caused by Marion's discriminatory conduct, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

JURY DEMAND

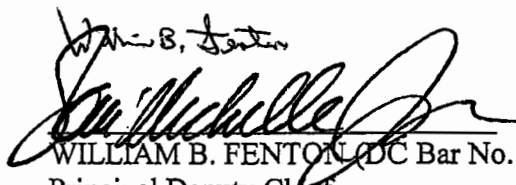
The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

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BY:



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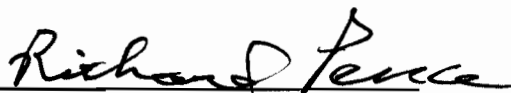


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