

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

2011-03-12 10

WILLIAM L. JOHNSON AND
JULIAN W. MOORE

Plaintiffs,

v.

THE METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY,
TENNESSEE.

Defendant.

Case No. _____

JURY DEMAND (6)

COMPLAINT

Come the Plaintiffs, William L. Johnson and Julian W. Moore, and would state unto this Honorable Court as follows:

1. Plaintiffs, William L. Johnson and Julian W. Moore, bring this action under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) et. seq. for discrimination based upon race, color and sex. Jurisdiction is conferred upon the Court by 28 U.S.C. §1331.

PARTIES

2. Plaintiff, William L. Johnson, is a citizen and resident of Cheatham County, Tennessee and is currently a police officer, with a rank of sergeant with the Metropolitan Police Department of the Metropolitan Government of Nashville and Davidson County.

3. Plaintiff, Julian Moore, is a citizen and resident of Williamson County, Tennessee and is currently a police officer, with a rank of sergeant with the Metropolitan Police Department of the Metropolitan Government of Nashville and Davidson County.

4. Defendant, the Metropolitan Government of Nashville and Davidson County, is a governmental entity operating a police department in Nashville, Davidson County, Tennessee.

FACTS

5. Plaintiff, William L. Johnson, was hired by the Metropolitan Police Department in November 1996, and was promoted to the rank of sergeant in May 2005.

6. Plaintiff, Julian W. Moore, began working for the Metropolitan Police Department in 1995, and was promoted to the rank of sergeant in 2004.

7. In 2006, the Metropolitan Police Department announced it was seeking candidates for the rank of lieutenant and that qualified sergeants who met certain criteria could apply for this promotion.

8. Both Plaintiffs, William L. Johnson and Julian W. Moore, applied for the opening lieutenant positions. All sergeants who applied for these positions took a written test and if they scored a certain percentage were then allowed to go to an assessment center for evaluation of their skills and leadership ability in real life situations to determine if the officer could function in the lieutenant's position. While approximately 150 sergeants took the test only approximately 50-60 qualified for further assessment. Both Plaintiffs qualified for the assessment center evaluation.

9. After the assessment, Plaintiff, Julian W. Moore, ranked five out of approximately 50-60 sergeants who applied for the lieutenant position. Plaintiff, William L. Johnson, ranked nine out of the sergeants who applied for the lieutenant position.

10. The promotions were announced on September 29, 2006, and Plaintiffs discovered that the Metropolitan Police Department used a slide banding method to make these promotions in such a manner to allow the black employees and the female employees to be

promoted ahead of the white male employees regardless of how the sergeants performed on the test and the assessment.

11. Plaintiffs would state that this banding procedure was not utilized pursuant to any affirmative action program.

CAUSES OF ACTION

12. Plaintiffs, William L. Johnson and Julian Moore, would state that the Defendant's actions in using a slide banding procedure to allow police officers to be promoted based upon their race, color and sex as opposed to being based on merit, is in violation of Title VII of the Civil Rights Act of 1964, *et. seq.*

13. Plaintiffs would state that the use of the slide banding promotion system in reality allows the Defendant to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, or sex, in violation of Title VII of the Civil Rights Act of 1964, *et. seq.*

14. Plaintiffs would state that Defendant's promotional system has a disparate affect on white males and the challenged practice is not job related for the position in question and is not consistent with business necessity. Further, Plaintiffs would state that an alternate employment practice exists in that the prior promotional system used, before slide banding, was not based upon race, color and sex, but the Defendant refuses to return to the alternate practice.

15. Plaintiffs would state that the Defendant used race, color, and, sex, as motivating factors for determining who to promote through their system in violation of Title VII of the Civil Rights Act of 1964, *et. seq.*

16. Plaintiff, William L. Johnson, received his right to sue letter from the United States Department of Justice dated December 7, 2007. (Copy attached hereto). Plaintiff, Julian

W. Moore received his right to sue letter from the United States Department of Justice dated December 7, 2007. (Copy attached hereto).

WHEREFORE, PLAINTIFFS PRAY:

1. That Plaintiffs, William L. Johnson and Julian Moore, be granted a judgment against the Defendant for compensatory and other damages suffered by them, including but not limited to, damages for pain and suffering, humiliation and embarrassment, back pay, interest on back pay, and lost benefits.
2. That the Plaintiffs be ordered promoted or front pay in lieu thereof, with all accumulated salary rights and benefits as if properly promoted.
3. Plaintiffs further pray for both liquidated and punitive damages and for pre-judgment interest, attorney's fees, litigation costs, and the cost of this cause.
4. Plaintiffs pray for a jury of six to try this cause.
5. Plaintiffs pray for such other further relief as may be necessary or appropriate.

Respectfully Submitted,



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