SUPPLEMENTAL EXPERT REPORT

Maverick Hughes
v.
Mississippi Transportation Commission
C.# 3 :06cv81 HTW-JCS (S.D. Miss)

August 24, 2007

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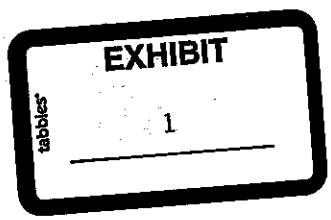

1. I have filed an earlier report in this case, dated January 8, 2007. I hold a Ph.D. in Industrial and Organizational Psychology. In my earlier report I have described that scientific field and presented my credentials as an expert in that field.

2. Since I filed that initial report, I have had the opportunity to review the following material:

   i. Deposition of Maverick Hughes
   ii. Deposition of Lincoln Cain
   iii. Deposition of Paul Vaughn
   iv. Deposition of Jimmy Forrest
   v. Deposition of Larry Vaughn
   vi. Deposition of Steve Johnson
   vii. Deposition of Greg Franklin
   viii. Job descriptions for Engineering Technician I, Engineering Technician II , and Engineering Technician III
   ix. New Hire Flex Analysis and supporting documents for Greg Petty and Maverick Hughes
   x. Job Announcement for District Bridge Inspector dated December 3, 2003
   xi. Job Content Questionnaire for position # 4153 (Engineering Technician III)

3. I have reviewed that new information for any additional evidence that bears on Mr. Hughes' claims of race discrimination in his treatment and termination by the Mississippi Department of Transportation.

4. As a result of information contained in these new documents, I conclude that my earlier opinions are supported. Additionally, I have some opinions that were not presented earlier regarding Mr. Hughes' claims of race discrimination. I will present these affirmed and new opinions below.

5. The New Hire Flex analysis shows very clearly that Greg Petty qualified for the Flex Pay increment and Maverick Hughes did not.

6. As I suspected, Mr. Hughes was wholly unfamiliar with the New Hire Flex Pay Plan or concept. In his deposition, he concedes that he had never heard of the plan before he was asked about it by Mr. Williams in deposition. Further, Mr. Hughes asserts that he thinks that the plan is unfair simply because Mr. Petty was awarded an increment to his starting salary and Mr. Hughes was not.

7. Mr. Hughes appears to believe that Mr. Petty did not deserve the New Hire Flex Pay increment because Mr. Petty was not certified in concrete inspection and had inferior educational credentials. Since Mr. Hughes is unfamiliar with the New Hire Flex Pay plan, he would also be unaware that there is a provision for the substitution of relevant experience for education. The New Hire Flex analysis shows that Mr. Petty had the

equivalent of 8 years of experience beyond the required two years. This qualified him for a 10% New Hire Flex Pay increment, which he received. Certifications (such as concrete) play no role in New Hire Flex Pay awards.

8. In order to receive any New Hire Flex Pay when he was hired in November of 1995, Mr. Hughes would have had to have possessed 5.5 years of experience (or substituted education) beyond the minimum requirement of two years. The New Hire Flex Salary Analysis for Mr. Hughes shows that he had exactly the minimum requirement of two years (through substitute education) and no additional experience credit. As a result, he was not eligible for New Hire Flex Pay.

9. There is no foundation for Mr. Hughes' charge that he was discriminated against in hiring compensation in light of the New Hire Flex Pay analysis. The fact that Mr. Hughes is African American and Mr. Petty is white is incidental to starting salary.

10. In his deposition, Mr. Hughes asserts that there are no differences between an Engineering Technician I and an Engineering Technician III. The job descriptions rebut that assertion. There are clearly differences in levels of responsibility, requisite experience, and educational requirements. The tasks are very different in scope and responsibility as one progresses from an Engineering Technician I to an Engineering Technician III. The tasks performed by Mr. Hughes clearly fall into the responsibilities of an Engineering Technician I. Further, in his deposition, Steve Johnson indicates that he had reservations about promoting Mr. Hughes to a Tech II or Tech III position since it

required a level of responsibility that he found lacking in Mr. Hughes' job performance. This is a clearly job-related foundation for a failure to promote Mr. Hughes to a Tech II or Tech III position. As an aside, in his deposition, Greg Franklin testifies that he told Mr. Hughes that he could easily bypass the Tech II / Tech III ladder and jump to a Tech III pay grade by simply taking and passing the examination for an Engineering Certified Technician. Mr. Hughes chose not to take that certain route to promotion.

11. In his deposition. Mr. Hughes asserts that Mr. Vaughn could not assume supervisory responsibilities over Mr. Hughes because he was not a certified concrete inspector. Concrete certification is not a prerequisite for the position of Engineering Technician III. There are many positions in which an individual in a supervisory position does not have the credential of a direct report. To name a few, a fire lieutenant does not have to have an EMT or EMS certificate that might be held by a direct report. The supervisor of a construction site need not be licensed to operate heavy equipment, etc. Mr. Hughes asserts that the placement of Mr. Vaughn in a superior position relative to Mr. Hughes was a clear sign of discrimination since Vaughn had no concrete certification. Once again, Mr. Hughes misunderstands basic Human Resource principles and practice.

12. In his deposition, Mr. Hughes asserts that soliciting a loan from a state contractor was not a violation of policy because he had no direct inspection responsibilities related to that contractor. The facts will determine whether or not Mr. Hughes had a direct inspector/contractor relationship with the contractor in question, but Mr. Hughes misses the larger perspective of the policy. Even assuming that on the days that Mr. Hughes

asked for the loan, he was not inspecting the work of the contractor, neither Mr. Hughes nor the contractor could know if Mr. Hughes would assume that responsibility the next day, or in the next week or month. The facts show that Mr. Hughes never repaid the loan demonstrating that the compromised relationship between Mr. Hughes and the contractor lasted as long as Mr. Hughes was employed by MDOT. In his deposition, Steve Johnson describes the concerns of Mr. Rea that Mr. Hughes might harm his business if he did not provide the loan that Mr. Hughes requested. This is an example of the continuing relationship between an inspector and a contractor.

13. In his deposition, Mr. Hughes admitted he had no idea what he would do were he in his supervisor's (Steve Johnson) position were he confronted with the behavior of a Maverick Hughes (e.g. leaving a counseling session) other than to say he would not have administered discipline. This simply shows that Mr. Hughes would not have fulfilled the responsibilities of supervision and leadership not that Mr. Johnson acted inappropriately.

14. In his deposition, Mr. Hughes alleges that a white employee, Rodney Bruce, was awarded a larger increase on promotion than an African American employee (Steve Harris) when both received the same promotion. Nevertheless, Mr. Hughes has no idea how much of an increase Mr. Bruce received and acknowledges that Mr. Bruce was also made a Crew Chief, which would likely result in a larger increase than a simple promotion to Engineering Technician II.

15. In his deposition, Mr. Hughes introduces what appears to be a new allegation: he argues that the hiring practices at MDOT are discriminatory because more whites than African Americans were hired over a given period of time. Without applicant flow data indicating exactly how many whites and African Americans applied for positions relative to how many were actually hired, it is impossible to determine the presence or absence of adverse impact in hiring. Mr. Hughes presents no such data.

16. In summary, it remains my opinion that Mr. Hughes presents no foundation for his claims of unfair discrimination in compensation, job assignment, promotion, discipline, or termination. His deposition and the documents I describe in point #2 above present additional confirmation of the opinions that I offered in my first report.

FRANK J. LANDY, Ph.D.

August 24, 2007

Minneapolis, Minnesota

State of Minnesota
County of Hennepin ss

Subscribed and sworn to before me
this 23rd day of August, 2007.
Christi E. Roadfeldt
Notary Public

CHRISTI E. ROADFELDT
Notary Public-Minnesota
My Commission Expires Jan 31, 2010