

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**JOHN R. STELLY, II,  
Plaintiff**

**VERSUS**

**STATE OF LOUISIANA, THROUGH  
DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONS, OFFICE OF  
STATE POLICE  
Defendant**

\* \* \* \* \*

\* **CIVIL ACTION NO. 23-772**  
\*  
\* **SECTION “T”**  
\*  
\* **JUDGE GREG G. GUIDRY**  
\*  
\* **MAGISTRATE JUDGE**  
\* **JANIS VAN MEERVELD**  
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\*  
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**REPLY MEMORANDUM IN SUPPORT OF  
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police (“Defendant” or the “State Police”), respectfully submits this Reply Memorandum in Support of its Motion for Summary Judgment. The vast majority of Plaintiff’s brief is spent attempting to minimize the career accomplishments and superior qualifications of the two men promoted over him while simultaneously highlighting what Stelly perceives to be his career achievements that he argues should have led to a promotion. The Court need not compare line items in the candidates resumes, however, because this Court has confirmed that Title VII does not exist to allow “second-guessing of an employer's business decisions.”<sup>1</sup> El-Amin and Burns both had significant on-the-job experience in the sections they were tasked to lead when promoted to captain -- experience that, along with their career accomplishments and skills, made them the best candidates for those promotions. That Stelly had some success with his career does not create a genuine issue of material fact. Nor does his attempt to nit-pick the career accomplishments and records of El-Amin or Burns, Col. Davis’s statements about diversity, gossip

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<sup>1</sup> *Melancon v. Cargill Inc.*, 2017 WL 2573950, at \*11 (E.D. La. June 14, 2017).

regarding promotions other than those of El-Amin or Burns, or that Stelly has attempted to cherry pick data to show an uptick in promotions of minorities. At the end of the day, Burns and El-Amin were promoted based on merit – not race – and they have had tremendous success with the State Police following their promotions. The motion for summary judgment should be granted.

**A. Defendant has met its burden of articulating legitimate, nondiscriminatory reasons for promoting Burns and El-Amin.**

The State Police has unquestionably provided a legitimate, nondiscriminatory reason for Stelly’s failure to be promoted to captain on July 9, 2021: Robert Burns and Saleem El-Amin were better qualified for their respective promotions. State Police leadership testified uniformly that Burns and El-Amin’s broad range of experience in State Police and more specifically, experience in the section in which they sought promotion, were driving factors in their respective promotions.<sup>2</sup> As the positions of captain in Operational Development and Gaming are both public-facing roles, strong communication and relationship-building skills were of particular importance.<sup>3</sup> As Burns and El-Amin had prior experience in their sections, Burns had “distinguished himself” working in Operational Development and was well regarded by legislators, and El-Amin had demonstrated excellent leadership and ability to connect with the community during his time in Gaming, they were superior candidates for these roles.<sup>4</sup>

Courts, including this one, consistently hold that selection of a better qualified candidate is a legitimate, non-discriminatory reason for promoting one candidate over another.<sup>5</sup> Notably,

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<sup>2</sup> See R. Doc. 118-2, Memorandum in Support Motion for Summary Judgment, at p. 7, 9-10.

<sup>3</sup> *Id.* at pp. 9-10.

<sup>4</sup> *Id.* at pp. 9-11.

<sup>5</sup> *Thompson v. Bd. of Comm'rs of Port of Orleans*, 2005 WL 3543776, at \*4 (E.D. La. Nov. 7, 2005) (holding that evidence that the chosen candidate was better qualified for the job is sufficient to establish legitimate, nondiscriminatory reasons for promotion); *Runnels v. Texas Children's Hosp. Select Plan*, 167 F. App'x 377, 383 (5th Cir. 2006); *Monteverde v. New Orleans Fire Dept.*, 124 F. App'x 900, 905 (5th Cir. 2005) (“We accept NOFD's assertion that Woodridge was simply a better qualified candidate than [the plaintiff] as its legitimate, non-discriminatory reason for not promoting [the plaintiff].”); *Price v. Federal Exp. Corp.*, 283 F.3d 715, 723 (5th Cir. 2002) (accepting the employer’s assertion that they hired they hired another candidate over the plaintiff based on his superior qualifications as a legitimate, nondiscriminatory reason); *Sabzevari*

Plaintiff has no rebuttal to Burns' and El-Amin's relevant experience. Plaintiff also fails to address any of the case law referenced in the State Police's Memorandum, which establishes the reasons for promoting Burns and El-Amin were legitimate and non-discriminatory. Likewise, he fails to introduce a single case to support his position. Testimony from several members of the State Police clearly indicates not only that Burns and El-Amin were chosen for their respective promotions on July 9, 2021 because they were well-qualified, but also that Plaintiff was not the most qualified candidate for the Operational Development or Gaming positions. Given the State Police has satisfied its burden of articulating legitimate, nondiscriminatory reasons for the promotions and Plaintiff will not be able to show these reasons were pretextual, summary judgment is warranted.

**B. Plaintiff has not shown and cannot show that the legitimate, nondiscriminatory reasons for the promotional decisions were a pretext for race discrimination.**

***1. Plaintiff has failed to demonstrate that he was clearly better qualified.***

A plaintiff may survive summary judgment in the face of defendant's proffered legitimate reasons for not promoting him by submitting evidence that he was “‘clearly better qualified’ (as opposed to merely better or as qualified) than the employees who are selected.”<sup>6</sup> However, showing that two candidates are similarly qualified does not establish pretext,<sup>7</sup> and mere “disparities in qualifications are not enough in and of themselves to demonstrate discriminatory intent unless those disparities are so apparent as to virtually jump off the page and slap you in the face.”<sup>8</sup> Here, despite his personal belief that he was “much more qualified for these positions than

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*v. Reliable Life Ins. Co.*, 264 F. App'x 392, 395 (5th Cir. 2008) (“[the employer] articulated a legitimate, nondiscriminatory reason for promoting Dixon to the district manager position: selection of the most qualified candidate. Thus, the burden shifts to [the plaintiff] to show pretext.”).

<sup>6</sup> *Thompson*, 2005 WL 3543776, at \*5 (citing *Equal Employment Opportunity Comm'n v. Louisiana Office of Community Servs.*, 47 F.3d 1438, 1444 (5th Cir.2005)).

<sup>7</sup> *Price v. Federal Exp. Corp.*, 283 F.3d 715, 723 (5th Cir. 2002).

<sup>8</sup> *Thompson*, 2005 WL 3543776, at \*5 (citing *Deines v. Texas Dept. of Prot. & Regulatory Servs.*, 164 F.3d 277, 279 (5th Cir.1999)); see also *Runnels*, 167 F. App'x at 383 (“However, the bar is set high for this kind of evidence because differences in qualifications are generally not probative evidence of discrimination unless those disparities are ‘of such weight and significance that no reasonable person, in the exercise of impartial judgment, could have chosen the candidate selected over the plaintiff for the job in question.’”).

either Burns or El-Amin,”<sup>9</sup> Plaintiff has not presented *evidence* to show that he was “clearly better qualified” for the captain positions in Operational Development and Gaming in light of testimony regarding the reasons Burns and El-Amin were promoted over him.

Stelly relies on his own self-serving, unsupported belief that “Burns’ and El-Amin’s skill sets, including their prior experience in those sections, did not reasonably outweigh Stelly’s higher exam scores, more formal education, longer tenure with LSP, considerably more time-in-grade and experience as a lieutenant, more training, more awards and commendations, leadership skills, written and oral communication skills, and relationship / interpersonal skills.”<sup>10</sup> Stelly, however, does not get to decide what makes a candidate the most qualified. And he does not address or attempt to rebut the extensive testimony establishing that Burns and El-Amin had experience in the relevant sections and were the best qualified candidates for their promotions. With regard to El-Amin, Plaintiff does not make any specific arguments whatsoever as to why he believes he was more qualified for the Gaming promotion. Additionally, Kendrick Van Buren, who served on the panel that promoted El-Amin to this position, specifically testified that El-Amin “came with a level of experience that nobody else on that list had.”<sup>11</sup>

As to Burns, Plaintiff claims he was more qualified because he had “similar” experience and a better disciplinary record. These arguments do not show Plaintiff was clearly more qualified. While Plaintiff asserts much of the work he did in Troop B was similar to what Burns did in Operational Development, he ignores the human aspect of this section. Burns was promoted not only because of the work he did in Operational Development but also because of the *relationships* he formed while working there.<sup>12</sup> Moreover, Plaintiff’s claims about Burns’ discipline are false

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<sup>9</sup> R. Doc. 128, at p. 19.

<sup>10</sup> R. Doc. 128, at p. 20.

<sup>11</sup> Exhibit A, Deposition of Kendrick Van Buren, at p. 85.

<sup>12</sup> R. Doc. 118-3, Deposition of Lamar Davis, at p. 20; R. Doc. 118-6, Davis Declaration, at pp. 2-3.

and have been rebutted.<sup>13</sup> Because the stories about Burns' conduct were false, Burns was able to secure a verdict against the news agency that ran the misleading story about him.<sup>14</sup> Testimony also indicates Stelly's leadership skills were not as strong as those of El-Amin and Burns for the particular promotions sought<sup>15</sup> and that no one on the panels ever recommended Stelly for promotion.<sup>16</sup> Regardless, the Fifth Circuit has rejected the argument that a candidate with prior disciplinary issues cannot be qualified or more qualified for a promotion when there is no company policy or past promotional decision to support the conclusion that disciplinary action should have disqualified the candidate.<sup>17</sup> While Plaintiff asserts that case is inapplicable to the current action, he presents no competing case law to support his position that Burns' disciplinary record made him less qualified for the promotion.<sup>18</sup>

Plaintiff's assertions that Burns' and El-Amin's experience could not have outweighed his qualifications are not only insufficient under Fifth Circuit case law, they are also unsupported by any testimony or evidence in the record. The Fifth Circuit holds that "conclusory allegations or unsubstantiated assertions are not enough to 'satisfy the nonmovant's burden.'"<sup>19</sup> Moreover, the Fifth Circuit has frequently rejected similar arguments. For example, in *Runnels v. Texas Children's Hospital Select Plan*, the Fifth Circuit stated that although the plaintiffs pointed to their longer service with the employer and believed they were more qualified than the candidate promoted over them, neither had shown they were "clearly better qualified" than that candidate, who unlike them, had prior experience in the specific unit the promotion was in.<sup>20</sup>

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<sup>13</sup> Exhibit B, 30(b)(6) Deposition, at pp. 58-59, 60, 61, 63-64.

<sup>14</sup> *Id.* at p. 60.

<sup>15</sup> R. Doc. 118-6, Davis Declaration, at p. 2.

<sup>16</sup> R. Doc. 118-7, Reeves Declaration, at p. 1.

<sup>17</sup> *Sabzevari v. Reliable Life Ins. Co.*, 2008 WL 276307, at \*2 (5<sup>th</sup> Cir. Jan. 31, 2008).

<sup>18</sup> *See* R. Doc. 128, at p. 21.

<sup>19</sup> *Monteverde v. New Orleans Fire Dept.*, 124 F. App'x 900, 906 (5<sup>th</sup> Cir. 2005).

<sup>20</sup> *Runnels v. Texas Children's Hosp. Select Plan*, 167 F. App'x 377, 383 (5<sup>th</sup> Cir. 2006). *See also Price v. Federal Exp. Corp.*, 283 F.3d 715, 722-723 (5<sup>th</sup> Cir. 2002).

Furthermore, in making unsupported assertions that the differences between his and other candidates' resumes made him "much more qualified" for the captain positions, Plaintiff is attempting to substitute his judgment for the judgment of the promotional panel with regard to which factors were most important in determining suitability for these roles. Given the candidates selected for the promotions were unquestionably qualified, despite Plaintiff's belief that he was more qualified, the State Police was entitled to use its judgment to select the candidate it wanted as long as it did not do so on the basis of race. In conducting a pretext analysis, it is not the court's job "to engage in second-guessing of an employer's business decisions."<sup>21</sup> "Disagreements over which applicant is more qualified are employment decisions in which we will not engage in the practice of second guessing. Even if evidence suggests that a decision was wrong, we will not substitute our judgment ... for the employer's business judgment."<sup>22</sup>

In *E.E.O.C. v. Louisiana Office of Community Services*, the Fifth Circuit affirmed summary judgment in favor of an employer, concluding the plaintiff failed to present evidence the decision not to promote was pretextual aside from their own subjective belief of discrimination.<sup>23</sup> There, the plaintiff argued she was clearly better qualified than the applicants selected because she had more supervisory and compliance experience and that these were more relevant to the positions than priority program experience.<sup>24</sup> The court declined to substitute their judgment for the employer in evaluating what types of experience are most valuable for an employee in the new position in the absence of proof that the standards were not consistently applied or were so irrational or idiosyncratic as to suggest a cover-up.<sup>25</sup> There, the court could not find it irrational

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<sup>21</sup> *Melancon v. Cargill Inc.*, 2017 WL 2573950, at \*11 (E.D. La. June 14, 2017).

<sup>22</sup> *Thompson v. Bd. of Comm'rs of Port of Orleans*, 2005 WL 3543776, at \*6 (E.D. La. Nov. 7, 2005).

<sup>23</sup> *E.E.O.C. v. Louisiana Off. of Cmty. Servs.*, 47 F.3d 1438, 1447-48 (5th Cir. 1995).

<sup>24</sup> *Id.* at 1445-46.

<sup>25</sup> *Id.*

for an employer to give less weight to general supervisory experience than actual field experience where the field experience is relevant to the position.<sup>26</sup>

Here, Plaintiff has failed to show the State Police’s proffered reasons for promoting Burns and El-Amin – that they were the most qualified candidates – were a pretext for discrimination. Like the plaintiffs in *Runnels* and *Price*, Plaintiff has failed to show these reasons are false, either because the successful candidates were not sufficiently qualified or because he was “clearly better qualified.” Plaintiff’s qualifications do not “leap from the record” when contrasted with Burns and El-Amin’s experience in their specific sections and demonstrated leadership and communication skills in those roles. Further, as noted in *Thompson* and *E.E.O.C.*, it is not the court’s role to second-guess employment decisions and substitute their judgment for the employer’s absent proof of discriminatory motive. The State Police was entitled to give more weight to experience and promote the individuals they deemed best-suited for the positions, as long as the decision was not based on race or irrational decisions. The motion for summary judgment should be granted.

***2. Plaintiff has not presented evidence that creates an issue of fact on pretext.***

As noted in the Memorandum in Support, all State Police leadership testified that race was not a factor in promotion decisions and that race was never discussed on any panel.<sup>27</sup> Plaintiff attempts to counter this position by citing Colonel Davis’s comments about increasing diversity as apparent evidence of discrimination.<sup>28</sup> However, the mere fact that Davis stated the State Police is committed to diversity does not signify that Plaintiff suffered reverse discrimination when there is no evidence Stelly was not promoted in order to increase diversity. This is particularly true given these comments were made in July 2022, six months *after* Plaintiff resigned. Plaintiff also attempts

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<sup>26</sup> *Id.* at 1446.

<sup>27</sup> R. Doc. 118-2, at p. 2.

<sup>28</sup> R. Doc. 128, at p. 16.

to argue the State Police acted discriminatorily by pointing to Davis's testimony that "race cannot be the foundational consideration for promotion" and making the leap that this means race was considered to some extent.<sup>29</sup> This is a blatant misinterpretation of Davis's testimony. Davis testified in response to questioning that it was his opinion that discrimination is illegal and that it is illegal to base a promotion using just race "as a consideration."<sup>30</sup> Additionally, Davis explained his testimony further in a Declaration, wherein he confirmed "race did not factor into any of the promotions over which [he] was Superintendent."<sup>31</sup> Even if Davis's testimony supported Plaintiff's inference in any way, which Defendant denies, this still would not be relevant to the claims at issue. In the testimony cited, Davis was referring to the standards set out by the State Police's discrimination policy, not the factors he personally does or does not consider when making promotional decisions. Moreover, even if this testimony had been in the context of Davis's considerations while on promotional panels, which it was not, evidence of general factors that may be considered by some panel members would not constitute evidence that race was considered in the two July 9, 2021 promotions. As such, neither Davis's testimony nor Plaintiff's unsupported conclusions about same create a genuine issue of material fact.

Carl Saizan's Declaration also does not support Plaintiff's position. Assertions that Stelly was more qualified than Lamar Davis for the Technology & Business Support position in 2018,<sup>32</sup> are irrelevant to Plaintiff's claims as the 2018 promotion is not at issue here. Moreover, even if true and relevant, these assertions would not support Plaintiff's claims of racial discrimination given that despite claiming Stelly was better qualified, Saizan does not state that Davis was promoted *because* he is black. Saizan also does not state that anyone recommended Stelly for this

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<sup>29</sup> R. Doc. 128, at p. 21.

<sup>30</sup> R. Doc. 128-4, Davis Deposition, at p. 3.

<sup>31</sup> R. Doc. 118-6, Davis Declaration, at p. 4.

<sup>32</sup> R. Doc. 128-6, Declaration of Carl Saizan, at pp. 2-3.



promotion. Although Saizan states Stelly was more qualified than Davis for the Technology & Business Support captain position, that position came up again in 2020 and it was not awarded to Stelly (who sought it), but instead was awarded to David Stelly, a white man.<sup>33</sup>

Saizan's assertions that comments were made about wanting to promote a black candidate to the position ultimately given to Robert Hodges, a white candidate, are also irrelevant.<sup>34</sup> Not only are comments about the 2018 promotional panel for the BOI/ISS position irrelevant to Plaintiff's claims arising out of the July 9, 2021 promotions, the fact that someone on the panel wanted to select a black candidate (if true, which is denied) and was overruled does not establish that the State Police inappropriately favored black candidates in promotional decisions. As the promotion went to Hodges, a white man, there is no evidence that the State Police engaged in discrimination by promoting a less qualified black candidate.

Plaintiff's statistical evidence likewise does not create an issue of fact as to pretext. The State Police has rebutted any prima facie case of discrimination based on these statistics as there are numerous legitimate, non-discriminatory reasons Burns and El-Amin were promoted to captain on July 9, 2021 instead of Plaintiff. Given Plaintiff has not attacked these non-discriminatory reasons, his statistical evidence is irrelevant.

**C. Plaintiff relies on improper summary judgment evidence.**

Plaintiff has not introduced any competent summary judgment evidence to create an issue of material fact because none of the declarations or deposition testimony cited establish that Burns and El-Amin were unqualified for their promotions, that Stelly was significantly more qualified for these promotions, or that racial discrimination was the reason Stelly was not promoted. Further, much of the other documents attached to Plaintiff's Opposition, which also provide little support

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<sup>33</sup> R. Doc. 118-9, Deposition of John Stelly, at pp. 42-43.

<sup>34</sup> R. Doc. 128-6, Declaration of Carl Saizan, at p. 3.

for his arguments, constitute improper summary judgment evidence and cannot be considered.<sup>35</sup> The State Police is filing contemporaneously with this Reply a Motion to Strike the improper summary judgment evidence attached to Plaintiff's Opposition. The State Police adopts and incorporates, as if copied *in extenso* herein, its arguments in the Motion to Strike.

### **CONCLUSION**

For the reasons stated above and those in the State Police's Memorandum in Support of its Motion for Summary Judgment, the State of Louisiana, through Department of Public Safety and Corrections, Office of State Police, respectfully requests that the Court grant its Motion for Summary Judgment and dismiss Plaintiff's claims with prejudice

Respectfully submitted,

**LIZ MURRILL**  
**ATTORNEY GENERAL**

By: /s/ Emily E. Ross  
Stephen L. Miles, 31263  
Emily E. Ross, 34739  
PIPES | MILES | BECKMAN, LLC  
1100 Poydras Street, Suite 3300  
New Orleans, LA 70163  
Telephone: 504-322-7070  
Facsimile: 504-322-7520  
[smiles@pipesmiles.com](mailto:smiles@pipesmiles.com)  
[eross@pipesmiles.com](mailto:eross@pipesmiles.com)

*Counsel for Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police*

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<sup>35</sup> Plaintiff's record documents 128-14, 128-15, 128-17, 128-18, 128-19, 128-20, 128-21, 128-22, 128-23, 128-24, 128-25, 128-26, 128-27, 128-28, 128-29, 128-30, 128-31, 128-32, 128-33, 128-34, 128-35, 128-36, 128-40, 128-41, 128-42, 128-43, 128-44, 128-45, 128-46, 128-47, 128-48, 128-49, 128-50, 128-51, 128-52, and 128-53 are all unauthenticated and many of the documents are incomplete in violation of Fifth Circuit rules. *See King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994); *Duplantis v. Shell Offshore, Inc.*, 948 F.2d 187, 192 (5th Cir. 1991); *Haynes v. Pennzoil Co.*, 141 F.3d 1163, 1998 WL 197784 at \*3 (5th Cir. 1998) (holding "it is the burden of the party offering documentary evidence to provide proof of authenticity; it is not the burden of the opposing party to prove that the evidence is not authentic."); *Bradley v. Allstate Ins. Co.*, 2008 WL 2952974 (E.D. La. 2008) (providing "[t]he documents presented by Allstate from the Road Home Program are incomplete and unsigned and are not reliable summary judgment evidence.").

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

* * * * *	* CIVIL ACTION
JOHN R. STELLY, II	* NO. 23-772
	*
Plaintiff,	*
	* JUDGE: GREG G.
VERSUS	* GUIDRY
	*
STATE OF LOUISIANA, THROUGH	* MAGISTRATE JUDGE
DEPARTMENT OF PUBLIC SAFETY	* JANIS VAN
CORRECTIONS, OFFICE OF STATE	* MEERVELD
POLICE, KEVIN REEVES in his	*
individual capacity, AND	*
LAMAR DAVIS, In his	*
individual capacity	*
	*
Defendants.	*
	*
* * * * *	*

Deposition of KENDRICK L. VAN BUREN,  
taken on Tuesday, June 4, 2024, commencing at  
10:06 AM, in the offices of Louisiana State  
Police Headquarters, Office of Legal Affairs,  
7979 Independence Boulevard, Third Floor,  
Baton Rouge, Louisiana, 70806.

1 I'll put it that way, it's a part of what  
2 we --

3 MR. MILES:

4 You can continue. You can  
5 continue your answer, even though he  
6 wasn't looking at you.

7 THE WITNESS:

8 Okay. So when it comes to --  
9 when it comes to succession planning,  
10 and that's something that we talk  
11 about. We talk about it all the time  
12 in the state police, succession  
13 planning, and you have somebody go  
14 out for whatever reason, you have  
15 somebody in a holding pattern that  
16 can step up and do that job.

17 Saleem El Amin was that guy. He  
18 was responsible for the oversight  
19 with regards to the corporate  
20 investigation, regarding mergers,  
21 truck stops, auditing; auditing piece  
22 of that thing. So he came with a  
23 level of experience that nobody else  
24 on that list had.

25 EXAMINATION BY MR. FARRUGIA:

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

\* \* \* \* \*

JOHN R. STELLY, II

Plaintiff,

VERSUS

STATE OF LOUISIANA, THROUGH  
DEPARTMENT OF PUBLIC SAFETY  
CORRECTIONS, OFFICE OF STATE  
POLICE, KEVIN REEVES in his  
individual capacity, AND  
LAMAR DAVIS, In his  
individual capacity

Defendants.

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\* CIVIL ACTION  
\* NO. 23-772  
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\* JUDGE: GREG G.  
\* GUIDRY  
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\* MAGISTRATE JUDGE  
\* JANIS VAN  
\* MEERVELD  
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\* MAGISTRATE JUDGE  
\* JANIS VAN  
\* MEERVELD  
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Videotaped Rule 30(B)(6) Deposition  
of the STATE OF LOUISIANA, THROUGH DEPARTMENT  
OF PUBLIC SAFETY AND CORRECTIONS, OFFICE OF  
STATE POLICE, through its designated corporate  
representative, MAJOR ROBERT A. BURNS, II,  
taken on Wednesday, May 1, 2024, commencing at  
10:43 AM, in the offices of Louisiana State  
Police Headquarters, 7979 Independence  
Boulevard, Baton Rouge, Louisiana, 70806.

1 discipline of the fleet crash over 20 years  
2 ago to your discipline of 64 hours suspension  
3 in 2017, which was approximately four or five  
4 years before this promotion panel; is that  
5 correct?

6 A Correct.

7 Q So you got a disciplinary letter for  
8 repeated violations of multiple Louisiana  
9 State Police policies, state law and federal  
10 law; is that correct?

11 A I believe that's how it was termed,  
12 yes.

13 Q And specifically from 2014 to 2016,  
14 you initiated 52 criminal justice inquiries on  
15 your ex-wife, her boyfriend, and her then  
16 fiance' for non-law-enforcement, but strictly  
17 personal purposes; right? Is that correct?

18 A That's not entirely correct, no.

19 Q Okay, and so what -- what is  
20 incorrect about that?

21 A Okay, great. So my ex-wife, who I've  
22 known since I was a -- a child, lodged an  
23 assortment of complaints to Louisiana State  
24 Police. Several were found unfounded, and  
25 they ran a search of the license plates that I

1 had queried. What popped up multiple times  
2 was her driver's license being run, and I  
3 was -- my testimony at internal affairs, I was  
4 shocked. I had no clue what they -- I -- I --  
5 I didn't even understand how that was  
6 possible.

7 So, kind of walk you through it, she  
8 and I got divorced. We shared a car. I  
9 refinanced the car out of her name into my  
10 name. I ran my own license plate, and  
11 internal affairs corroborated that I ran my  
12 own license plate these times, and what was  
13 happening was as I ran my own license plate,  
14 it was automatically running her driver's  
15 license, and I -- I had no -- like, I couldn't  
16 even understand how that was happening.

17 I checked my vehicle registration,  
18 and whenever my vehicle was refinanced out of  
19 her name and into my name, OMV erroneously  
20 left her driver's license number on my  
21 registration. So when I would run my own  
22 license plate, for a multitude of reasons that  
23 I can get into, it was automatically  
24 generating a spinoff transaction of her  
25 driver's license.

1           It was very strange to me because,  
2           again, I've known my -- my ex-wife since we  
3           were children. We exchanged kids every  
4           Sunday, as part of the -- the divorce  
5           agreement, and I knew exactly where she lived.  
6           She lived 1.5 miles from my house, so kind of  
7           the notion that I needed to run her driver's  
8           license to find her location to quote,  
9           unquote, "stalk her," it was absolutely  
10          shocking to me.

11          So that -- that, I put all that in my  
12          Loudermill letter and turned it in. A local  
13          news agency still ran the story and  
14          categorized it much like you just did now. I  
15          went to the 21st JDC, won in court. It went  
16          to the First Circuit Court, and my case and  
17          two other cases against this agency similarly  
18          were also overturned by the First Circuit, so  
19          there's a lot. I -- I guess what I'm trying  
20          to say is there's a lot to unpack here with  
21          the disciplinary action over the course of --  
22          of court appearances and responses, and my own  
23          personal attorney and whatnot.

24          Q        Okay, but isn't it true that of these  
25          52 allegations, you admitted to 51 of them?



1           A        I -- I admitted to -- yes, sir. I  
2 admitted to running my own license plate, not  
3 running my ex-wife's driver's license, is what  
4 I admitted to.

5           Q        So you admitted to doing that 51  
6 times?

7           A        There was another instance in which I  
8 did run a license plate that I should not have  
9 run, and it was due to me not knowing who was  
10 picking my children up at the time of child  
11 custody exchange.

12          Q        Okay. What about inquiries about her  
13 former boyfriend?

14          A        I think that's what they're referring  
15 to, with that.

16          Q        What about inquiries about her then  
17 fiance'?

18          A        Okay, yeah. So there was one in  
19 which he pulled in my drive -- I didn't know  
20 him at the time. He turned in my driveway.  
21 It was an old, beat-up pickup truck. I asked  
22 her who this was picking up my children. Some  
23 profane language was exchanged, and I ran his  
24 license plate, yes, sir, and I admitted to  
25 that. I admitted to -- to everything. I -- I

1 just, what I'm trying to say is there was a  
2 lot more to this than just me simply running  
3 my ex-wife's driver's license, which never --  
4 I never did.

5 Q So isn't it true you also forwarded  
6 some of this information to your ex-wife's  
7 boyfriend, to his ex-wife, a non-law-  
8 enforcement person?

9 A No, sir, that's not correct.

10 Q Oh, I see. I see. Let me rephrase  
11 that question.

12 A Sure.

13 Q Isn't it true that you forwarded some  
14 of the information on your ex-wife's boyfriend  
15 to your ex-wife, a non-law-enforcement person?

16 A Yes, sir. He had given her a fake  
17 name. She was concerned. Long story; and  
18 I -- there was a picture of his middle name  
19 that I provided to her, yes, sir; and again, I  
20 admitted to that to internal affairs.

21 Q So isn't it true that you would have  
22 seen her driver's license -- license  
23 information and criminal history every time  
24 you ran your own plate?

25 A No, sir, that's not correct, and I

1 actually had to demonstrate it. So on the  
2 system called Mobile Cop, you have the -- the  
3 driver's license, the license plate blank, and  
4 I typed in my plate for my car and I hit  
5 enter, and it pops up. Underneath that,  
6 there's two spinoff transactions. One was the  
7 insurance information on the vehicle, and then  
8 the third one is what we called the 1026 run,  
9 or the driver's license run underneath that.

10 I never had any reason to click on  
11 her driver's license, because I didn't even  
12 know it was her driver's license. It was me  
13 typing in my plate, and those two spinoff  
14 transactions do not automatically come up, and  
15 I had to demonstrate that, actually.

16 Q So why did you have 51 or 52  
17 inquiries on your own plate?

18 A Yes, sir. So over the course of two  
19 years, we still had a vehicle that we shared.  
20 She went in and out of insurance  
21 cancellations. She ultimately ended up  
22 crashing the car without insurance, which was  
23 another part of this whole thing, and I ran my  
24 own license plate checking for flags multiple  
25 times. I -- I got notification I was being

1 sued by Baton Rouge Telco, the credit union,  
2 because she declared bankruptcy and didn't  
3 tell me on the vehicle.

4 She never took it out of my name, so  
5 there was a multitude of reasons there for --  
6 for me to just check my own plate. And again,  
7 I know I shouldn't have done it. I admitted  
8 it to internal affairs. Internal affairs  
9 actually even put in the case report that they  
10 were unable to determine what I typed into it,  
11 because I guess Mobile Cop or whatever had  
12 gone out of business. But again, I had given  
13 all of this information to internal affairs,  
14 and that was the reasoning.

15 Q So did you admit that you were aware  
16 that doing this could result in your  
17 termination from state police?

18 A Yes, sir.

19 Q And did you ask your ex-wife to  
20 conceal you having given her that information?

21 A I don't recall that, that  
22 information. You know, I did it. It was a --  
23 it was a bad time in my life with the divorce  
24 and the children's custody, and there were  
25 several things involved in that that obviously