

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

DYLAN SHANE DAVIS

PLAINTIFF

VERSUS

CAUSE NO. 1:18-CV-221-GHD-DAS

CITY OF WEST POINT, MISSISSIPPI

DEFENDANT

JURY TRIAL DEMANDED

COMPLAINT

This is an action to require the City of West Point, Mississippi to hire Plaintiff as a firefighter, and to recover actual damages for violation of First Amendment rights. The following facts support this action:

1.

Plaintiff DYLAN SHANE DAVIS is an adult resident citizen of 195 McNully Road, Pheba, Mississippi 39755.

2.

Defendant CITY OF WEST POINT, MISSISSIPPI is a political subdivision of the State of Mississippi. Defendant may be served with process through its mayor, Robbie Robinson, 580 Commerce Street, West Point, Mississippi 39773. At all relevant times, Defendant acted under color of state law. At all relevant times, the decision-makers at issue were the Board of Selectmen of the City of West Point, Mississippi, and they were the official policymakers for Defendant.

3.

This Court has federal question jurisdiction under 28 U.S.C. § 1343. This suit is authorized by 42 U.S.C. § 1983, and Defendant is liable under 42 U.S.C. § 1981, and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. Plaintiff has filed an EEOC charge, attached hereto as Exhibit “A.” At such time that a notice of right to sue is issued, or in the alternative, one-hundred and eighty (180) days has passed, then this action will also be authorized by Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991.

4.

Plaintiff is a white male.

5.

Plaintiff’s life ambition is to be a firefighter, as was Plaintiff’s stepfather, in his hometown of West Point, Mississippi. Plaintiff first applied for a firefighter’s position with the City of West Point, Mississippi, when he was eighteen (18) years old. Plaintiff was rejected as not being old enough. Thereafter, Plaintiff, at his own expense, obtained certification as a firefighter, and was hired to work at the Grenada Fire Department. Plaintiff remained, however, hopeful to be a firefighter in his hometown of West Point, Mississippi, and attempted to become employed in March 2018. In March 2018, Defendant hired one white applicant and two (2) black applicants as firefighters.

6.

In the fall of 2018, the City Board of Selectmen instructed the city fire chief to submit the names of four (4) qualified applicants. The fire chief submitted the names of Plaintiff, one other white applicant, and two (2) black applicants.

7.

All of the applicants, except Plaintiff, were uncertified. Plaintiff was not only a certified firefighter, but had also attended numerous specialized schools.

8.

Hiring uncertified firefighters causes the City of West Point, Mississippi's insurance rates to be more expensive, and endangers city residents since uncertified persons are not allowed to fight fires. Additionally, the City must undergo substantial expense to obtain certification for its firefighters. It was, therefore, obvious that Plaintiff should be one of the persons hired for the vacancy. Plaintiff was informed by a battalion commander at the fire department that Plaintiff would certainly be hired because the fire chief strongly recommended Plaintiff as the only certified applicant.

9.

During the application process, a member of the Board of Selectmen of the City of West Point made statements to the effect that the City needed to give African Americans access to "good-paying jobs" and to help them "raise the quality of their lives." The statements reference the need for a "quota system," in which the City attempted to hire more black applicants regardless of qualification, because the fire department has fewer black firefighters than white firefighters.

10.

The City of West Point, through the rationale of the Selectman who made the statements concerning the need to give the black persons "good-paying jobs," and hired the only two (2) black applicants who had been recommended by the chief, even though they were not certified, also hired a white, uncertified person. The white person who was hired was a member of an extremely

prominent and respected family. Plaintiff knows the white person who was hired personally, and agrees that he would probably be an excellent firefighter based upon his character.

11.

Plaintiff, however, was eliminated from consideration, and two (2) black applicants were hired instead, even though they were not certified, because the City wanted to balance the number of black and white firefighters. This constitutes discrimination based upon race, in violation of the Fourteenth Amendment to the Constitution and 42 U.S.C. § 1981, and the Civil Rights Act of 1964.

12.

Plaintiff has suffered mental anxiety and stress as a result of not being hired as a firefighter in his hometown, despite his expenses and the time-consuming difficult training he has taken to become a certified firefighter. Hiring based upon race of the two (2) black applicants was not in the best interests of the City's own taxpayers because the uncertified firefighters cannot attend a fire, and the costs of certifying the firefighters, thus, wasting the City's taxpayer's money.

13.

Plaintiff is entitled to damages for mental anxiety, lost income, and attorneys' fees.

14.

Plaintiff is entitled to actual damages in an amount to be determined by a jury.

REQUEST FOR RELIEF

Plaintiff requests back pay in an amount to be determined by a jury, an order awarding Plaintiff the firefighter position, and reasonable attorneys' fees, costs and expenses.

RESPECTFULLY SUBMITTED, this the 29th day of November, 2018.

DYLAN SHANE DAVIS, Plaintiff

By: /s/ Jim Waide

Jim Waide, MS Bar No. 6857

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ATTORNEYS FOR PLAINTIFF

STATE OF MISSISSIPPI

COUNTY OF Lee

PERSONALLY came and appeared before me, the undersigned authority in and for the aforesaid jurisdiction, the within named DYLAN SHANE DAVIS, who, after being first duly sworn, states under oath that the facts contained in the above and foregoing COMPLAINT are true and correct as stated therein.

Dylan Davis
DYLAN SHANE DAVIS

GIVEN under my hand and official seal of office on this the 27th day of Nov., 2018.

Haley C. Fuller
NOTARY PUBLIC

(SEAL)

My Commission Expires:

