

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff, and	)	
	)	
SCOTT A. HESSONG, BENJAMIN D.	)	
HUNTER, BRANDON C. LASER,	)	
BRENT E. HENDRICKS, BRENT D.	)	
MILLER, DANIEL R. GREEN, THOMAS	)	
I. BLACK, and ROBERT M. McCLARY,	)	
	)	
	)	1:78-cv-388 RLY-WTL
Plaintiff-Intervenors	)	
	)	(Consolidated with
v.	)	1:07-cv-897 DFH-WTL
	)	and 1:05-cv-1220 LJM-JMS)
	)	
CITY OF INDIANAPOLIS, JERRY	)	
BARKER, MICHAEL T. SPEARS, JAMES	)	
WYATT, JAMES RENO, EDWARD	)	
DELLANEY, MARY MAXWELL,	)	
CORDELIA LEWIS BURKS, and JOSEPH	)	
SMITH,	)	
	)	
Defendants.	)	

INTERVENORS' COMPLAINT

Scott A. Hesong, Benjamin D. Hunter, Thomas I. Black, Brent D. Miller, Brent E. Hendricks, Brandon C. Laser, and Robert M. McClary, by counsel, respectfully make their Intervenors' Complaint for Damages.

Nature of Case

1. Plaintiff-Intervenors seek to vindicate rights guaranteed by Title VII of the Civil Rights Act of 1964 and by the Equal Protection Clause of the Fourteenth

Amendment to the U.S. Constitution that Defendants violated by discriminating against them on the basis of their race and sex.

Jurisdiction

2. Plaintiff-Intervenors bring this action pursuant to 42 U.S.C § 1983 to vindicate their rights under the Fourteenth Amendment and pursuant to 42 U.S.C. § 2000e *et seq.* to vindicate their statutory civil rights.
3. This Court has original subject matter jurisdiction over the federal questions presented pursuant to 28 U.S.C. § 1331 and § 1343.
4. Venue is proper in the Indianapolis Division because the Defendants reside in this division and the events complained of occurred in this division.
5. Plaintiff-Intervenors timely filed charges of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC).
6. This action was timely commenced by the United States of America following issuance of the EEOC's referral of the charges to the U.S. Department of Justice.

Parties

7. Plaintiff United States of America ("Plaintiff USA") is authorized to bring this action pursuant to 42 U.S.C. § 2000e-5(f).
8. The City of Indianapolis is a government unit located in Marion County, Indiana.
9. Scott A. Hessong is an adult citizen of the United States residing in Marion County, Indiana.
10. Benjamin D. Hunter is an adult citizen of the United States residing in Marion County, Indiana.

11. Brandon C. Laser is an adult citizen of the United States residing in Marion County, Indiana.
12. Brent E. Hendricks is an adult citizen of the United States residing in Marion County, Indiana.
13. Brent D. Miller is an adult citizen of the United States residing in Marion County, Indiana.
14. Daniel R. Green is an adult citizen of the United States residing in Marion County, Indiana.
15. Thomas I. Black is an adult citizen of the United States residing in Marion County, Indiana.
16. Robert M. McClary is an adult citizen of the United States residing in Marion County, Indiana.
17. Jerry Barker is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in his official capacity as Chief of the Indianapolis Police Department and an official of the Indianapolis Metropolitan Police Department.
18. Michael Spears is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in his official capacity as Chief of the Indianapolis Police Department and an official of the if the Indianapolis Metropolitan Police Department.
19. James O. Wyatt is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in his official capacity as Assistant Chief of the Indianapolis Metropolitan Police Department.

20. James Reno is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in his official capacity as Deputy Chief of the Indianapolis Metropolitan Police Department.
21. Debbie Barnett is an adult citizen of the United States residing in Marion County, Indiana. She is sued individually and in her official capacity as a member of the Civilian Police Merit Board.
22. Cordelia Lewis Burks is an adult citizen of the United States residing in Marion County, Indiana. She is sued individually and in her official capacity as a member of the Civilian Police Merit Board.
23. Edward Dellaney is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in her official capacity as a member of the Civilian Police Merit Board.
24. Joseph Smith is an adult citizen of the United States residing in Marion County, Indiana. He is sued individually and in her official capacity as a member of the Civilian Police Merit Board.

Factual Allegations

25. The City of Indianapolis maintains a police department, commonly known as the Indianapolis Metropolitan Police Department (“IMPD”), which Indianapolis Rev. Code § 279-102(b) designates as the successor-in-interest of the former Indianapolis Police Department (“IPD”).
26. Defendant City is responsible for establishing the terms and conditions for the employment and promotion of sworn officers of IMPD and the former IPD.

27. Defendant City has maintained and currently maintains a competitive promotions process whereby applicants for promotion to the merit ranks of Sergeant and Lieutenant of its police force are screened, ranked, and selected.
28. On January 20, 2005 the City promoted fifteen (15) patrol officers to the rank of Sergeant, including a white female ranked 33rd, three (3) black females ranked 25th, 35th, and 50th, and a black male ranked 55th on the eligibility list then in effect for the merit rank of Sergeant. Each of the other ten (10) patrol officers promoted to Sergeant on January 20, 2005 ranked among the top fifteen (15) places on the eligibility list for Sergeant.
29. On August 24, 2005 the City promoted two (2) patrol officers to the rank of Sergeant from the same eligibility list that was used on January 20, 2005. On September 15, 2005 the City promoted three (3) patrol officers the rank of Sergeant from the same eligibility list that was used on January 20 and August 24, 2005. On December 15, 2005 the City promoted six (6) patrol officers to the rank of Sergeant from the same eligibility list that was used on January 20, August 24, and September 15, 2005. The promotions to Sergeant that were made on August 24, September 15, and December 15 were made in the rank order of the candidates who remained on the eligibility list at those times.
30. On January 20, 2005 the City promoted eleven (11) sergeants to the 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 Lieutenant.

31. On December 15, 2005 the City promoted one (1) sergeant to the rank of Lieutenant from the same eligibility list that was used on January 20, 2005. The promotion to the 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.
32. The City has discriminated against Scott A. Hessong, Benjamin D. Hunter, Brandon C. Laser, Brent E. Hendricks, Brent D. Miller, and Daniel R. Green on the basis of their sex (male) and race (white) in violation of section 703(a) of Title VII of the Civil Rights Act of 1964 and of the Equal Protection Clause of the Fourteenth Amendment by refusing to timely promote them to the rank of Sergeant on the basis of their sex and race and by refusing to remedy the effects of such discriminatory treatment.
33. The City has discriminated against Robert M. McClary and Thomas I. Black on the basis of their sex (male) and race (white) in violation of section 703(a) of Title VII of the Civil Rights Act of 1964 and of the Equal Protection Clause of the Fourteenth Amendment by refusing to timely promote them to the rank of Lieutenant on the basis of their sex and race and by refusing to remedy the effects of such discriminatory treatment.
34. Defendants Jerry Barker, Michael Spears, Sonny Wyatt, and James Reno expressly directed that less qualified black and female candidates be promoted over Plaintiff-Intervenors who were ranked higher on their respective eligibility lists.

35. As members of the Civilian Police Merit Board, Cordelia Lewis Burks, Edward Dellaney, Mary Maxwell, and Joseph Smith approved the promotions of black or female officers ahead of higher-ranked white male candidates.
36. At all relevant times Defendants acted under color of Indiana law.
37. The individual Defendants formulated, and the Defendant City maintains, a policy or practice discrimination against white males in favor of black and female officers in promotions to Sergeant and Lieutenant.
38. Plaintiff-Intervenors have been damaged by Defendants' policy of race and sex discrimination through the loss of pay, reputation, professional opportunities and experience, collegiality with fellow officers, and consortium with family members, and have suffered stress and emotional distress.

Relief

39. Plaintiff-Intervenors seek all relief allowable by law, including back pay, front pay, injunctive relief, attorney's fees, and compensatory and punitive damages.

WHEREFORE, Plaintiff-Intervenors pray that the Court will enter judgment against Defendants and in favor of Plaintiffs, and grant Plaintiffs all just and proper relief.

Respectfully submitted,

/s/ Jeffrey S. McQuary, 16791-49
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