

**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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**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 requests that the claims of Plaintiff, John R. Stelly, II (“Plaintiff” or “Stelly”), be dismissed with prejudice as a matter of law.

Former lieutenant John Stelly sought promotion to captain within the Louisiana State Police thirty-one times since at least 2008 but was denied promotion each time. Beginning in 2017, although he had been passed over for promotion for almost a decade, Stelly believes that the then-new Superintendent Colonel Kevin Reeves, a white man, began to deny Stelly promotions because Stelly is a white man, a pattern that Stelly says continued under the administration of Colonel Lamar Davis, an African-American man. Stelly sued Reeves, Davis, and the State Police, alleging discrimination. This Court has already dismissed all claims, including the claims against Reeves and Davis, except one: The claim against the State Police that now-Major Robert Burns, an Asian-American man, was promoted to Captain of the Operational Development Section and Captain Saleem El-Amin, an African-American man, was promoted to Captain in the Gaming Section over Stelly because of Stelly’s race.

Discovery is closed, and the evidence is in. All of the leadership in State Police testified that race was not a factor in promotion decisions.<sup>1</sup> Indeed, *race was never discussed on any panel.*<sup>2</sup> Moreover, the State Police had legitimate, nondiscriminatory reasons for promoting Burns and El-Amin.<sup>3</sup> Colonel Davis as well as Davis's Chief of Staff Chavez Cammon testified that while many factors are considered in promotions, Burns was particularly well-suited for the position of captain in Operational Development because he had *seven years and ten months of experience in that section*, which included experience testifying in legislative and committee matters, strategic planning and acting as liaison to the Governor for certain projects, researching policy and procedure and experience working with the Operational Development department and the Superintendent.<sup>4</sup>

Similarly, Saleem El-Amin was chosen as the best qualified candidate for captain of the Gaming department because of his two years of experience in the Gaming section, in addition to his eight years in the Air Force, master's degree, and exceptional leadership skills.<sup>5</sup> In particular, the Gaming captain is a public-facing role in which good communication skills and relationship-building skills are paramount.<sup>6</sup> El-Amin had these skills and received the recommendation of the commander who would be his supervisor in El-Amin's role as Captain for Gaming.<sup>7</sup>

Stelly, for his part, is very intelligent, scored well on promotional examinations, had many years of experience, had received commendations and undertaken specialized training, and was

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<sup>1</sup> Exhibit "A", Deposition of Lamar Davis ("Davis Depo."), at pp. 83, 86; Exhibit "B", Deposition of Chavez Cammon ("Cammon Depo."), at 87:21-88:22; Exhibit "C", Deposition of Kevin Reeves ("Reeves Depo."), at 142:18-143:18.

<sup>2</sup> Exhibit "D", Declaration of Lamar Davis ("Davis Decl."), at ¶ 19; Exhibit "E", Declaration of Kevin Reeves ("Reeves Decl."), at ¶ 12; Exhibit "B", Cammon Depo., at 88:6-22.

<sup>3</sup> *Autry v. Fort Bend Indep. Sch. Dist.*, 704 F.3d 344, 346-47 (5th Cir. 2013).

<sup>4</sup> Exhibit "D", Davis Decl., at ¶ 10-12; Exhibit "A", Davis Depo., at 121:2-25; Exhibit "B", Cammon Depo., at 47-52.

<sup>5</sup> Exhibit "F", Corporate Deposition of Louisiana State Police ("LSP Depo.") at 167:6-169:4.

<sup>6</sup> Exhibit "D", Davis Decl., at ¶ 13.

<sup>7</sup> Exhibit "F", LSP Depo., at 169:5-17.

proficient at special projects.<sup>8</sup> But nearly all of his experience was in a patrol division, Troop B. He had only a two-month assignment to Operational Development where he worked on one special project, and he worked for eight months in narcotics.<sup>9</sup> As multiple witnesses testified, Stelly struggled in some of the promotional panel interviews, giving answers that did not show how his experience in a patrol division would translate to other sections and communicating in a manner that was “robotic.”<sup>10</sup> Indeed, in 2018 Colonel Reeves offered to have Stelly transfer to State Police headquarters to gain more experience and exposure to State Police leadership.<sup>11</sup> Stelly did not take advantage of that opportunity.<sup>12</sup> At some point after that, Chief of Staff Chavez Cammon made a special trip from Baton Rouge to New Orleans to meet with Stelly to coach him on interviewing.<sup>13</sup>

All of Stelly’s purported evidence of discrimination — from Stelly’s academic credentials and promotional test scores to generalized statements about improving diversity made by then Col. Davis to purported comments (allegedly made by people who were not even on the promotional panels) about race being a factor in promotions to cherry-picked statistics — create no genuine issue of material fact. Title VII does not allow Stelly to dictate to the promotional panels that they consider his promotional test scores or length in time as a lieutenant to be determinative in promotional decisions. El-Amin and Burns were the best-suited for the promotions to Captains for Gaming and Operational Development. Indeed, there is no evidence that *anyone* on the panels recommended Stelly for *any* of the more than thirty-one promotions he sought, including the

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<sup>8</sup> Exhibit “G”, Deposition of John Stelly (“Stelly Depo.”), at 98-102.

<sup>9</sup> Exhibit “G”, Stelly Depo., 58:22-60:12.

<sup>10</sup> Exhibit “B”, Cammon Depo., at 71:21-73:24.

<sup>11</sup> Exhibit “C”, Reeves Depo., at 123:3-127:14.

<sup>12</sup> Exhibit “G”, Stelly Depo., 252:6-25.

<sup>13</sup> Exhibit “B”, Cammon Depo., at 52:11-55:1.

promotions of Burns and El-Amin.<sup>14</sup> Stelly's claims that Captain El-Amin and Major Burns were promoted because of their race is an affront to these very impressive men and their significant career accomplishments and qualifications.

For the reasons above and those in the Memorandum in Support, Statement of Facts, and Exhibits attached hereto, 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**

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

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<sup>14</sup> Exhibit "C", Reeves Depo., at 101:13-25; *see also* Exhibit G, Stelly Depo., 226:9-11, 232:20-22; Exhibit "F", LSP Depo. at 102:10-104:12.

**UNITED STATES DISTRICT COURT  
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**STATE OF LOUISIANA, THROUGH  
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**STATEMENT OF UNCONTESTED MATERIAL FACTS**

Defendant, The State of Louisiana, through Department of Public Safety and Corrections, Office of State Police (“Defendant” or the “State Police”), respectfully submits this Statement of Uncontested Facts in Support of its Motion for Summary Judgment.

**INTRODUCTION**

1. Plaintiff, John Stelly, is a former white male lieutenant who sought promotion to captain within the Louisiana State Police thirty-one times since at least 2008 but was denied promotion each time.
2. Stelly filed suit against Superintendent Colonel Kevin Reeves, Colonel Lamar Davis, and the State Police, alleging discrimination in violation of Title VII and Section 1981.<sup>1</sup>
3. This Court dismissed all of Plaintiff’s Section 1981 claims as time-barred.<sup>2</sup>
4. The Court dismissed all of Plaintiff’s claims against Colonel Kevin Reeves and Colonel Lamar Davis.<sup>3</sup>

<sup>1</sup> Rec. Doc. 59, Second Amended Complaint.

<sup>2</sup> Order and Reasons, Rec. Doc. 93.

<sup>3</sup> *Id.*

5. The Court dismissed Plaintiff's constructive discharge claim and retaliation claim for failure to state a claim upon which relief can be granted.<sup>4</sup>
6. Plaintiff's sole remaining causes of action are against the State Police for allegedly not promoting Stelly under Title VII for two captain positions on July 9, 2021 in Operational Development and Gaming, purportedly because of Stelly's race.
7. Robert Burns (now Major Burns) was selected as captain of Operational Development.
8. Saleem El-Amin (now Captain El-Amin) was selected as captain of Gaming.
9. All of the leadership in the State Police testified that race was not a factor in promotion decisions.<sup>5</sup>
10. The Louisiana State Police is an agency of 950 troopers, sergeants, lieutenants, captains, majors, and lieutenant colonels.<sup>6</sup>
11. The State Police's mission is to ensure the public safety of the citizens of the State of Louisiana and, consistent with that mission, the State Police has a responsibility to ensure that the individuals most qualified for the agency's highest positions, including captain positions, are installed in those positions, regardless of race.<sup>7</sup>
12. There are roughly thirty-one captain positions in the State Police at any given time and those positions require someone who is not only intelligent and highly capable, but also someone who has communication skills, relationship skills, and the ability to effectively lead in the position to which the person would be promoted.<sup>8</sup>

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<sup>4</sup>

*Id.*

<sup>5</sup>

Exhibit "A", Deposition of Lamar Davis ("Davis Depo."), at pp. 83, 86; Exhibit "B", Deposition of Chavez Cammon ("Cammon Depo"), at 87:21-88:22; Exhibit "C", Deposition of Kevin Reeves ("Reeves Depo."), at 142:18-143:18.

<sup>6</sup>

Exhibit "H", Declaration of Robert Burns as Corporate Representative of LSP ¶ 4.

<sup>7</sup>

*Id.* at ¶ 6.

<sup>8</sup>

*Id.* at ¶ 7; *see also* Exhibit "D", Davis Decl. at ¶ 4, 5, 7, 10-13.

13. Candidates for promotions to the captain level must pass an eligibility examination administered by the Louisiana State Police Commission.<sup>9</sup>
14. Only the individuals in the top seven grade groups on the eligibility examination are considered for promotion.<sup>10</sup>
15. Once the list of eligible candidates is created, Internal Affairs prepares a summary report, which contains information on each candidate for the following categories: (1) State Police experience; (2) time in grade (time as a lieutenant); (3) Prior law enforcement experience; (4) education; (5) specialized training; (8) PES rating (i.e. performance evaluation rating); (9) Disciplinary action; (10) awards; and (11) commendations.<sup>11</sup>
16. Finally, a promotional panel convenes and interviews each of the candidates. The panel typically consists of the Superintendent, Superintendent's chief of staff, the deputy superintendent over Patrol, the deputy superintendent over Support, the deputy superintendent over Investigations, and the major in the relevant section if one existed (not all sections have a section major).<sup>12</sup>
17. At the end of the promotional panel, the members of the panel make their recommendations for who should be selected and, ultimately, the Superintendent makes the final selection.<sup>13</sup>
18. Score on the eligibility test determines whether someone moves on to the next phase of the promotion process.<sup>14</sup>

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<sup>9</sup> Exhibit "A", Davis Depo., at 21:22-22:3

<sup>10</sup> *Id.*

<sup>11</sup> *See, e.g.*, Exhibit "G", Stelly Depo., at 217-221, and Exhibit 19 attached thereto.

<sup>12</sup> Exhibit "A", Davis Depo., at 25:22-27:12.

<sup>13</sup> Exhibit "D", Davis Decl., at ¶ 15; Exhibit "C", Reeves Depo., at 27:2-28:14.

<sup>14</sup> Exhibit "A", Davis Depo., at 21:22-22:3.

19. The test score, in and of itself, is not indicative of the best qualified candidate.<sup>15</sup>
20. State Police procedures require only that the test score of each candidate be “reviewed,” not that the person with the highest score be selected.<sup>16</sup>
21. The State Police is not a “time and grade” organization in that someone does not get promoted merely because they have been with the agency for a certain period of time and make a high grade on their promotional exam.<sup>17</sup>
22. Then-Captain (now Major) Archote did not participate in the promotional panels, was not in State Police senior leadership at the time of the promotions, and did not have any input into who was chosen for any of the captain positions to which Stelly applied.<sup>18</sup>
23. A significant factor in captain promotions is having a broad range of experience in State Police, including experience in the section in which the promotion is sought.<sup>19</sup>
24. The candidates chosen to the positions of captain of Operational Development and Gaming were exceedingly well-qualified for those positions, and both had years of experience in the section in which they were promoted.<sup>20</sup>
25. The position of captain of Operational Development was a public-facing position that worked directly with the Superintendent, with other agencies, with the legislature, and with various industry personnel.<sup>21</sup>

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<sup>15</sup> *Id.* at 123:8-20 (“the test score is a requirement. It does not speak to the specific nature of the job. . . . The test score is a criteria to determine whether or not you can be considered to move to the next step.”).

<sup>16</sup> Exhibit “F”, LSP Depo., 28:11-14, attaching Exhibit 4, P.O. 229.

<sup>17</sup> Exhibit “C”, Reeves Depo., at 52:25-53:25.

<sup>18</sup> Exhibit “G”, Stelly Depo., at 226:9-18; Exhibit “D”, Davis Decl., at ¶ 16.

<sup>19</sup> Exhibit “F”, LSP Depo., 45:6-16; Exhibit “A”, Davis Depo., 121:2-25; 129:12-130:10; 103:18-104:21.

<sup>20</sup> Exhibit “F”, LSP Depo., at p. 168 (El Amin had two years of experience in Gaming); Exhibit “A”, Davis Depo., at 120:22-121:25 (Burns had seven years of experience in Operational Development).

<sup>21</sup> Exhibit “A”, Davis Depo., at 120:22-121:25; Exhibit “D”, Davis Decl., at ¶ 11.



26. The position of captain of Operational Development required someone with strong interpersonal and relationship skills and strong communication skills who knew the department and had experience with the individuals within the department.<sup>22</sup>
27. In addition to creating budget requests and legislative proposals, Operational Development is also responsible for collecting budget requests and legislative proposals from all other sections.<sup>23</sup>
28. Additionally, the captain in Operational Development reports directly to the Superintendent of State Police, with whom Burns already had experience working.<sup>24</sup>
29. Robert Burns was selected because he had worked for seven years and ten months in Operational Development, he distinguished himself working in that capacity and was often considered by legislators and others in the industry to be ranked higher than his position.<sup>25</sup>
30. Robert Burns had experience testifying in legislative and committee matters, strategic planning and acting as liaison to the Governor for certain projects, researching policy and procedure and experience working with the Operational Development department and the Superintendent.<sup>26</sup>
31. Robert Burns' experience and qualifications exceeded Stelly's qualifications for the captain of Operational Development.<sup>27</sup>

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<sup>22</sup> Exhibit "A", Davis Depo., at 120:22-121:25.

<sup>23</sup> Exhibit "F", LSP Depo., at pp. 80-81.

<sup>24</sup> Exhibit "A", Davis Depo., at p. 121; Exhibit "F", LSP Depo., at pp. 15-17, 23, 69, 71-72.

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

<sup>26</sup> Exhibit "D", Davis Decl., at ¶ 10-12; Exhibit "A", Davis Depo., at 121:2-25; Exhibit "B", Cammon Depo., at 47-52.

<sup>27</sup> Exhibit "D", Davis Decl., at ¶ ¶ 11-12.

32. The Gaming captain is a public-facing role in which good communication skills and relationship-building skills are paramount.<sup>28</sup>
33. Saleem El-Amin was chosen as the best qualified candidate for captain of the Gaming department because of his two years of experience in the Gaming section, in addition to his eight years in the Air Force, master's degree, and exceptional leadership skills.<sup>29</sup>
34. El-Amin had these skills and received the recommendation of the commander who would be his supervisor in El-Amin's role as Captain for Gaming.<sup>30</sup>
35. Plaintiff had no prior experience in Gaming and only two months of experience in Operational Development while on loan from Troop B.<sup>31</sup>
36. Plaintiff spent his entire career at Troop B, except for two months on loan to Operational Development for a special project and eight months in narcotics.<sup>32</sup>
37. Stelly struggled in some of the promotional panel interviews, giving answers that did not show how his experience in a patrol division would translate to other sections and communicating in a manner that was described as "robotic."<sup>33</sup>
38. The ability to lead a team of people is the most important factor determining qualification for a captain position.<sup>34</sup>
39. While Stelly was an effective lieutenant of a patrol division, his leadership skills were not as strong as those of El-Amin and Burns for the particular promotion sought.<sup>35</sup>

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<sup>28</sup> Exhibit "D", Davis Decl., at ¶ 13.

<sup>29</sup> Exhibit "F", LSP Depo., at 167:6-169:4.

<sup>30</sup> Exhibit "F", LSP Depo., at 169:5-17.

<sup>31</sup> Exhibit "G", Stelly Depo., at pp. 59-61, 132, 232.

<sup>32</sup> Exhibit "G", Stelly Depo., 58:22-60:12.

<sup>33</sup> Exhibit "B", Cammon Depo., at 71:21-73:24.

<sup>34</sup> Exhibit "A", Davis Depo., at p. 125; Exhibit "F", LSP Depo., at pp. 23, 32.

<sup>35</sup> Exhibit "D", Davis Decl., at ¶ ¶ 5-7.

40. In 2018 Colonel Reeves offered to have Stelly transfer to State Police headquarters to gain more experience and exposure to State Police leadership.<sup>36</sup>
41. At some point after that, Chief of Staff Chavez Cammon made a special trip from Baton Rouge to New Orleans to meet with Stelly to coach him on interviewing.<sup>37</sup>
42. There is no evidence that anyone on the promotional panels recommended Stelly for any of the more than thirty-one promotions he sought, including the promotions of Burns and El-Amin.<sup>38</sup>
43. Major Burns' disciplinary history did not disqualify him from being captain in Operational Development given his training, time in grade, experience, and performance.<sup>39</sup>
44. Between October 4, 2021 and January 1, 2022, an additional 11 candidates were promoted to captain positions, 10 of whom were white.<sup>40</sup>
45. When looking at the data from Plaintiff's 18 promotional panels between 2017 and 2021, nearly 70% of the candidates selected for promotion to captain had experience in the relevant sections.<sup>41</sup>
46. This is even more evident with non-white captains, as all but one had prior experience in the sections over which they were promoted to captain.<sup>42</sup>

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<sup>36</sup> Exhibit "C", Reeves Depo., at 123:3-127:14.

<sup>37</sup> Exhibit "B", Cammon Depo., at 52:11-55:1.

<sup>38</sup> Exhibit "G", Stelly Depo., 226:9-11, 232:20-22; Exhibit "F", LSP Depo. at 102:10-104:12.

<sup>39</sup> Exhibit "A", Davis Depo., at pp. 118, 120-123. *See also* Cammon Depo., at 47:12-52:10.

<sup>40</sup> Exhibit "A", Davis Depo., 138:1-4, attaching Exhibit 16, Chart.

<sup>41</sup> Exhibit "G", Stelly Depo., at 128:4-5 (attaching Ex. 3), at 131:22-132:20 (attaching Ex. 4), at 136:18-137:11 (attaching Ex. 5), at 140:21-141:10 (attaching Ex. 6), at 141:21-142:10 (attaching Ex. 7), at 155:11-156:7 (attaching Ex. 8), at 158:20-159:20 (attaching Ex. 9), at 179:24-180:23 (attaching Ex. 11), at 181:16-182:10 (attaching Ex. 12), at 182:25-183:15 (attaching Ex. 13), at 189:18-190:18 (attaching Ex. 14), at 195:10-196:6 (attaching Ex. 15), at 197:19-198:5 (attaching Ex. 16), at 200:16-201:7 (attaching Ex. 17), at 202:4-203:7 (attaching Ex. 18), at 217:13-218:2 (attaching Ex. 19), at 226:23-227:13 (attaching Ex. 20), at 233:15-234:5 (attaching Ex. 21).

<sup>42</sup> *Id.*

47. Race was not a factor in any of Plaintiff's promotions.<sup>43</sup>

48. The race of any candidate was never discussed in any promotional panel.<sup>44</sup>

Respectfully submitted,

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

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

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<sup>43</sup> Exhibit "A", Davis Depo., at 83:4-11; Exhibit "C", Reeves Depo., at 38:23-39:12, 142:18-143:11; Exhibit "B", Cammon Depo., at 87:21-88:22

<sup>44</sup> *Id.*

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**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 Memorandum in Support of its Motion for Summary Judgment and requests that the claims of Plaintiff, John R. Stelly, II (“Plaintiff” or “Stelly”), be dismissed with prejudice as a matter of law.

**INTRODUCTION**

Former lieutenant John Stelly sought promotion to captain within the Louisiana State Police thirty-one times since at least 2008 but was denied promotion each time. The promotional panels deciding these promotions are led by the Superintendent of State Police, the highest-ranking State Police officer and are attended by the senior leadership of the State Police, including the Chief of Staff and the commanding officer who would supervise the captain being promoted. Promotion to captain is of paramount importance because captains lead commands (divisions of troopers, sergeants, and lieutenants) within State Police. Promotional panels led by former Superintendent Michael Edmondson between 2008 and 2017 – for almost a decade – determined

that Stelly should not lead a command, denying him promotion, and instead promoted other more qualified candidates.

Beginning in 2017, although he had been passed over for promotion for almost a decade, Stelly believes that the then-new Superintendent Colonel Kevin Reeves, a white man, began to deny Stelly promotions because Stelly is a white man, a pattern that Stelly says continued under the administration of Colonel Lamar Davis, an African-American man. Stelly sued Reeves, Davis, and the State Police, alleging discrimination. This Court has already dismissed all claims, including the claims against Reeves and Davis, except one: The claim against the State Police that now-Major Robert Burns, an Asian-American man, was promoted to Captain of the Operational Development Section and Captain Saleem El-Amin, an African-American man, was promoted to Captain in the Gaming Section over Stelly because of Stelly's race.

Discovery is closed, and the evidence is in. All of the leadership in State Police testified that race was not a factor in promotion decisions.<sup>1</sup> Indeed, *race was never discussed on any panel.*<sup>2</sup> Moreover, the State Police had legitimate, nondiscriminatory reasons for promoting Burns and El-Amin.<sup>3</sup> Colonel Davis as well as Davis's Chief of Staff Chavez Cammon testified that while many factors are considered in promotions, Burns was particularly well-suited for the position of captain in Operational Development because he had *seven years and ten months of experience in that section*, which included experience testifying in legislative and committee matters, strategic planning and acting as liaison to the Governor for certain projects, researching policy and

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<sup>3</sup> *Autry v. Fort Bend Indep. Sch. Dist.*, 704 F.3d 344, 346-47 (5th Cir. 2013).

procedure and experience working with the Operational Development department and the Superintendent.<sup>4</sup>

Similarly, Saleem El-Amin was chosen as the best qualified candidate for captain of the Gaming department because of his two years of experience in the Gaming section, in addition to his eight years in the Air Force, master's degree, and exceptional leadership skills.<sup>5</sup> In particular, the Gaming captain is a public-facing role in which good communication skills and relationship-building skills are paramount.<sup>6</sup> El-Amin had these skills and received the recommendation of the commander who would be his supervisor in El-Amin's role as Captain for Gaming.<sup>7</sup>

Stelly, for his part, is very intelligent, scored well on promotional examinations, had many years of experience, had received commendations and undertaken specialized training, and was proficient at special projects.<sup>8</sup> But nearly all of his experience was in a patrol division, Troop B. He had only a two-month assignment to Operational Development where he worked on one special project, and he worked for eight months in narcotics.<sup>9</sup> As multiple witnesses testified, Stelly struggled in some of the promotional panel interviews, giving answers that did not show how his experience in a patrol division would translate to other sections and communicating in a manner that was "robotic."<sup>10</sup> Indeed, in 2018 Colonel Reeves offered to have Stelly transfer to State Police headquarters to gain more experience and exposure to State Police leadership.<sup>11</sup> Stelly did not take advantage of that opportunity.<sup>12</sup> At some point after that, Chief of Staff Chavez Cammon

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<sup>4</sup> Exhibit "D", Davis Decl., at ¶ 10-12; Exhibit "A", Davis Depo., at 121:2-25; Exhibit "B", Cammon Depo., at 47-52.

<sup>5</sup> Exhibit "F", Corporate Deposition of Louisiana State Police ("LSP Depo.") at 167:6-169:4.

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<sup>7</sup> Exhibit "F", LSP Depo., at 169:5-17.

<sup>8</sup> Exhibit "G", Deposition of John Stelly ("Stelly Depo."), at 98-102.

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<sup>11</sup> Exhibit "C", Reeves Depo., at 123:3-127:14.

<sup>12</sup> Exhibit "G", Stelly Depo., 252:6-25.

made a special trip from Baton Rouge to New Orleans to meet with Stelly to coach him on interviewing.<sup>13</sup>

All of Stelly's purported evidence of discrimination — from Stelly's academic credentials and promotional test scores to generalized statements about improving diversity made by then Col. Davis to purported comments (allegedly made by people who were not even on the promotional panels) about race being a factor in promotions to cherry-picked statistics — create no genuine issue of material fact. Title VII does not allow Stelly to dictate to the promotional panels that they consider his promotional test scores or length in time as a lieutenant to be determinative in promotional decisions. El-Amin and Burns were the best-suited for the promotions to Captains for Gaming and Operational Development. Indeed, there is no evidence that *anyone* on the panels recommended Stelly for *any* of the more than thirty-one promotions he sought, including the promotions of Burns and El-Amin.<sup>14</sup> Stelly's claims that Captain El-Amin and Major Burns were promoted because of their race is an affront to these very impressive men and their significant career accomplishments and qualifications. Stelly's remaining claims should be dismissed.

### **FACTUAL BACKGROUND**

The Louisiana State Police is an agency of 950 troopers, sergeants, lieutenants, captains, majors, and lieutenant colonels.<sup>15</sup> The State Police's mission is to ensure the public safety of the citizens of the State of Louisiana and, consistent with that mission, the State Police has a responsibility to ensure that the individuals most qualified for the agency's highest positions, including captain positions, are installed in those positions, regardless of race.<sup>16</sup> There are roughly

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<sup>13</sup> Exhibit "B", Cammon Depo., at 52:11-55:1.

<sup>14</sup> Exhibit "C", Reeves Depo., at 101:13-25; *see also* Exhibit G, Stelly Depo., 226:9-11, 232:20-22; Exhibit "F", LSP Depo. at 102:10-104:12.

<sup>15</sup> Exhibit "H", Declaration of Robert Burns as Corporate Representative of LSP ¶ 4.

<sup>16</sup> *Id.* at ¶ 6.



thirty-one captain positions in the State Police at any given time and those positions require someone who is not only intelligent and highly capable, but also someone who has communication skills, relationship skills, and the ability to effectively lead in the position to which the person would be promoted.<sup>17</sup>

Promotions to the captain level are decided through a rigorous process. First, candidates must pass an eligibility examination administered by the Louisiana State Police Commission. Only the individuals in the top seven grade groups are considered for promotion.<sup>18</sup> Once the list of eligible candidates is created, Internal Affairs summarizes information regarding each individual candidate for promotion. This summary report contains information on each candidate for the following categories: (1) State Police experience; (2) time in grade (time as a lieutenant); (3) Prior law enforcement experience; (4) education; (5) specialized training; (8) PES rating (i.e. performance evaluation rating); (9) Disciplinary action; (10) awards; and (11) commendations.<sup>19</sup> The State Police's promotional procedures require these pieces of information, as well as any other data deemed to be relevant, to be reviewed.

Finally, a promotional panel convenes and interviews each of the candidates. The panel typically consists of the Superintendent, Superintendent's chief of staff, the deputy superintendent over Patrol, the deputy superintendent over Support, the deputy superintendent over Investigations, and the major in the relevant section if one existed (not all sections have a section major).<sup>20</sup> Each interview takes approximately thirty minutes and each candidate is asked the same set of questions.

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<sup>17</sup> *Id.* at ¶ 7; *see also* Exhibit D, Davis Decl. at ¶ 4, 5, 7, 10-13.

<sup>18</sup> Exhibit "A", Davis Depo., at 21:22-22:3.

<sup>19</sup> *See, e.g.*, Exhibit "G", Stelly Depo., at 217-221, and Exhibit 19 attached thereto.

<sup>20</sup> Exhibit "A", Davis Depo., at 25:22-27:12.

At the end of the promotional panel, the members of the panel make their recommendations for who should be selected and, ultimately, the Superintendent makes the final selection.<sup>21</sup>

Stelly alleges that he was qualified for the position of captain to Operational Development and Gaming because he has a master's degree, he scored high on the eligibility test, his captain told him he should be promoted, he had more time in grade (time as a lieutenant) than the candidates who were promoted, and he had more time in the State Police than the candidates who were promoted.<sup>22</sup> However, while these factors made Stelly eligible to become captain and to apply for the promotion, they did not make him the most-qualified person.

First, score on the eligibility test is important only insofar as it determines whether someone moves on to the next phase of the promotion process.<sup>23</sup> The test score, in and of itself, is not indicative of the best qualified candidate.<sup>24</sup> Indeed, the State Police procedures require only that the test score of each candidate be "reviewed," not that the person with the highest score be selected.<sup>25</sup> Second, with respect to time and grade in the State Police, Colonel Kevin Reeves, former Superintendent of the State Police, testified that the State Police is not a "time and grade" organization in that someone does not get promoted merely because they have been with the agency for a certain period of time and make a high grade on their promotional exam.<sup>26</sup>

Further, although Stelly's direct supervisor Donovan Archote did think he should be promoted, it is undisputed that then-Captain (now Major) Archote did not participate in the promotional panels, was not in State Police senior leadership at the time of the promotions, and did not have any input into who was chosen for any of the captain positions to which Stelly

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<sup>21</sup> Exhibit "D", Davis Decl., at ¶ 15; Exhibit C, Reeves Depo., at 27:2-28:14.

<sup>22</sup> Second Amended Complaint, ¶¶ 17-22.

<sup>23</sup> Exhibit "A", Davis Depo., at 21:22-22:3.

<sup>24</sup> *Id.* at 123:8-20 ("the test score is a requirement. It does not speak to the specific nature of the job. . . The test score is a criteria to determine whether or not you can be considered to move to the next step.").

<sup>25</sup> Exhibit "F", LSP Depo., 28:11-14, attaching Exhibit 4, P.O. 229.

<sup>26</sup> Exhibit "C", Reeves Depo., at 52:25-53:25.

applied.<sup>27</sup> Finally, while Stelly's master's degree may have made him well-educated, that factor did not overcome the qualifications of the chosen candidates.<sup>28</sup>

The State Police leadership testified uniformly that a significant factor in promotions was having a broad range of experience in State Police, including experience in the section in which the promotion was sought.<sup>29</sup> The candidates chosen to the position of captain of Operational Development and Gaming were exceedingly well-qualified for those positions, and they were both better-qualified candidates than Stelly. Most significantly, both had years of experience in the section in which they were promoted.<sup>30</sup>

Stelly filed this lawsuit on March 1, 2023, alleging violations of Title VII and Section 1981, along with claims of constructive discharge and retaliation. This Court ultimately dismissed all of Plaintiff's Section 1981 claims as time-barred.<sup>31</sup> The Court also dismissed Plaintiff's constructive discharge claim and retaliation claim for failure to state a claim upon which relief can be granted.<sup>32</sup> Plaintiff's sole remaining causes of action are for failure to promote under Title VII for two captain positions on July 9, 2021, Operational Development (now-Major Robert Burns was selected) and Gaming (now-Captain Saleem El-Amin was selected). Plaintiff will be unable to establish that he was not promoted because of his race and, therefore, this case should be dismissed.

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<sup>27</sup> Exhibit "G", Stelly Depo., at 226:9-18; Exhibit "D", Davis Decl., at ¶ 16.

<sup>28</sup> Exhibit "F", LSP Depo., at 166:8-11 (El Amin had a master's degree as well); Exhibit "A", Davis Depo., at 28:8-29:17.

<sup>29</sup> Exhibit "F", LSP Depo., 45:6-16; Exhibit "A", Davis Depo., 121:2-25; 129:12-130:10; 103:18-104:21; Exhibit "B", Cammon Depo., at 47-52.

<sup>30</sup> Exhibit "F", LSP Depo., at p. 168 (El Amin had two years of experience in Gaming); Exhibit "A", Davis Depo., at 120:22-121:25 (Burns had seven years of experience in Operational Development).

<sup>31</sup> Order and Reasons, Rec. Doc. 93.

<sup>32</sup> *Id.*

## LAW AND ARGUMENT

### **A. Race was not a factor in Plaintiff not being promoted to captain.**

Title VII race discrimination claims are governed by the *McDonnell-Douglas* burden-shifting framework, under which a “plaintiff challenging a failure to promote must first establish a *prima facie* case, demonstrating that (1) he was not promoted, (2) he was qualified for the position he sought, (3) he fell within a protected class at the time of the failure to promote, and (4) the defendant either gave the promotion to someone outside of that protected class or otherwise failed to promote the plaintiff because of his race.”<sup>33</sup> If the Plaintiff meets this burden, he raises an inference of discrimination, which shifts the burden to the Defendant to “proffer a legitimate, nondiscriminatory reason for not promoting the plaintiff.”<sup>34</sup> If the defendant satisfies this burden, the Plaintiff must then show either that the defendant’s reason is “merely a pretext for race discrimination (the pretext alternative), or that the defendant's reason, while true, is only one of the reasons for its decision, and another ‘motivating factor’ is the plaintiff’s protected characteristic (the mixed-motives alternative).”<sup>35</sup> The burden-shifting framework applies for reverse discrimination suits, such as this one.<sup>36</sup>

#### ***1. Plaintiff’s claims should be dismissed because there were legitimate, non-discriminatory reasons for the promotions.***

Assuming for the purposes of this Motion that Plaintiff has shown a *prima facie* case of discriminatory failure to promote, the State Police has provided a legitimate, nondiscriminatory reason for Stelly’s failure to be promoted: he was not the best qualified individual for the job.<sup>37</sup> It

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<sup>33</sup> *Autry v. Fort Bend Indep. Sch. Dist.*, 704 F.3d 344, 346–47 (5th Cir. 2013).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Young v. City of Houston*, 906 F.2d 177, 180 (5th Cir. 1990) (applying same *McDonnell Douglas* framework to reverse discrimination case); *Fuhr v. City of Sherman, Texas*, No. 4:21-CV-549-SDJ, 2023 WL 1765914, at \*2 (E.D. Tex. Feb. 3, 2023).

<sup>37</sup> *Patrick v. Ridge*, 394 F.3d 311, 318 (5th Cir. 2004) (holding that promoting a candidate that is the “best-qualified individual for the job” is legitimate and nondiscriminatory).

is well-settled that the “promotion of a better qualified applicant is a legitimate and nondiscriminatory reason for preferring the successful applicant over the rejected employee who claims that the rejection was discriminatory.”<sup>38</sup>

In *Monteverde v. New Orleans Fire Dept.*, the Fifth Circuit affirmed summary judgment dismissing a reverse race discrimination claim against the New Orleans Fire Department.<sup>39</sup> The court accepted the fire department’s assertion that the black employee promoted to chief was simply a better candidate than the white plaintiff as a legitimate, non-discriminatory reason for not promoting the white plaintiff.<sup>40</sup> Thus, the burden shifted back to the plaintiff to present sufficient circumstantial evidence that the fire department’s proffered reasons were pretextual, such that a reasonable factfinder could infer the plaintiff was discriminated against on the basis of race.<sup>41</sup> As the plaintiff failed to produce evidence sufficient to contravene the fire department’s evidence that the promoted employee was simply a better qualified candidate, he failed to establish pretext and his claim was without merit.<sup>42</sup>

Similarly, here, the State Police had legitimate, non-discriminatory reasons for promoting Robert Burns and Saleem El-Amin over Plaintiff. The position of captain of Operational Development was a public-facing position that worked directly with the Superintendent, with other agencies, with the legislature, and with various industry personnel.<sup>43</sup> The position required someone with strong interpersonal and relationship skills and strong communication skills who knew the department and had experience with the individuals within the department.<sup>44</sup> Robert

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<sup>38</sup> *Jefferies v. Harris County Community Action Ass’n*, 693 F.2d 589, 590-91 (5th Cir. 1982); *see also Price v. Federal Exp. Corp.*, 283 F.3d 715, 725 n.2 (5th Cir. 2002).

<sup>39</sup> *Monteverde v. New Orleans Fire Dept.*, 2005 WL 673490, at \*6.

<sup>40</sup> *Id.* at \*4.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at \*5.

<sup>43</sup> Exhibit “A”, Davis Depo., at 120:22-121:25; Exhibit “D”, Davis Decl., at ¶ 11.

<sup>44</sup> Exhibit “A”, Davis Depo., at 120:22-121:25.

Burns was selected because he had worked for seven years and ten months in Operational Development, he “distinguished himself” working in that capacity and was often considered by legislators and others in the industry to be ranked higher than his position.<sup>45</sup> In addition to creating budget requests and legislative proposals, Operational Development is also responsible for collecting budget requests and legislative proposals from all other sections.<sup>46</sup> Additionally, the captain in Operational Development reports directly to the Superintendent of State Police, with whom Burns already had experience working.<sup>47</sup> Robert Burns’ experience and qualifications far exceeded Stelly’s qualifications for this particular position.<sup>48</sup>

Saleem El-Amin was similarly better qualified for the position of captain of Gaming than Stelly.<sup>49</sup> El-Amin was better qualified because he had been in the Gaming department for over two years and because the previous Gaming captain had rated El-Amin as exceptional for his performance in that department.<sup>50</sup> Additionally, just like the Operational Development position, the position of captain of Gaming is a public-facing role in which good communication skills and relationship-building skills are important.<sup>51</sup> Captain El-Amin was a superior candidate with regard to his experience in Gaming, ability to connect with the community, and his communication skills.<sup>52</sup> El-Amin’s master’s degree, eight years in the Air Force, and “exceptional leadership demonstration” during his time in gaming contributed to his selection as the most qualified applicant.<sup>53</sup> The leadership qualities demonstrated by El-Amin, particularly while he was in

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<sup>45</sup>

*Id.*

<sup>46</sup> Exhibit “F”, LSP Depo., at pp. 80-81.

<sup>47</sup> Exhibit “A”, Davis Depo., at p. 121; Exhibit “F”, LSP Depo., at pp. 15-17, 23, 69, 71-72.

<sup>48</sup> Exhibit “D”, Davis Decl., at ¶¶ 11-12.

<sup>49</sup> Exhibit “A”, Davis Depo., at p. 130.

<sup>50</sup> Exhibit “F”, Deposition of LSP, at p. 168.

<sup>51</sup> Exhibit “D”, Davis Decl., at ¶ 13.

<sup>52</sup> *Id.*

<sup>53</sup> Exhibit “F”, LSP Depo., at pp. 168-169.

gaming, and rating by the gaming commander weighed “very, very heavily” in the decision for this promotion.<sup>54</sup> Captain El-Amin excelled in this role, confirming he was the correct fit.<sup>55</sup>

The fact that Captain Burns and Captain El-Amin were each the most qualified for their respective promotions constitutes a legitimate, non-discriminatory reason for promoting them over Plaintiff. The claim by Stelly that Burns or El-Amin were promoted due to their race is a meritless affront to these most impressive men, who deserved their promotions and have excelled in their roles.

The undisputed evidence shows that not only were Burns and El-Amin each qualified for their respective promotions, but also that Plaintiff was not the most qualified candidate to be promoted to the Operational Development or Gaming positions. Unlike Burns and El-Amin, who each had years of experience in the sections over which they were promoted to captain, Plaintiff had no prior experience in Gaming and only two months of experience in Operational Development while on loan from Troop B.<sup>56</sup> Colonel Reeves testified that he offered Stelly the opportunity to transfer laterally as a lieutenant to a position at State Police Headquarters to gain more experience and exposure to the groups in which he sought promotions.<sup>57</sup> Stelly, however, was “not interested in moving to Baton Rouge as a lieutenant.”<sup>58</sup>

The ability to lead a team of people is the most important factor determining qualification for a captain position.<sup>59</sup> While Stelly was an effective lieutenant of a patrol division, his leadership skills were not as strong as those of El-Amin and Burns for the particular promotion sought.<sup>60</sup> Colonel Reeves, who was the Superintendent for several on Stelly’s promotional panels, testified

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<sup>54</sup> *Id.* at p. 169.

<sup>55</sup> Exhibit “A”, Davis Decl., at ¶ 13.

<sup>56</sup> Exhibit “G”, Stelly Depo., at pp. 59-61, 132, 232.

<sup>57</sup> Exhibit “C”, Reeves Depo., at 123:3-127:14.

<sup>58</sup> Exhibit “G”, Stelly Depo., 252:6-25.

<sup>59</sup> Exhibit “A”, Davis Depo., at p. 125; Exhibit “F”, LSP Depo., at pp. 23, 32.

<sup>60</sup> Exhibit “D”, Davis Decl., at ¶ ¶ 5-7.

that Stelly's interviews were unremarkable and Stelly could not articulate his views or why he was the best candidate for a particular position.<sup>61</sup> In addition, Colonel Reeves testified that no one on the panels ever recommended Stelly for promotion.<sup>62</sup>

Because there are legitimate, non-discriminatory reasons for the promotions of both Captain Burns and Captain El-Amin over Plaintiff, the motion should be granted.

***2. Plaintiff has not shown and cannot show that the legitimate, nondiscriminatory reasons for promoting other individuals over Plaintiff were a pretext for race discrimination.***

The Fifth Circuit holds that to carry the burden of showing the reasons for promotion were pretext, the plaintiff "must produce substantial evidence indicating that the proffered legitimate nondiscriminatory reason is a pretext for discrimination" and "rebut each nondiscriminatory reason articulated by the employer."<sup>63</sup> Plaintiff will be unable to satisfy this burden.

In *Price v. Federal Exp. Corp.*, the Fifth Circuit found that a plaintiff failed to disprove his employer's explanation that a candidate of another race was better qualified for the position and failed to establish pretext through his own superior qualification.<sup>64</sup> There, the plaintiff's better education, work experience, and longer tenure with the company did not establish that he was "clearly better qualified."<sup>65</sup> The Court noted that although his qualifications were sufficient, they did not "leap from the record" when contrasted with the promoted employee's management, security, and intelligence experience.<sup>66</sup> The Court in *Price* also noted that while the plaintiff met the qualifications for the position as posted, due to the specific needs of the company at the time,

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<sup>61</sup> Exhibit "C", Reeves Depo., at 89:4-90:25.

<sup>62</sup> *Id.* at 101:13-25.

<sup>63</sup> *Laxton v. Gap Inc.*, 333 F.3d 572, 578 (5th Cir.2003) (citing *Reeves v. Sanderson Plumbing Prods.*, 530 U.S. 133, 143, 120 S.Ct. 2097, 147 L.Ed.2d 105 (2000)).

<sup>64</sup> *Price v. Federal Exp. Corp.*, 283 F.3d 715, 723 (5th Cir. 2002).

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*



the promoted employee's skill set, including his significant military, security, and leadership experience, could have reasonably outweighed the plaintiff's better education and longer tenure.<sup>67</sup>

Similarly, in *Sabzevari v. Reliable Life Ins. Co.*, the plaintiff argued he was clearly better qualified because the employee who was promoted had problems with recruiting other employees.<sup>68</sup> The court noted that given recruiting was only one criterion of many that were considered when promoting district manager candidates, even if the plaintiff had superior recruiting skills, this would not raise an issue to whether he was clearly better qualified.<sup>69</sup>

Here, it is undisputed that Plaintiff had a high score on the eligibility examination and a long tenure at the State Police, but he lacked the specific qualifications necessary for the captain positions in Operational Development and Gaming, as explained above. Plaintiff has no evidence to show that the State Police's selection of Robert Burns and Saleem El-Amin was a pretext for discrimination. Plaintiff himself testified that he was never told that race was a factor in his non-promotions and he was never told that either candidate was selected because of their race (Asian for Burns, black for El-Amin).<sup>70</sup> Plaintiff further acknowledged that more goes into the selection of captain than just the data on promotional summary sheets, that having the highest qualifications in various categories listed on these sheets does not mean one would be promoted to captain, and that he does not know all the data considered by promotional panels.<sup>71</sup> Moreover, *all witnesses* testified that race is not a factor in promotion, and the race of any candidate was never discussed in any promotional panel.<sup>72</sup>

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<sup>67</sup> *Id.* at 722.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Exhibit "G", Stelly Depo., at p. 226:19-22; 233:10-12; 259:2-263:4.

<sup>71</sup> *Id.* at pp. 253, 254-55, 256-257.

<sup>72</sup> Exhibit "A", Davis Depo., at 83:4-11; Exhibit "C", Reeves Depo., at 38:23-39:12, 142:18-143:11; Exhibit "B", Cammon Depo., at 87:21-88:22.

Just as in *Price*, given the specific needs of the State Police and the departments over which Burns and El-Amin were made captains, their skill sets, including their prior experience in those departments, could have and did reasonably outweigh Plaintiff's higher exam grade and longer tenure with the police department. Plaintiff has no evidence to create a genuine dispute of fact that the State Police's proffered reasons — that Burns and El-Amin were hired because of their superior qualifications — are pretextual.

Plaintiff alleges that Burns should not have been promoted over him due to prior disciplinary action.<sup>73</sup> The Fifth Circuit rejected a similar argument in *Sabzevari v. Reliable Life Ins. Co.*, where an Iranian assistant manager asserted a white employee promoted to district manager over him was not qualified for the promotion because he had received two reprimands.<sup>74</sup> The court stated that because the plaintiff pointed to no company policy or past promotional decision to support the conclusion that these reprimands should have disqualified the other employee from the promotion, he failed to raise a genuine issue of material fact as to whether the legitimate, nondiscriminatory reason for the promotion, i.e., selection of the most qualified candidate, was pretextual.<sup>75</sup>

Likewise in this case, Plaintiff suggests, without support, that Burns' disciplinary action made him unqualified for the promotion to captain.<sup>76</sup> Colonel Davis testified that the panel was aware of and considered Burns' discipline history, but that given his training, time in grade, experience, and performance, Burns was still determined to be the most suitable for the promotion.<sup>77</sup> Thus, like the plaintiff in *Sabzevari*, Plaintiff cannot show that the State Police's

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<sup>73</sup> See Exhibit "G", Stelly Depo, at pp. 221-223.

<sup>74</sup> *Sabzevari v. Reliable Life Ins. Co.*, 2008 WL 276307, at \*2 (5<sup>th</sup> Cir. Jan. 31, 2008).

<sup>75</sup> *Id.*

<sup>76</sup> See Exhibit "G", Stelly Depo., at pp. 221-223.

<sup>77</sup> Exhibit "A", Davis Depo., at pp. 118, 120-123. See also Exhibit "B", Cammon Depo., at 47:12-52:10.

legitimate, nondiscriminatory reason for promoting Burns over him was false or otherwise a pretext for discrimination.

Plaintiff also asserts he was more qualified than Burns because he scored higher on the promotional test, had more experience at the State Police, had superior specialized training, received a few more awards, and had less significant discipline.<sup>78</sup> These factors, while considered by the promotional panel, were insufficient to overcome the extensive experience, leadership qualities, and relationship skills of Burns and El-Amin.<sup>79</sup>

With regard to Saleem El-Amin, Plaintiff asserts he was more qualified because he had more experience at the State Police, more specialized training, and more awards and commendations.<sup>80</sup> However, again, these factors were insufficient to overcome El-Amin's military record, master's degree, experience in gaming, and recommendation from the Gaming commander.<sup>81</sup>

Despite listing the categories for which he believes he has better qualifications than Burns and El-Amin, Plaintiff acknowledged that he was never told the person with the most years in grade as lieutenant, most experience in the State Police, or highest grade on the promotional exam would become captain.<sup>82</sup> Plaintiff also acknowledged that there are other aspects taken into account for promotions beyond what is listed on the promotional sheets, but that he does not know all that is considered.<sup>83</sup>

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<sup>78</sup> Exhibit "G", Stelly Depo., at p. 218-222.

<sup>79</sup> Exhibit "A", Davis Depo., at 122-125 ("it's important to understand all of these factors. There is no one factor that is overarching more than the other. It's a compilation of all the factors that we look at. So when we consider that, we look at leadership as being one. We look at time in grade, we look at discipline . . . all of those determine, again, the suitability for that position."), 125:9-18.

<sup>80</sup> Exhibit "G", Stelly Depo., at pp. 227-229.

<sup>81</sup> Exhibit "D", Davis Decl., at ¶13; LSP Depo., at 167:6-169:4.

<sup>82</sup> Exhibit "G", Stelly Depo., at pp. 254-255.

<sup>83</sup> *Id.* at pp. 253, 256-257. Plaintiff was passed over for roles that he considered himself to be the most qualified for even when the person promoted was white. For instance, Plaintiff has a degree in computer science and considered himself the best qualified for the Technology and Business Support position that went to Lamar

Therefore, like the plaintiffs in *Price* and *Sabzevari*, to the extent Plaintiff demonstrated that he was better qualified than other candidates with regard to *some* of the factors considered for promotions does not establish that he was clearly better qualified as a whole.

**3. *There is no evidence that race played a part in Stelly not being promoted.***

Finally, even if Plaintiff could establish a *prima facie* case for discrimination and that the State Police’s reasons for promoting Burns and El-Amin were pretextual, which State Police denies, this would not support an inference that intentional discrimination was the real reason or part of the reason for these decisions. The Fifth Circuit recognizes that there are cases “where a plaintiff has both established a *prima facie* case and set forth sufficient evidence to reject the defendant’s explanation, yet ‘no rational factfinder could conclude that the action was discriminatory.’”<sup>84</sup> Whether summary judgment is appropriate depends on numerous factors, including “the strength of the plaintiff’s *prima facie* case, the probative value of the proof that the employer’s explanation is false, and any other evidence that supports the employer’s case and that properly may be considered.”<sup>85</sup> For this reason, the court in *Price* noted that even if the plaintiff had presented evidence that his employer’s explanation for hiring a member of another race over him was pretextual, the evidence of pretext did not support an inference that intentional discrimination was the real reason for the employment decision.<sup>86</sup>

Here, Colonel Davis specifically testified that when promoting people to captain, race was not one of the factors considered in those promotional decisions.<sup>87</sup> Plaintiff cites Colonel Lamar

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Davis in 2018. *Id.*, at 153:15-154:5. Colonel Davis is black. However, when that same position came up for promotion again in 2020 when Colonel Davis became the Superintendent, it went to David Stelly (no relation), who is white. *Id.*, at 195:16-196:6.

<sup>84</sup> *Price v. Federal Exp. Corp.*, 283 F.3d 715, 720 (5th Cir. 2002).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Exhibit “A”, Davis Depo., at pp. 83, 86.

Davis' comments regarding increasing diversity at the State Police as evidence of discrimination.<sup>88</sup> However, it is well-settled that "the mere existence of a diversity policy, without more, is insufficient to make out a prima facie case of reverse discrimination."<sup>89</sup> In fact, an employer's statement "that it is committed to diversity 'if expressed in terms of creating opportunities for employees of different races and both genders . . . is not proof of discriminatory motive with respect to any specific hiring decision. Indeed, it would be difficult to find today a company of any size that does not have a diversity policy.'"<sup>90</sup>

In *Bissett v. Beau Rivage Resorts*, for example, the Fifth Circuit considered a case in which the plaintiff alleged that she was fired to increase diversity in furtherance of the company's diversity policy.<sup>91</sup> The policy in that case stated that the Beau Rivage "values diversity" and is "committed to maintaining a workforce that reflects the diversity of the community."<sup>92</sup> The Court held that because the plaintiff offered no evidence to support her contention that she was actually terminated to increase diversity, she could not "create an issue of material fact simply by stating her own unsubstantiated belief that the diversity policy led to her discharge."<sup>93</sup>

Similarly, here, the mere fact that Colonel Davis stated that the State Police is committed to diversity does not signify that Plaintiff suffered reverse discrimination when there is no evidence that Stelly was not promoted in order to increase diversity. Indeed, when asked about his comments concerning diversity, Colonel Davis testified that he does believe diversity is a "value added" and

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<sup>88</sup> *Id.*, at 78:19-83:11.

<sup>89</sup> *Bissett v. Beau Rivage Resorts Inc.*, 442 F. App'x 148, 153 (5th Cir. 2011) (citing *Jones v. Bernanke*, 493 F.Supp.2d 18, 29 (D.D.C.2007); *Reed v. Agilent Techs., Inc.*, 174 F.Supp.2d 176, 185–86 (D.Del.2001) ("Merely producing anecdotal evidence regarding the aspirational purpose of an employer's diversity policy, and its intent to ameliorate any underutilization of certain groups, is not sufficient ... Instead, [a plaintiff] must show that such policies were actually relied upon in deciding to terminate his employment.")).

<sup>90</sup> *Jones*, 493 F. Supp. 2d at 29 (citing *Bernstein v. St. Paul Cos., Inc.*, 134 F.Supp.2d 730, 739 n. 12 (D.Md.2001)); see also *Lutes v. Goldin*, 62 F.Supp.2d 118, 131 (D.D.C.1999).

<sup>91</sup> 442 Fed. Appx. at 152.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.* at 153.

not just racial diversity, but also all forms of diversity, including gender.<sup>94</sup> Further, Colonel Reeves and Colonel Davis both testified that race played no part in the decision not to promote Plaintiff.<sup>95</sup>

Plaintiff also points to hearsay statements wherein he claims someone told Plaintiff that someone else told them something leading them to believe that race was a factor in the decisions. In particular, Plaintiff points to an alleged conversation his superior, Donovan Archote, had with him wherein Archote relayed to Stelly that a third person, Ray Meyers, told Archote that Lamar Davis was selected as captain of Technology and Business Support (his position before he became Superintendent of the State Police) because he's black.<sup>96</sup> The only other such "evidence" is a conversation between Stelly and Jacob Dickinson, a state trooper not in State Police leadership, wherein Dickinson expressed his opinion that Stelly was passed over because he is white. When pressed, Stelly admitted that Dickinson did not reference any particular promotion, did not tell Stelly *why* Dickinson had formed that opinion, and that the entire conversation had to do with a promotion that occurred in May 2021 when Treone Larvadain was promoted to captain of Internal Affairs.<sup>97</sup>

None of these alleged conversations (which have not been corroborated and which are hearsay in any event) can support Plaintiff's claims. First, both of them have to do with promotions that are not at issue here and are time-barred (Lamar Davis was promoted to captain in 2018 and Larvadain in May 2021, which this Court has found is time-barred). Second, the Fifth Circuit has

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<sup>94</sup> Exhibit "A", Davis Depo., at 78:19-83:11; *see also* Exhibit "F", LSP Depo., at 187:5-14 ("one of the foundational things that we did that's really been well received is – is our training. . . . all of those trainings are geared towards, it's not just racial diversity. It's cultural diversity . . . It's really just being more open and understanding, just of various cultures and various people within the state.").

<sup>95</sup> Exhibit "A", Davis Depo., at 83:4-11; Exhibit "C", Reeves Depo., at 142:18-143:18; Exhibit "E", Reeves Decl., at ¶ 11-13; Exhibit "B", Cammon Depo., at 87:21-88:22.

<sup>96</sup> Exhibit "G", Stelly Depo., at 262-263. For his part, Major Archote denied the substance of this conversation in his deposition. *See* Exhibit "L", Deposition of Donovan Archote, at 56:12-60:1.

<sup>97</sup> Exhibit "G", Stelly Depo., at 259-260.

held that comments may be circumstantial evidence of discrimination, but only if they reflect discriminatory animus and are uttered by a person who wields influence over the challenged employment action.<sup>98</sup> Here, neither statement was uttered by a person who wields influence over the challenged employment action. It has been established that Donovan Archote had no power to promote Plaintiff; he did not sit on any of Plaintiff's promotional panels.<sup>99</sup> Further, Dickinson was a state trooper who retired as a trooper and therefore he certainly had no "influence" over the challenged employment actions.

Given Plaintiff has no actual evidence that Burns and El-Amin were promoted over him on the basis of race, Plaintiff's assertion that he was not promoted to captain because he is white is no more than unsupportable speculation. Plaintiff admitted that no one has ever told him he was being passed over for promotions because he is white.<sup>100</sup> This Court has held that a plaintiff's speculative, subjective belief that they have been the subject of discrimination, unsupported by any specific factual evidence, cannot be the basis of judicial relief and is insufficient to rebut the employer's evidence of a legitimate, nondiscriminatory reason for its actions.<sup>101</sup>

Plaintiff will not be able to provide any evidence that he was not promoted to captain on July 9, 2021 because he is white.

**B. Plaintiff's statistical analysis is insufficient to overcome the legitimate, nondiscriminatory reasons for his non-promotion.**

Because he has no actual evidence of discrimination, Plaintiff hired an epidemiologist to perform a statistical analysis that more black people were promoted to captain from 2017 to 2021 than in the years prior. Stelly apparently believes that if black people are being promoted at a

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<sup>98</sup> *Autry v. Fort Bend Indep. Sch. Dist.*, 704 F.3d 344, 348 (5th Cir. 2013);

<sup>99</sup> Exhibit "G", Stelly Depo., at 226:9-18; Exhibit "D", Davis Decl., at ¶ 17.

<sup>100</sup> Exhibit "G", Stelly Depo., at p. 226, 233, 259, 261.

<sup>101</sup> *Smith v. Aaron's Inc.*, 325 F.Supp.2d 716, 725 (E.D. La. 2004).

higher rate than they were before, then there must be discrimination. But Stelly's statistical argument is meritless.

A court may “infer that an employer engaged in racial discrimination when promoting workers” by using statistics, but the statistics can only be used if they demonstrate a “gross statistical disparity” in “light of all of the surrounding facts and circumstances.”<sup>102</sup> Plaintiff contends that when analyzing captain panels conducted from 09-26-17 through 10-04-21, black candidates were promoted at 3.30 standard deviations above expectation.<sup>103</sup> However, this standard deviation calculation is based on incomplete, cherry-picked data. By his own admission, Plaintiff's calculations consider only the 18 captain panels conducted during that time wherein there was at least one black candidate.<sup>104</sup> As such, he ignores data from the other 14 captain panels conducted during the selected time period as well as data from any panels before September 2017 or after October 2021.<sup>105</sup> Stelly claims he only looked at data from September 26, 2017 to October 4, 2021 because this is the time period relevant to his personal experience.<sup>106</sup> Specifically, he started with data from Chavez Cammon's promotion in 2017 because that is when he first started suspecting discrimination, and ended with the date in 2021 when he requested retirement and thereby stopped trying to get promoted.<sup>107</sup> Plaintiff is not taking a holistic look at all available data and he is not considering “all of the surrounding facts and circumstances.” Rather, he selected data

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<sup>102</sup> *Anderson v. Douglas & Lomason Co.*, 26 F.3d 1277, 1290 (5th Cir. 1994) (allowing the use of statistics only in the context of a class action alleging disparate impact).

<sup>103</sup> Exhibit “I”, Second Deposition of John Stelly (“Stelly's Second Depo.”), at 122:5-23; Exhibit “J”, Amended Report of John Stelly, at p. 9

<sup>104</sup> *Id.*, at 57:16-58:24; *see also* Exhibit “K”, Deposition of Andrew Broadway, at 58:15-22; 64:10-14 (“Broadway Depo.”).

<sup>105</sup> *See* Exhibit “K”, Broadway Depo, at 114:2-115:2. From 09-26-17 through 10-04-21, State Police conducted 32 captain panels. Of these 32 panels, there were 18 in which at least one candidate was black and 25 in which at least one candidate was non-white.

<sup>106</sup> Exhibit “I”, Stelly's Second Depo, at 58:3-24; 84:10-17; 129:15-131:22; Exhibit “J”, Amended Report of John Stelly, at p. 13.

<sup>107</sup> Exhibit “G”, Stelly Depo, at p. 82, 111-112, 239; Exhibit “I”, Stelly's Second Depo, at p. 90:13-91:3; 92:23-93:25; 109:24-111:8; Exhibit “J”, Amended Report of John Stelly, at p. 13.



to try and find discrimination by using a limited data set corresponding with his perception of when discrimination against him occurred. When looking at the data starting in 2008, statistics show that a black individual was promoted to captain 8 out of 30 times, which is approximately 26% of the time and far less than Plaintiff suggests. Moreover, consideration of captain panels after October 4, 2021 would also demonstrate that non-white candidates were promoted at a much lower rate than Plaintiff asserts. Between October 4, 2021 and January 1, 2022, an additional 11 candidates were promoted to captain positions, 10 of whom were white.<sup>108</sup> As consideration of this data would significantly impact Plaintiff's analysis and his conclusion that black candidates were promoted disproportionately, he should not be permitted to ignore said data in order to bolster his position.

Second, even if calculations based on all relevant data indicated that the disproportionate promotion of black and non-white candidates was statistically significant, Plaintiff would not be able to create a fact issue on this alone. The Fifth Circuit and the United States Supreme Court have recognized that while plaintiffs may establish a prima facie case of disparate treatment by the use of statistics, "statistics are not irrefutable; they come in infinite variety and, like any other kind of evidence, they may be rebutted."<sup>109</sup> Specifically, an employer may rebut the plaintiffs' prima facie case "by introducing proof that plaintiffs' statistics are 'inaccurate or insignificant' or by providing a 'non-discriminatory explanation for the apparently discriminatory result.'"<sup>110</sup>

The Supreme Court provides that a defendant in a Title VII suit is not obligated to assume a plaintiff's statistical evidence is reliable and may challenge the statistics by impeaching their reliability, offering rebutting evidence, or disparaging the probative weight which the plaintiff's

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<sup>108</sup> Exhibit "A", Davis Depo., 138:1-4, attaching Exhibit 16, Chart.

<sup>109</sup> *Anderson v. Douglas & Lomason Co.*, 26 F.3d 1277, 1285 (5th Cir. 1994) (quoting *International Bhd. of Teamsters v. United States*, 431 U.S. 324, 340 (1977)).

<sup>110</sup> *Anderson*, 26 F.3d at 1285.

evidence should be accorded.<sup>111</sup> Typical examples of weaknesses in statistical evidence are small or incomplete data sets and inadequate statistical techniques.<sup>112</sup> Here, Plaintiff's statistics are inaccurate given they do not include all relevant data, in particular, data tends to demonstrate that black and non-white candidates were promoted at lower rates than what Plaintiff has asserted.

Further, the State Police has rebutted any prima facie case of discrimination based on these statistics. As discussed at length above, there are numerous legitimate, non-discriminatory reasons that now-Major Burns and Captain El-Amin were promoted to captain on July 9, 2021, instead of Plaintiff. Evidence clearly shows that Robert Burns and Saleem El-Amin were each the most qualified candidates for their respective promotions and that Plaintiff was not sufficiently qualified to be promoted to the Operational Development or Gaming positions over them. While the State Police asserts there are legitimate, non-discriminatory explanations for the other promotions as well, only the two promotions on July 9, 2021 are at issue here. As such, even if Plaintiff could demonstrate an overall pattern of racial discrimination through statistical analysis, this would be insufficient to defeat summary judgment given he cannot show racial discrimination was the reason he did not receive either of the promotions on July 9, 2021.

This Court has recognized that statistics are generally insufficient to rebut an employer's nondiscriminatory reasons as overall employment statistics do not tend to support the inference that discrimination played a role in the specific employment decision at issue.<sup>113</sup> In *Sullivan v. Worley*, this Court granted summary judgment in favor of an employer in an age discrimination case, finding that nothing in the plaintiff's evidence leads to a reasonable inference that he was terminated *because* of his age.<sup>114</sup> There, the plaintiff's expert opined that a disparity between the

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<sup>111</sup> *Watson v. Fort Worth Bank and Trust*, 487 U.S. 977, 996 (1988)

<sup>112</sup> *Id.*

<sup>113</sup> *Sullivan v. Worley Catastrophe Services, LLC*, 2013 WL 5530277, at \*13-14 (E.D. La. 2013).

<sup>114</sup> *Id.* at \*15.

median age of employees who were laid off and employees who were retained indicated a probability that the layoffs were not random, but were motivated by age discrimination.<sup>115</sup> However, given the plaintiff alleged only that his former employer intentionally discriminated against him, he had to show that his age was the “but for” cause of the decision to terminate *him* particularly.<sup>116</sup> Even to the extent the expert report established a pattern and practice of age discrimination, it did not support the inference that the employer intentionally discriminated against the plaintiff on the basis of his age.<sup>117</sup>

Here, Plaintiff has alleged the State Police did not promote him to two separate captain positions on July 9, 2021 because he is white. As such, he must show that the State Police discriminated against him with regard to those two promotions and that his race was the reason or part of the reason he was not promoted. Just as in *Sullivan*, overall employment statistics, even if they suggest a pattern of discrimination, will not establish that race discrimination was the reason for these particular decisions. Indeed, Plaintiff’s own statistical expert admitted that data from one timeframe does not necessarily mean that the LSP acted the same way in another timeframe – i.e., even if statistics suggest race played a factor in other promotions, this does not mean the State Police discriminated against Plaintiff on July 9, 2021.<sup>118</sup> Thus, while the State Police asserts that Plaintiff’s statistical evidence is unreliable and based on incomplete data, even to the extent it may support a prima facie case of discrimination, these statistics alone are insufficient to demonstrate that the State Police intentionally discriminated against Plaintiff on the basis of race in light of all surrounding circumstances and evidence that race did not play a factor in the promotions.

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<sup>115</sup> *Id.* at \*9.

<sup>116</sup> *Id.* at \*12.

<sup>117</sup> *Id.*

<sup>118</sup> Exhibit “K”, Broadway Depo, at p. 16:1-6; 97:24-98:2.

In an attempt to undermine the State Police’s position that captain promotions were given to the most qualified candidates without regard for race, Plaintiff contends that statistical analysis indicates better ranking candidates were less likely to be promoted to captain. Specifically, he asserts that candidates with higher scores on promotional tests and more experience were less likely to be promoted and that this indicates the State Police disregarded the factors that should have been considered in determining promotion selections.<sup>119</sup> However, both Stelly and Broadway fail to acknowledge the role that specific, relevant experience played in these promotions. When looking at the data from Plaintiff’s 18 promotional panels between 2017 and 2021, nearly 70% of the candidates selected for promotion to captain had experience in the relevant sections.<sup>120</sup> This is even more evident with non-white captains, as all but one had prior experience in the sections over which they were promoted to captain.<sup>121</sup> Contrary to Plaintiff’s assertion that he was better qualified for these promotions, he did not have any experience in any of the sections for which he applied for captain positions. Thus, experience was a determining factor considered by the State Police when making promotions. Accordingly, any argument that the State Police did not promote the most qualified candidates or disregarded relevant criteria is without merit.

### **CONCLUSION**

Title VII does not exist to allow a disgruntled former employee to second-guess the promotional decisions of the State Police or to substitute his judgment or opinions for those of the State Police leadership. At the end of the day, all of the evidence shows that Burns and El-Amin,

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<sup>119</sup> *Id.* at p. 8-9.

<sup>120</sup> Exhibit “G”, Stelly Depo., at 128:4-5 (attaching Ex. 3), at 131:22-132:20 (attaching Ex. 4), at 136:18-137:11 (attaching Ex. 5), at 140:21-141:10 (attaching Ex. 6), at 141:21-142:10 (attaching Ex. 7), at 155:11-156:7 (attaching Ex. 8), at 158:20-159:20 (attaching Ex. 9), at 179:24-180:23 (attaching Ex. 11), at 181:16-182:10 (attaching Ex. 12), at 182:25-183:15 (attaching Ex. 13), at 189:18-190:18 (attaching Ex. 14), at 195:10-196:6 (attaching Ex. 15), at 197:19-198:5 (attaching Ex. 16), at 200:16-201:7 (attaching Ex. 17), at 202:4-203:7 (attaching Ex. 18), at 217:13-218:2 (attaching Ex. 19), at 226:23-227:13 (attaching Ex. 20), at 233:15-234:5 (attaching Ex. 21).

<sup>121</sup> *Id.*

with their significant experience in Operational Development and Gaming, respectively, were the best suited to be promoted and that race was not a factor in their promotion. None of Stelly's purported evidence of discrimination creates a genuine issue of fact on this key point.

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**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II  
NO. 23-772  
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

\*\*\*\*\*

TRANSCRIPT OF THE DEPOSITION OF  
LAMAR DAVIS

TAKEN ON BEHALF OF PLAINTIFF, REPORTED IN THE  
ABOVE ENTITLED AND NUMBERED CAUSE BY SELINA P.  
ROUSSEL, CERTIFIED COURT REPORTER FOR THE STATE OF  
LOUISIANA.

\*\*\*\*\*

REPORTED AT THE OFFICES OF:  
OFFICE OF LEGAL AFFAIRS  
7979 INDEPENDENCE BOULEVARD  
BATON ROUGE, LOUISIANA 70806

COMMENCING AT 10:11 A.M. ON APRIL 29, 2024

LAMAR DAVIS

1 Lieutenant Stelly.

2 Q. Okay. And how long a period did you  
3 teach that class?

4 A. I taught -- because I taught the  
5 sergeant's level, the lieutenant's level and the  
6 captain's level, so I forgot the number of years,  
7 but I taught for a number of years at all three  
8 levels.

9 Q. So when there's a captain's position  
10 available, the procedure is to post that  
11 availability, so that everyone is aware of that --  
12 that position is available; is that correct?

13 A. Yes, sir. That's normally handled by the  
14 chief of staff.

15 Q. Okay. And in order for a lieutenant to  
16 be considered for promotion to captain, they have  
17 to take a promotional test; is that correct?

18 A. Yes, sir.

19 Q. And there are strict guidelines as to how  
20 that test is composed for the people that are  
21 going to take that test?

22 A. Yes, sir. That's determined by our State  
23 Police Commission. They set the rules with  
24 regards to the test, test scores. For instance,  
25 it's not a traditional pass or fail, although you

LAMAR DAVIS

1 have to pass. But you have to get in the top  
2 seven grade groups in order to move to the next  
3 phase of promotion.

4 Q. Okay. And before it was the top seven  
5 grade groups, it was the top five grade groups,  
6 correct?

7 A. Yes, sir.

8 Q. And why did it change from five to seven?

9 A. That's a State Police Commission  
10 question. That was changed prior to my becoming  
11 the superintendent, so that would have to be posed  
12 to State Police Commission.

13 Q. Now, the -- after the troopers -- well,  
14 actually in this case after the lieutenants took  
15 the promotional test, they would be actually given  
16 test scores on their examination results, correct?

17 A. Yes, sir.

18 Q. And the test tested them on state  
19 statutes, State Police policy and procedure, the  
20 entire DA's Handbook and certain leadership  
21 principles?

22 A. Yes, sir.

23 Q. Can you think of other categories I  
24 didn't mention that the test covers?

25 A. Not right offhand. As mentioned, I was



LAMAR DAVIS

1 deposition to be here today.

2 (Whereupon, the document referred to is  
3 marked as Exhibit No. 1 for identification.)

4 BY MR. FARRUGIA:

5 Q. These panels that you were -- as  
6 superintendent, you were on the promotional panels  
7 for promotion of captain, correct?

8 A. Yes, sir.

9 Q. Okay. So while you were on those panels  
10 -- let me hand you what we'll mark as Exhibit 2 --  
11 and have you look at actually Page 9.

12 (Whereupon, the document referred to is  
13 marked as Exhibit No. 2 for identification.)

14 BY MR. FARRUGIA:

15 Q. This is supplied by your -- well,  
16 attorneys, State Police's attorneys here. Now, on  
17 the -- the panels that are captain of Internal  
18 Affairs, and Gaming, and captain of Operational  
19 Development and LCJIS, you were on all of those  
20 three panels in 2021; is that correct?

21 A. Yes, sir.

22 Q. Okay. And all three of those panels had  
23 five other officers on the panels; is that  
24 correct?

25 A. I can't say for sure whether there was

LAMAR DAVIS

1 five or six. That -- the positions in which serve  
2 on the promotional panels are, of course, myself,  
3 my chief of staff, and depending upon, obviously,  
4 who that may have been on the time frame, I had  
5 two chief of staffs during my tenure. One being  
6 Lieutenant Colonel Cain, and the other one being  
7 Lieutenant Colonel Cammon. And then the deputy  
8 superintendent over Patrol, deputy superintendent  
9 over Support, deputy superintendent over  
10 Investigations.

11           And depending upon the position, if  
12 the position had a major, then of course, the  
13 major would also serve on the panel. And then of  
14 course, that would be it as far as voting members.  
15 Then Internal Affairs would have someone in a  
16 nonvoting capacity to provide information. And  
17 then, of course, we would have a legal  
18 representative that served on the panel, again,  
19 for legal purposes.

20           Q. Okay. So all three of these panels had  
21 the six people that were invited to attend and  
22 what would the -- so you recall that these six at  
23 least were there and maybe there were some others?

24           A. I can't say that all six may have been  
25 there or something, because we have other

LAMAR DAVIS

1 obligations and/or someone is sick. Now, it  
2 doesn't stop the panel if I have one of my deputy  
3 superintendents not there. So I can't say for  
4 certain that all six were there for that  
5 particular panel, but I can tell you, generally,  
6 the protocol is if they're not there, we'll take  
7 one or two actions: One would be to have someone  
8 to serve in their capacity. So if the lieutenant  
9 colonel was not available due to other commitment  
10 and/or not being physically able to participate,  
11 then we would ask them to have maybe a major serve  
12 in that capacity.

13 Q. Okay. So you were on all these panels,  
14 correct?

15 A. Yes.

16 Q. Was Cammon on the -- at those three  
17 panels?

18 A. And, again --

19 Q. You don't remember?

20 A. I don't remember.

21 Q. Okay. Let me hand you what we'll mark as  
22 Exhibit 3.

23 (Whereupon, the document referred to is  
24 marked as Exhibit No. 3 for identification.)

25 BY MR. FARRUGIA:

LAMAR DAVIS

1 Q. Okay. And this is your policy of the  
2 State Police for promotions; is that correct, P.O.  
3 229?

4 A. Yes, sir.

5 Q. Okay. Let me -- so if you'll look at  
6 Paragraph 5?

7 A. Yes, sir.

8 Q. These are the -- the factors that the  
9 panel will review on each candidate as they are  
10 being interviewed at the panel; is that correct?

11 A. Yes. But to give you proper context,  
12 this is just some of the considerations. While it  
13 says that, "Members of the promotional panel will  
14 review the provided data pertinent to each  
15 candidate, which shall contain the performance  
16 reports, educational background, both in service  
17 and outside agency, training records, awards and  
18 letters of recommendation and commendations,  
19 disciplinary actions, personal history file,  
20 including military record, record of leave taken,  
21 other relevant data requested by the promotional  
22 panel."

23 Q. Okay. So your panels considered all of  
24 these factors; is that correct?

25 A. And also other relevant data as well,

LAMAR DAVIS

1 yes, sir.

2 Q. Okay. So what relevant data, in general,  
3 did you consider other than these seven factors  
4 that are given?

5 A. Well, their resumÈs and other relevant  
6 data that we also consider.

7 Q. Okay. Adding the resumÈ, is that a newer  
8 policy?

9 A. Yes. In fact, it is, but it wasn't  
10 during the time. And while it was not a mandate,  
11 if they provided that information, that is  
12 information that we considered.

13 Q. Okay.

14 A. And of course, we considered their  
15 interview, and the information provided during the  
16 interview.

17 Q. Okay.

18 MR. FARRUGIA:

19 So let's look at what we'll mark as  
20 Exhibit 4.

21 (Whereupon, the document referred to is  
22 marked as Exhibit No. 4 for identification.)

23 BY MR. FARRUGIA:

24 Q. Okay. And now, this is the Certificate  
25 of Eligibles that was used when you were promoted

LAMAR DAVIS

1 I don't think so.

2 MR. MILES:

3 You can --

4 MR. FARRUGIA:

5 It's form of the question --

6 MR. MILES:

7 Look, you're asking him about

8 whether a blog, are you familiar what a blog

9 poster says, characterizes about something.

10 MR. FARRUGIA:

11 Okay. Okay.

12 MR. MILES:

13 If you want to say about his

14 statement, you would have a better argument.

15 MR. FARRUGIA:

16 Okay. I'm asking about his

17 statement.

18 BY MR. FARRUGIA:

19 Q. So you -- you -- you appeared before the

20 Senate Committee on Oversight of Louisiana State

21 Police, correct?

22 A. Yes, sir.

23 Q. And that committee was chaired by State

24 Senator Franklin Foil, correct?

25 A. Yes, sir.

LAMAR DAVIS

1 Q. Okay. And you made a statement there  
2 before that committee, that said that the agency  
3 has been historically comprised of white males,  
4 correct?

5 A. Something to that effect, yes, sir.

6 Q. And you also said that the agency has got  
7 to make change, correct?

8 A. I did make that statement, but I made  
9 also some other statements. Because that was in  
10 reference to a question that Senator Foil asked  
11 with regards to whether or not the head of the  
12 State Police should come from the outside or  
13 inside. And as I recall, I talked about  
14 diversity.

15 I talked about -- and that was some  
16 of the concerns that our state's leaders, our  
17 legislature discussed with our agency prior to  
18 that administration as well as in my  
19 administration. They had concerns with the agency  
20 and its lack of diversity, lack of female  
21 employment for troopers as well as lack of  
22 diversity among troopers.

23 So as I responded to Senator Foil,  
24 I advised him and gave him reasons to why I  
25 thought it would be beneficial for personnel

LAMAR DAVIS

1 within our agency to rise through the ranks and be  
2 promoted as to the head of the agency, as opposed  
3 to bringing in someone from the outside.

4           But in those statements, I also  
5 discussed diversity and it being a value added,  
6 and I did not discuss diversity just in the form  
7 of race. It's also beyond that in a more broader  
8 view. But when we said we have to make changes,  
9 that particular statement was made in reference to  
10 us needing to change policies, needing to change  
11 our operations -- needing to change operations and  
12 how we did things. So that's two statements, but  
13 yes, it was in a larger context.

14       Q. Okay. Well, you just -- in your  
15 testimony just now, you mentioned females, but you  
16 didn't mention race.

17           But you also -- when you said that  
18 you got to make changes, you were indicating  
19 making changes in race and gender, correct?

20       A. Well, I was thinking of also making  
21 changes in technology, and making changes in  
22 operations, making changes in protocols. What we  
23 found as a part of that oversight was that  
24 troopers, again, due to a lack of technology,  
25 weren't able to document.



LAMAR DAVIS

1           One particular instance came about  
2 when we did a use of force report. And that use  
3 of force report pointed to 67 percent of the  
4 people that were impacted by use of force  
5 encounters were black or brown. And as I learned  
6 later on, due to the limitations of the technology  
7 that we had in place, we cannot delve deeper and  
8 research deeper to determine why that was the  
9 case.

10           Oftentimes, it was because we were  
11 called into areas that were majority black and  
12 brown, and that resulted, obviously, in us  
13 performing duties in that area which resulted in a  
14 higher number of contacts. But because of the  
15 lack of technology, we couldn't pull that  
16 information out and get more detailed information.

17           So as I mentioned before, in that  
18 article, or in that oversight committee,  
19 specifically, that was my comments that we've got  
20 to make changes.

21           Q. Okay. So I'm going to play you -- play a  
22 clip of what you said at the committee, and you  
23 tell me if this is you and you talking, okay?

24           MR. FARRUGIA:

25           You want to come around and look?

LAMAR DAVIS

1 MR. MILES:

2 No. I've seen it.

3 MR. FARRUGIA:

4 It's seven seconds.

5 MR. MILES:

6 You're only going to play seven  
7 seconds? Why don't you want to play the whole  
8 thing, Victor? Why don't you want to play the  
9 whole thing, Victor?

10 (Playing video.)

11 BY MR. FARRUGIA:

12 Q. So there's your picture. Is that --  
13 that's the --

14 A. Senator Foil.

15 Q. -- Senator foil.

16 So is that you before the  
17 committee?

18 A. Yes, sir. And as I mentioned, I  
19 discussed how it was important for me as a trooper  
20 to see people get promoted in this agency, so that  
21 that sparks the idea and really desire, if we so  
22 choose to get promoted, that it would be possible  
23 to get promoted in this agency. So, yes, I did  
24 make that statement, but in larger context.

25 Q. So you had a policy to increase diversity

LAMAR DAVIS

1 while you were superintendent?

2 A. No. No, sir. I did not have a policy to  
3 increase diversity.

4 Q. Okay. So when you promoted people to  
5 captain, lieutenants to captain --

6 A. Yes, sir.

7 Q. -- you considered race as one factor in  
8 the decision --

9 A. No, sir.

10 Q. -- to promote, correct?

11 A. No, sir.

12 MR. FARRUGIA:

13 Let me hand you what we'll mark as  
14 Exhibit 10.

15 (Whereupon, the document referred to is  
16 marked as Exhibit No. 10 for identification.)

17 BY MR. FARRUGIA:

18 Q. Let me ask you if you've seen this  
19 article by Wesley Muller for the "Louisiana  
20 Illuminator"?

21 A. Yes, sir.

22 Q. You have seen it? Now, the title of this  
23 is, "Louisiana State Police Chief Looks to Reform  
24 Agency With Diversity and Technology."

25 Is that an accurate statement?

LAMAR DAVIS

1 I don't recall when this occurred, but I have no  
2 qualms in saying that diversity was definitely  
3 something that was considered, and that derived  
4 from conversations with our female troopers, that  
5 derived from my conversations with white male  
6 troopers, that derived from my conversations with  
7 black male troopers. So that was a point of  
8 contention of our staff and our personnel. Okay.

9 Q. Okay.

10 A. But I can assure you that I did not use  
11 race to determine promotion.

12 Q. Okay. Just for the record, this article  
13 is on the front page, November 29th, 2021.

14 Do you see that?

15 A. Okay. Well, I've held many interviews  
16 and speaking engagements between then and my  
17 retirement, so I can't tell you exactly what I  
18 said in each one.

19 Q. Okay. Now, isn't it true that -- well,  
20 let's see.

21 Where -- where is Troop F? Is that  
22 in Shreveport?

23 A. Monroe.

24 Q. Troop F was in Monroe?

25 A. Yes, sir.

LAMAR DAVIS

1 both candidates had a fleet crash, but Lieutenant  
2 Stelly's crash was in 1997, and Lieutenant  
3 Larvadain's fleet crash was 2014, correct?

4 A. Yes, sir.

5 Q. As far as awards go, Lieutenant Stelly  
6 has many more awards than Lieutenant Larvadain,  
7 correct?

8 A. Yes, sir.

9 Q. And commendations, they have equal number  
10 of commendations, correct?

11 A. Yes, sir. I think one area that --  
12 again, I know we talked about law enforcement  
13 experience. Again, to bring to your attention is  
14 the LSP experience, where Lieutenant Colonel --  
15 and this is for the Internal Affairs position,  
16 where I believe she served in Internal Affairs on  
17 two different occasions prior to her promotion.

18 Q. Well, after looking at both of these  
19 summary reports, would you agree that Lieutenant  
20 Stelly is at least as qualified as Lieutenant  
21 Larvadain for holding this new position?

22 A. And, again, when we talk about making  
23 these promotions, we talk about suitability. We  
24 promote based upon what's most suitable for the  
25 agency and what's most suitable for that position.

LAMAR DAVIS

1 And in this particular case, I found Lieutenant  
2 Colonel -- now Lieutenant Colonel Larvadain to be  
3 more suitable.

4           And as mentioned, she's held  
5 various different positions, and that's important  
6 when you look at Internal Affairs as well as  
7 investigative positions. Not just Internal  
8 Affairs, but also in detectives as well, and she  
9 also worked in other agencies in specialized  
10 divisions. We took all of that into  
11 consideration, not just her LSP, and not just  
12 education and so forth.

13           So she was definitely -- to your  
14 original question, as I remember, while I don't  
15 remember who specifically said what, the majority  
16 of the panel agreed that she was definitely the  
17 most suitable for that position.

18       Q. So she was the only African-American  
19 candidate and you promoted her, correct?

20       A. I also believe she was the only one with  
21 prior Internal Affairs experience.

22       Q. And --

23       A. And the reason why --

24       Q. Wait for a question.

25           MR. MILES:

LAMAR DAVIS

1 In fact, I don't know if that was Colonel  
2 Edmondson, Colonel Reeves, 2017 to -- so that may  
3 been during Colonel Edmondson's tenure. I'm not  
4 sure.

5 Q. Okay. But the disciplinary letter was  
6 available to you to review before you promoted  
7 him, correct?

8 A. And as mentioned, Internal Affairs  
9 briefed me on the discipline. I did not read the  
10 letter in its entirety.

11 Q. So you were aware of the information that  
12 I'm telling you now?

13 A. I was aware of his discipline, yes.

14 Q. Were you aware that Burns admitted to 51  
15 of the 52 allegations?

16 A. Not specifically, no, sir.

17 Q. And are you aware that Burns forwarded  
18 some of this information to his ex-wife's  
19 boyfriend, to his ex-wife, a non-law enforcement  
20 person?

21 A. I can't -- I don't recall if -- how in  
22 depth we went into it.

23 Q. Are you aware that Burns not only  
24 admitted that, but he also admitted that he was  
25 aware that doing so could result in his

LAMAR DAVIS

1 something that's all.

2 THE WITNESS:

3 And, again, I was briefed by  
4 Internal Affairs on the discipline, but I can't  
5 tell you I remember or recall everything that was  
6 -- that I was briefed on. We have a multitude of  
7 promotional panels that come aboard, and many of  
8 them involve discipline. So I can't tell you that  
9 I recall every aspect of what -- what discipline  
10 was read to me or provided to me.

11 BY MR. FARRUGIA:

12 Q. So you were aware that these violations,  
13 criminal and procedural violations over a  
14 three-year period was, like, less than five years  
15 prior to this panel? You were aware of that,  
16 right?

17 A. Based upon the time, yes. And as I  
18 understand it, and our policy does not dictate the  
19 -- and I want to make sure I'm clear here, but I  
20 don't believe it dictates that it should be within  
21 one year or two years, five years or otherwise.

22 Q. Okay. So based on disciplinary action  
23 and -- as a factor and many of the other factors,  
24 isn't it true that Lieutenant Stelly was much more  
25 qualified than Lieutenant Burns to be promoted to



LAMAR DAVIS

1 captain for this position?

2 A. As I can explain or tell you, in this  
3 particular instance, Lieutenant Burns -- then  
4 Lieutenant Burns, now Major Burns -- was more  
5 suitable for this position. Having worked in  
6 operational development, I knew the ins and outs  
7 of it. I worked in it a little bit over a year.

8 And having worked in that section,  
9 that section is responsible to not only the  
10 superintendent, but it also works with agencies  
11 throughout DPS, our departments through DPS.  
12 Excuse me. It works with the legislature. It  
13 works with various industry personnel. And in  
14 doing so, now Mayor Burns had distinguished  
15 himself in working in that capacity for seven  
16 years, at such a level that he was considered by  
17 many to be more of a higher rank than what he was.

18 And when I say many, I mean  
19 legislators and other people in the industry.  
20 They thought he was literally ranked higher than  
21 what he was because of how he carried himself and  
22 how he distinguished himself. So as a result of  
23 his level of performance, his experience and all  
24 the other factors that we looked at, that's why he  
25 was promoted to captain of that section.

LAMAR DAVIS

1 Q. Okay. So a lot of that's subjective  
2 opinions of other people as to his qualifications,  
3 correct?

4 A. Well, it was based upon the information  
5 and all the factors that we considered.

6 Q. Okay. And you considered all of the  
7 factors on these summary reports because these are  
8 the factors that you're required to consider  
9 because of the policy -- the State Police Policy  
10 on what to consider?

11 MR. MILES:

12 Hold on. I'm going to object. I'm  
13 going to object that it mischaracterizes his prior  
14 testimony.

15 BY MR. FARRUGIA:

16 Q. You can answer.

17 A. As I mentioned before, there's other  
18 relevant information that we consider. And that's  
19 what we considered. Now, I can't tell you today  
20 that -- exactly what I looked at in all of the  
21 panels that we convened, two, three, four years  
22 ago. But I can tell you based upon my  
23 recollection and my memory, those were the reasons  
24 why we promoted now Major Burns.

25 Q. Okay. Did you consider the factors on

LAMAR DAVIS

1 the summary reports that compared the two  
2 candidates?

3 A. That was also of consideration. His  
4 discipline report was consideration. His  
5 training, his time in grade, his specialized  
6 training, just like his experience and his  
7 performance were all considered.

8 Q. Did you consider his test score being  
9 less than Lieutenant Stelly's test score?

10 A. I did not.

11 Q. Why not?

12 A. Because, again, as I mentioned before,  
13 the test score is a requirement. It does not  
14 speak to the specific nature of the job. So  
15 performance, experience, and so forth, that was  
16 the things that we considered. The test score is  
17 a criteria to determine whether or not you can be  
18 considered to move to the next step. If you do  
19 not make the test score, it doesn't make a  
20 difference what your test score is.

21 I also want to add --

22 Q. I'm sorry. No, no, he can't add.

23 MR. MILES:

24 Yes, he can. He's not finished his  
25 answer.

LAMAR DAVIS

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MR. FARRUGIA:

He has finished his answer.

MR. MILES:

No, he can -- he can -- he can --

he 100 percent has --

MR. FARRUGIA:

No.

MR. MILES:

Well, let's get the magistrate on

the phone and see if she'll let him finish his

answer.

MR. FARRUGIA:

What do you mean finish his answer?

I'm going to different --

MR. MILES:

He said -- he just said, I wanted

to add.

MR. FARRUGIA:

He finished his answer.

MR. MILES:

He just said, I wanted to add. He

said I wanted to add, and you're not letting this

witness add. He said I wanted to add.

MR. FARRUGIA:

I answered -- he answered my

LAMAR DAVIS

1 question. What was my question?

2 MR. MILES:

3 No, no. No, Victor, you're going  
4 -- you're going to let him answer the question.

5 You're going to let him finish his answer.

6 All right. Go ahead, Colonel

7 Davis.

8 THE WITNESS:

9 One of the other factors we look at  
10 also is leadership. And I think it's important to  
11 understand all of these factors. There is no one  
12 factor that is overarching more than the other.  
13 It's a compilation of all the factors that we look  
14 at. So when we consider that, we look at  
15 leadership as being one. We look at time in  
16 grade, we look at discipline. We look at all of  
17 that. And all of those determine, again, the  
18 suitability for that position.

19 MR. FARRUGIA:

20 Are you finished?

21 THE WITNESS:

22 Yes, sir.

23 BY MR. FARRUGIA:

24 Q. All right. Let me hand you what we'll  
25 mark as Exhibit 15.

LAMAR DAVIS

1 Q. Okay. As far as commendations,  
2 Lieutenant Stelly has 12, and Lieutenant El-Amin  
3 has three, correct?

4 A. Yes, sir. And I think Lieutenant El-Amin  
5 also has three years, United States Air Force, the  
6 military.

7 Q. So I don't recall if -- if this question  
8 has been asked and answered already about the test  
9 score on El-Amin.

10 Did I ask you about his test score?

11 A. Yes, sir.

12 Q. All right. So would you say that  
13 Lieutenant Stelly is -- based on the documents in  
14 front of you and you having been on the panel, do  
15 you -- do you believe that Lieutenant Stelly was  
16 qualified for this position?

17 A. Based upon his qualifications, State  
18 Police Commission, I believe that he met the  
19 criteria to be considered for this position.

20 Q. Okay. So of -- of, all the candidates  
21 for this position, do you believe that El-Amin was  
22 qualified for the position?

23 A. And, again, the board, based upon the  
24 information that was provided, one, Lieutenant --  
25 now Captain El-Amin -- met the criteria, like all

LAMAR DAVIS

1 of the other candidates to be considered for this  
2 position. Once we looked at the information that  
3 was presented to us, then we determine that  
4 lieutenant -- or now Captain El-Amin -- was best  
5 suited for this position.

6 He had prior service in this  
7 position. He had a diverse background, not only  
8 in this position, but in department and he  
9 distinguished himself in such a manner to make us  
10 believe that he is best suited.

11 Q. Okay. Well, you didn't answer my  
12 question.

13 MR. FARRUGIA:

14 Can you repeat the question for us?

15 MR. MILES:

16 He absolutely answered it.

17 THE WITNESS:

18 I did. You asked me was he  
19 qualified for this position --

20 MR. FARRUGIA:

21 Yes.

22 THE WITNESS:

23 -- and I gave you the same  
24 information as I gave for Lieutenant Stelly. He  
25 met the criteria to be considered for this

LAMAR DAVIS

1 All right. I am -- let me hand you  
2 what we'll mark as Exhibit 16.

3 (Whereupon, the document referred to is  
4 marked as Exhibit No. 16 for identification.)

5 BY MR. FARRUGIA:

6 Q. Which is two pages, I mean two groups of  
7 things.

8 MR. MILES:

9 What is this?

10 MR. FARRUGIA:

11 Summary, 16 --

12 MR. MILES:

13 Of what?

14 MR. FARRUGIA:

15 Of the documents I'm going

16 to need --

17 MR. MILES:

18 There's no documents --

19 MR. FARRUGIA:

20 Yeah, there are, right there

21 (indicating).

22 MR. MILES:

23 Oh.

24 BY MR. FARRUGIA:

25 Q. Okay, 16. So back to Burns, the blogger.



16

**CAPT**

Year	Decl	Ind/AK	Asian	AfrAm	Hawaii/Pacific Islander	White	TOTAL
2017	0	0	0	4	0	27	31
2018	0	0	0	6	0	34	40
2019	0	0	0	6	0	23	29
2020	0	0	0	9	0	26	35
2021	0	0	0	10	1	34	45
2022	0	0	0	9	1	27	37

EXHIBIT # \_\_\_\_\_  
 DEPONENT L. DAVIS  
 TORRES REPORTING & ASSOCIATES  
 COURT REPORTING & LITIGATION SERVICES  
 www.torresreporting.com

2017

Last name	Employee First Name	Personnel number	Job title	Decl	Ind/AK	Asian	AfrAm	Hawaii/Pacific Islander	White
MCCLENDON	DAVID	100101	State Police Capt	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt	0	0	0	1	0	0
CAMMON	CHAVEZ	86593	State Police Capt	0	0	0	1	0	0
CHUSTZ	TERRY	100109	State Police Capt	0	0	0	0	0	1
MADDEN	TOM	77852	State Police Capt	0	0	0	0	0	1
COOK	WILLIAM	86499	State Police Capt	0	0	0	0	0	1
MCNEAL	CHARLES	99989	State Police Capt	0	0	0	0	0	1
GRAPHIA	GREGORY	77982	State Police Capt	0	0	0	0	0	1
DAVIS	WILLIAM	99960	State Police Capt	0	0	0	0	0	1
DUPUY	KELLY	77928	State Police Capt	0	0	0	0	0	1
BARRETT	STACEY	104851	State Police Capt	0	0	0	0	0	1
PITTS	ANTHONY	76239	State Police Capt	0	0	0	1	0	0
NAQUIN	DARRIN	99909	State Police Capt	0	0	0	0	0	1
GUILLORY	HARLAN	86207	State Police Capt	0	0	0	0	0	1
DEVALL	RODDY	86683	State Police Capt	0	0	0	0	0	1
MCGUANE	JAMES	86143	State Police Capt	0	0	0	0	0	1
ARCHOTE	DONOVAN	104858	State Police Capt	0	0	0	0	0	1
CLARK	PAUL	86684	State Police Capt	0	0	0	0	0	1
RILES	JOHN	86189	State Police Capt	0	0	0	0	0	1
BESSON	FRANK	86676	State Police Capt	0	0	0	0	0	1
BROUSSARD	BENNY	99930	State Police Capt	0	0	0	0	0	1
CORMIER	JAMES	99988	State Police Capt	0	0	0	0	0	1
VIDRINE	WAYNE	77906	State Police Capt	0	0	0	0	0	1
OLIPHANT	JAY	86497	State Police Capt	0	0	0	1	0	0
SMITH	JASON	128094	State Police Capt	0	0	0	0	0	1
LEWIS	THOMAS	86348	State Police Capt	0	0	0	0	0	1
ROBINSON	STEVEN	99958	State Police Capt	0	0	0	0	0	1
KELLEHER	ADRIAN	86322	State Police Capt	0	0	0	0	0	1
HALE	GLEN	86408	State Police Capt	0	0	0	0	0	1
RICHARDS	MARK	86220	State Police Capt	0	0	0	0	0	1
BROWN	ROBERT	86240	State Police Capt	0	0	0	0	0	1

2018

Last name	Employee First Name	Personnel number	Job title	Decl	nd/AK	Asian	AfrAm	Hawaii/Pacific Islander	White
DAVIS	LAMAR	77900	State Police Capt	0	0	0	1	0	0
MCCLENDON	DAVID	100101	State Police Capt	0	0	0	0	0	1
RICHARDS	MARK	86220	State Police Capt	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt	0	0	0	1	0	0
CAMMON	CHAVEZ	86593	State Police Capt	0	0	0	1	0	0
CHUSTZ	TERRY	100109	State Police Capt	0	0	0	0	0	1
MADDEN	TOM	77852	State Police Capt	0	0	0	0	0	1
COOK	WILLIAM	86499	State Police Capt	0	0	0	0	0	1
HODGES	ROBERT	100102	State Police Capt	0	0	0	0	0	1
MCNEAL	CHARLES	99989	State Police Capt	0	0	0	0	0	1
GRAPHIA	GREGORY	77982	State Police Capt	0	0	0	0	0	1
DAVIS	WILLIAM	99960	State Police Capt	0	0	0	0	0	1
MARCEL	KEVIN	86264	State Police Capt	0	0	0	0	0	1
DUPUY	KELLY	77928	State Police Capt	0	0	0	0	0	1
BARRETT	STACEY	104851	State Police Capt	0	0	0	0	0	1
ESKEW	CHRISTOPHER	77979	State Police Capt	0	0	0	0	0	1
PITTS	ANTHONY	76239	State Police Capt	0	0	0	1	0	0
BEHRENS	DEAN	86488	State Police Capt	0	0	0	0	0	1
NAQUIN	DARRIN	99909	State Police Capt	0	0	0	0	0	1
GUILLORY	HARLAN	86207	State Police Capt	0	0	0	0	0	1
KELLEHER	ADRIAN	86322	State Police Capt	0	0	0	0	0	1
DEVALL	RODDY	86683	State Police Capt	0	0	0	0	0	1
ARCHOTE	DONOVAN	104858	State Police Capt	0	0	0	0	0	1
RILES	JOHN	86189	State Police Capt	0	0	0	0	0	1
BESSON	FRANK	86676	State Police Capt	0	0	0	0	0	1
BROUSSARD	BENNY	99930	State Police Capt	0	0	0	0	0	1
CORMIER	JAMES	99988	State Police Capt	0	0	0	0	0	1
DUPLECHAIN	ERIC	77970	State Police Capt	0	0	0	0	0	1
VIDRINE	WAYNE	77906	State Police Capt	0	0	0	0	0	1
SMITH	JASON	128094	State Police Capt	0	0	0	0	0	1
LEWIS	THOMAS	86348	State Police Capt	0	0	0	0	0	1
PETERS	JOHN	86260	State Police Capt	0	0	0	0	0	1
ROBINSON	STEVEN	99958	State Police Capt	0	0	0	0	0	1
WILLIAMS	CORDELL	195663	State Police Capt	0	0	0	1	0	0
HALE	GLEN	86408	State Police Capt	0	0	0	0	0	1
SMITH	TREVOR	86350	State Police Capt	0	0	0	0	0	1
VANBUREN	KENDRICK	99863	State Police Capt	0	0	0	1	0	0
MCGUANE	JAMES	86143	State Police Capt	0	0	0	0	0	1
GUILLOTTE	HEATH	86450	State Police Capt	0	0	0	0	0	1
40 TURNER	JASON	86653	State Police Capt	0	0	0	0	0	1

2019

Last name	Employee First N	Personnel number	Job title	Decl	nd/AH	Asian	AfrAm	Hawai i/Pacific	White
DAVIS	LAMAR	77900	State Police Capt	0	0	0	1	0	0
RICHARDS	MARK	86220	State Police Capt	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt	0	0	0	1	0	0
CAMMON	CHAVEZ	86593	State Police Capt	0	0	0	1	0	0
HODGES	ROBERT	100102	State Police Capt	0	0	0	0	0	1
GRAPHIA	GREGORY	77982	State Police Capt	0	0	0	0	0	1
KELLEHER	ADRIAN	86322	State Police Capt	0	0	0	0	0	1
MARCEL	KEVIN	86264	State Police Capt	0	0	0	0	0	1
DUPUY	KELLY	77928	State Police Capt	0	0	0	0	0	1
ESKEW	CHRISTOPHER	77979	State Police Capt	0	0	0	0	0	1
PITTS	ANTHONY	76239	State Police Capt	0	0	0	1	0	0
SLATON	J	128115	State Police Capt	0	0	0	0	0	1
BEHRENS	DEAN	86488	State Police Capt	0	0	0	0	0	1
DEVALL	RODDY	86683	State Police Capt	0	0	0	0	0	1
ARCHOTE	DONOVAN	104858	State Police Capt	0	0	0	0	0	1
RILES	JOHN	86189	State Police Capt	0	0	0	0	0	1
BESSON	FRANK	86676	State Police Capt	0	0	0	0	0	1
BROUSSARD	BENNY	99930	State Police Capt	0	0	0	0	0	1
DUPLECHAIN	ERIC	77970	State Police Capt	0	0	0	0	0	1
SMITH	JASON	128094	State Police Capt	0	0	0	0	0	1
PETERS	JOHN	86260	State Police Capt	0	0	0	0	0	1
WILLIAMS	CORDELL	195663	State Police Capt	0	0	0	1	0	0
GUILLORY	HARLAN	86207	State Police Capt	0	0	0	0	0	1
HALE	GLEN	86408	State Police Capt	0	0	0	0	0	1
SMITH	TREVOR	86350	State Police Capt	0	0	0	0	0	1
VANBUREN	KENDRICK	99863	State Police Capt	0	0	0	1	0	0
COOK	WILLIAM	86499	State Police Capt	0	0	0	0	0	1
GUILLOTTE	HEATH	86450	State Police Capt	0	0	0	0	0	1
29 TURNER	JASON	86653	State Police Capt	0	0	0	0	0	1

2020

Last name	Employee First	Personnel number	Job title	Decl	Ind/AK	Asian	AfrAm	Hawaii/Pacific Islander	White
DAVIS	LAMAR	77900	State Police Capt:	0	0	0	1	0	0
RICHARDS	MARK	86220	State Police Capt:	0	0	0	0	0	1
SLATON	J	128115	State Police Capt:	0	0	0	0	0	1
STELLY	DAVID	99812	State Police Capt:	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt:	0	0	0	1	0	0
CAMMON	CHAVEZ	86593	State Police Capt:	0	0	0	1	0	0
ESKEW	CHRISTOPHER	77979	State Police Capt:	0	0	0	0	0	1
LARVADAIN	TREONE	195660	State Police Capt:	0	0	0	1	0	0
HODGES	ROBERT	100102	State Police Capt:	0	0	0	0	0	1
SMITH	TREVOR	86350	State Police Capt:	0	0	0	0	0	1
KELLEHER	ADRIAN	86322	State Police Capt:	0	0	0	0	0	1
MARCEL	KEVIN	86264	State Police Capt:	0	0	0	0	0	1
DUPUY	KELLY	77928	State Police Capt:	0	0	0	0	0	1
MARCELLE	AARON	128136	State Police Capt:	0	0	0	1	0	0
BEHRENS	DEAN	86488	State Police Capt:	0	0	0	0	0	1
DEVALL	RODDY	86683	State Police Capt:	0	0	0	0	0	1
JACKSON	FERTANO	86166	State Police Capt:	0	0	0	1	0	0
GRAPHIA	GREGORY	77982	State Police Capt:	0	0	0	0	0	1
ARCHOTE	DONOVAN	104858	State Police Capt:	0	0	0	0	0	1
MASON	HIRAM	77990	State Police Capt:	0	0	0	1	0	0
RILES	JOHN	86189	State Police Capt:	0	0	0	0	0	1
BESSON	FRANK	86676	State Police Capt:	0	0	0	0	0	1
BROUSSARD	BENNY	99930	State Police Capt:	0	0	0	0	0	1
MCCAIN	MICHAEL	77980	State Police Capt:	0	0	0	0	0	1
DUPLECHAIN	ERIC	77970	State Police Capt:	0	0	0	0	0	1
SMITH	JASON	128094	State Police Capt:	0	0	0	0	0	1
PETERS	JOHN	86260	State Police Capt:	0	0	0	0	0	1
WILLIAMS	CORDELL	195663	State Police Capt:	0	0	0	1	0	0
GUILLORY	HARLAN	86207	State Police Capt:	0	0	0	0	0	1
BRADLEY	PATRICK	99916	State Police Capt:	0	0	0	0	0	1
HALE	GLEN	86408	State Police Capt:	0	0	0	0	0	1
VANBUREN	KENDRICK	99863	State Police Capt:	0	0	0	1	0	0
COOK	WILLIAM	86499	State Police Capt:	0	0	0	0	0	1
GUILLOTTE	HEATH	86450	State Police Capt:	0	0	0	0	0	1
36 TURNER	JASON	86653	State Police Capt:	0	0	0	0	0	1

2021

Last name	Employee First Name	Personnel number	Job title	Decl	Ind/Ak	Asian	AfrAm	Hawaii/ Pacific Islander	White
SLATON	J	128115	State Police Capt	0	0	0	0	0	1
STELLY	DAVID	99812	State Police Capt	0	0	0	0	0	1
ESKEW	CHRISTOPHER	77979	State Police Capt	0	0	0	0	0	1
LARVADAIN	TREONE	195660	State Police Capt	0	0	0	1	0	0
ROBINETTE	DWIGHT	99845	State Police Capt	0	0	0	1	0	0
ALBRIGHT	ADAM	128255	State Police Capt	0	0	0	0	0	1
HODGES	ROBERT	100102	State Police Capt	0	0	0	0	0	1
MURPHY	BELINDA	128080	State Police Capt	0	0	0	0	0	1
SMITH	TREVOR	86350	State Police Capt	0	0	0	0	0	1
BURNS	ROBERT	128134	State Police Capt	0	0	0	0	0	1
KELLEHER	ADRIAN	86322	State Police Capt	0	0	0	0	0	1
MARCEL	KEVIN	86264	State Police Capt	0	0	0	0	0	1
DUPUY	KELLY	77928	State Police Capt	0	0	0	0	0	1
KILGORE	NICOLE	86617	State Police Capt	0	0	0	0	0	1
MARCELLE	AARON	128136	State Police Capt	0	0	0	1	0	0
MARTIN	JONAS	77657	State Police Capt	0	0	0	0	0	1
CAMMON	CHAVEZ	86593	State Police Capt	0	0	0	1	0	0
MANALE	NICHOLAS	181587	State Police Capt	0	0	0	0	0	1
JACKSON	FERTANO	86166	State Police Capt	0	0	0	1	0	0
GRAPHIA	GREGORY	77982	State Police Capt	0	0	0	0	0	1
ARCHOTE	DONOVAN	104858	State Police Capt	0	0	0	0	0	1
MASON	HIRAM	77990	State Police Capt	0	0	0	1	0	0
BERGERON	LANNY	86280	State Police Capt	0	0	0	0	0	1
BESSON	FRANK	86676	State Police Capt	0	0	0	0	0	1
MCCAIN	MICHAEL	77980	State Police Capt	0	0	0	0	0	1
SALTZMAN	BRAD	128137	State Police Capt	0	0	0	0	0	1
DUPLECHAIN	ERIC	77970	State Police Capt	0	0	0	0	0	1
SMITH	JASON	128094	State Police Capt	0	0	0	0	0	1
CUENCA	ERIC	76240	State Police Capt	0	0	0	0	0	1
PETERS	JOHN	86260	State Police Capt	0	0	0	0	0	1
MAYEUX	MICHAEL	99929	State Police Capt	0	0	0	0	0	1
WILLIAMS	CORDELL	195663	State Police Capt	0	0	0	1	0	0
DABADIE	BERTRAND	168216	State Police Capt	0	0	0	0	0	1
GUILLORY	HARLAN	86207	State Police Capt	0	0	0	0	0	1
BRADLEY	PATRICK	99916	State Police Capt	0	0	0	0	0	1
HASSELBECK	JOSEPH	77909	State Police Capt	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt	0	0	0	1	0	0
EL AMIN	SALEEM	178492	State Police Capt	0	0	0	1	0	0
VANBUREN	KENDRICK	99863	State Police Capt	0	0	0	1	0	0
COOK	WILLIAM	86499	State Police Capt	0	0	0	0	0	1
GUILLOTTE	HEATH	86450	State Police Capt	0	0	0	0	0	1
LUMMUS	ROBERT	226858	State Police Capt	0	0	0	0	0	1
TURNER	JASON	86653	State Police Capt	0	0	0	0	0	1
44 FONTENOT	MARK	86453	State Police Capt	0	0	0	0	0	1

2022

Last name	Employee First Name	Personnel number	Job title	Decl	Ind/AK	Asian	AfrAm	Hawaii/Pacific Islander	White
JACKSON	PATRICK	128102	State Police Capt	0	0	0	1	0	0
SLATON	J	128115	State Police Capt	0	0	0	0	0	1
STELLY	DAVID	99812	State Police Capt	0	0	0	0	0	1
EL AMIN	SALEEM	178492	State Police Capt	0	0	0	1	0	0
LARVADAIN	TREONE	195660	State Police Capt	0	0	0	1	0	0
ROBINETTE	DWIGHT	99845	State Police Capt	0	0	0	1	0	0
ALBRIGHT	ADAM	128255	State Police Capt	0	0	0	0	0	1
BROWN	JOHNNIE	86273	State Police Capt	0	0	0	1	0	0
MURPHY	BELINDA	128080	State Police Capt	0	0	0	0	0	1
BURNS	ROBERT	128134	State Police Capt	0	0	0	0	0	1
MARTIN	JONAS	77657	State Police Capt	0	0	0	0	0	1
DAVIS	WILLIAM	99960	State Police Capt	0	0	0	0	0	1
GUIDRY	CHAD	148650	State Police Capt	0	0	0	0	0	1
MARCEL	KEVIN	86264	State Police Capt	0	0	0	0	0	1
KILGORE	NICOLE	86617	State Police Capt	0	0	0	0	0	1
MANALE	NICHOLAS	181587	State Police Capt	0	0	0	0	0	1
DABADIE	BERTRAND	168216	State Police Capt	0	0	0	0	0	1
JACKSON	FERTANO	86166	State Police Capt	0	0	0	1	0	0
MARCELLE	AARON	128136	State Police Capt	0	0	0	1	0	0
ARCHOTE	DONOVAN	104858	State Police Capt	0	0	0	0	0	1
MASON	HIRAM	77990	State Police Capt	0	0	0	1	0	0
BERGERON	LANNY	86280	State Police Capt	0	0	0	0	0	1
SALTZMAN	BRAD	128137	State Police Capt	0	0	0	0	0	1
COMEAX	BEAU	147471	State Police Capt	0	0	0	0	0	1
DUPLECHAIN	ERIC	77970	State Police Capt	0	0	0	0	0	1
SMITH	JASON	128094	State Police Capt	0	0	0	0	0	1
CUENCA	ERIC	76240	State Police Capt	0	0	0	0	0	1
MAYEUX	MICHAEL	99929	State Police Capt	0	0	0	0	0	1
CHAMORRO	PAUL	130363	State Police Capt	0	0	0	0	0	1
HODGES	ROBERT	100102	State Police Capt	0	0	0	0	0	1
BADEAUX	LARRY	130283	State Police Capt	0	0	0	0	0	1
HASSELBECK	JOSEPH	77909	State Police Capt	0	0	0	0	0	1
WILLIAMS	DERRELL	99918	State Police Capt	0	0	0	1	0	0
BRADLEY	PATRICK	99916	State Police Capt	0	0	0	0	0	1
GUILLOTTE	HEATH	86450	State Police Capt	0	0	0	0	0	1
LUMMUS	ROBERT	226858	State Police Capt	0	0	0	0	0	1
37 FONTENOT	MARK	86453	State Police Capt	0	0	0	0	0	1

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 CHAVEZ H. CAMMON, taken on Tuesday, June 4, 2024, commencing at 2:00 PM, in the offices of Louisiana State Police Headquarters, Office of Legal Affairs, 7979 Independence Boulevard, Third Floor, Baton Rouge, Louisiana, 70806.



1 is considered. You look at how they did  
2 during the interview process, and you talk  
3 about having more specialized training as  
4 opposed to the other. It's one of the factors  
5 that is listed on the promotional summary.

6 Q Now, let's look at the next promotion  
7 of -- now, there were two promotions on one  
8 day, and that was Lieutenant Burns was  
9 promoted, and also Lieutenant El Amin were  
10 promoted on the same day?

11 A Yes, sir.

12 Q So let's look at Lieutenant Burns  
13 first.

14 A Okay.

15 Q Now, that was to Operational  
16 Development; correct?

17 A Yes, sir.

18 Q Now, would you agree that Lieutenant  
19 Stelly would be a good fit in Operational  
20 Development because of his educational  
21 background?

22 A I would agree that he would be a good  
23 fit or consideration, based off of his  
24 experience and skill set that I've known of  
25 John, of Lieutenant Stelly to have. Again,

1 you have a list of candidates here on this  
2 list. As I spoke on the last list, each one  
3 of these candidates would be considered, are  
4 definitely being considered because they made  
5 the list, Number 1, but also I know -- you  
6 know, I know some of the -- I know the  
7 candidates on this list and believe that any  
8 one of them could be suitable for promotion  
9 into this particular position.

10 Q So they're all qualified?

11 A Yes, sir.

12 Q Okay. Now, look at the promotional  
13 summary forms, and in considering a promotion  
14 to captain, isn't one thing you look at  
15 disciplinary action?

16 A I don't have the summary in front of  
17 me. I just have the two things. Yes, you're  
18 correct; discipline is one of the factors  
19 listed on the promotional summary.

20 Q Okay. So do you recall that  
21 Lieutenant Burns had a serious infraction in  
22 his disciplinary actions?

23 A Yeah. According to this disciplinary  
24 promotional summary, it's listed that he had a  
25 64-hour suspension, and they list what the

1 policy and procedure infraction is here; yes.  
2 He had a -- he was disciplined or suspended  
3 for policy violations here. He was  
4 disciplined.

5 Q Okay. It was a serious policy  
6 violation of the unauthorized use of looking  
7 up names on the -- what's it called?

8 A On the MDT, or database.

9 Q Right.

10 A I forget what it was. It says on  
11 here. He was disciplined for 64 hours in 2017  
12 for the violations that are listed on his  
13 promotional summary; yes. He was disciplined  
14 for it.

15 Q Okay. Now, as far as the one factor  
16 of disciplinary actions, in comparing  
17 Lieutenant Burns to Lieutenant Stelly, in this  
18 one factor Lieutenant Stelly would be more  
19 qualified because of a serious disciplinary  
20 action of Lieutenant Burns; correct?

21 A If we only considered discipline,  
22 your statement would be true.

23 Q Okay.

24 A But I keep saying everything --  
25 there's several factors that are considered.

1 Most importantly I also see that it was a  
2 disciplinary action that occurred back in  
3 2017. What date was his promotion? 2021.

4 Q It states on the --

5 A Promotional summary, huh?

6 Q Right here?

7 A Yes, so 2021.

8 Q 2021?

9 A I don't negate anybody that  
10 violates -- I don't make light of any  
11 disciplinary actions that occur for any  
12 personnel; however, this is a factor -- again,  
13 I have to reiterate -- one of the factors  
14 that's on a promotional summary that's a  
15 snapshot for us to look at and consider; and  
16 in this particular case, I do recall that  
17 discussion and I do recall during the  
18 promotional panel, we discussed discipline.

19 We discussed service, years of  
20 service. We discussed the overall leadership  
21 ability. We discussed on this particular  
22 panel how the interview process, how did they  
23 interview, and I vaguely can tell you this one  
24 stands out. I say vaguely. I mean, this one  
25 stands out because I was sharing with someone

1 that, one of the panel members, I've seen --  
2 I've seen Robert Burns interview in the past,  
3 and for me, because I'm a stickler for, you  
4 know, presenting yourself, and I'm a stickler  
5 for how your performance was in overall review  
6 form from previous commanders and what have  
7 you.

8           And Robert Burns's interview, I  
9 remember this one was for me one of the best  
10 interviews I've heard during sitting on a  
11 panel, because he was able to articulate his  
12 forward thinking, and that particular position  
13 required, you know, a lot of knowledge, and  
14 again, I point out that John is very  
15 knowledgable. But took a bunch of troopers  
16 and lined them up that knows, that worked with  
17 Lieutenant Stelly, one of the things you'll  
18 probably hear out of the average group is  
19 knowledgable and very intelligent.

20           Again, that's factors that are  
21 considered; however, when you're looking at to  
22 put a round peg in a round hole, I'm not  
23 saying that Lieutenant Stelly was not  
24 qualified. He's on this list, so he was being  
25 considered, but we're looking for the best

1 qualified person for this position at this  
2 time for us, and the panel obviously -- he was  
3 promoted, Burns was. He was the person that  
4 was recommended for this position, based off  
5 of how he articulated himself, performance,  
6 competency to perform the job and the things  
7 that were being considered. All of the  
8 factors on the promotion summary that we  
9 talked about, all of that is taken into  
10 consideration.

11 Q So what do you recall about  
12 Lieutenant Stelly's interview?

13 A John, and just at some the point  
14 because I see you documented that I called  
15 you, but do you have the day? I know you and  
16 I, I came to Troop B. I came to Troop B, and  
17 I can't recall exactly which one of these  
18 interviews, but there was one interview  
19 because I know, I knew John. I asked Captain  
20 Archote for a meeting, you know, and I can't  
21 tell you if it was this one or the one after  
22 this one, but I was kind of disappointed in  
23 the lack of information.

24 I remember going, because I asked to  
25 meet with John and the captain at the troop.

1 I drove down to Troop B to sit down with him  
2 to just get feedback from him, but also to  
3 offer up some other advice. Maybe, you know,  
4 say, you know, work on just articulating how  
5 you are going to lead; you know, things that  
6 commanders are looked to do in their duties  
7 and that's -- you know, be forward thinking.

8           What's your plan? What's your goals?  
9 I don't think I heard that, if I recall  
10 correctly, completely, in his articulation  
11 during the interview process of how he would  
12 be the best candidate and lead the Operational  
13 Development section. Now, that's what I  
14 recall, and again, I can't remember if it was  
15 this one. It was -- because I think you said  
16 it was two interviews on this date, so it was  
17 one of these two.

18           I remember, and I can't -- I don't  
19 know if it's documented where I came to Troop  
20 B, but I went. I remember going to Troop B  
21 and sitting in the captain's office, and  
22 having a discussion on some things that John  
23 could do to make -- make better his  
24 interviews.

25           Q       Okay. Now, isn't it true that you

1 met with Lieutenant Stelly in your office in  
2 Baton Rouge, long before these dates in 2021?

3 A Yeah, when I was -- I did, probably  
4 did, uh-huh (affirmative response), yeah. I  
5 was the deputy superintendent, if I recall  
6 correctly, over patrol.

7 Q Right, and that's when you had those  
8 discussions. It wasn't around the time of  
9 these particular July 9th interview for Burns  
10 and El Amin.

11 A And again, my dates slip me, so I  
12 could be corrected. I do recall having  
13 another meeting with Lieutenant Stelly and  
14 Captain Archote at Troop B as well. I came to  
15 Troop B and met with them, so whether that was  
16 right after this one, I was the deputy  
17 superintendent. Yeah. I don't know the exact  
18 date, but I know there was a prompt for me to  
19 go and speak with him. See, on here it's  
20 5/14/21, so that would have been before.  
21 Yeah, 5/14/21, he documented I was in  
22 Archote's office, so that is correct. I was  
23 in before this one. No, he was in Archote.  
24 That's not me discussing anything with him.  
25 That's something else. That's when he met



1 with Archote.

2 Q Okay. All right. Now, if you look  
3 at Page 282 on the journal, you were a captain  
4 of IA at this time.

5 MR. MILES:

6 What time?

7 EXAMINATION BY MR. FARRUGIA:

8 Q Well, it's at the bottom of Page 282.  
9 This is a time when you were captain of IA.  
10 Now, what years were you captain of IA?

11 A 2017 to 2020.

12 Q To 2020, okay. So the PO 229  
13 indicates that annual evaluations, military  
14 service, training, annual ratings, education,  
15 time and grade. All those factors are  
16 considered in promotion, but it was a meeting  
17 between you and Archote in Archote's office,  
18 and you yourself said that the merit-based  
19 data that IA gathers for promotional  
20 committees goes unconsidered; that you're the  
21 one who said that?

22 A Repeat that?

23 Q Look at the bottom of Page 282.

24 A All right. Can I read it out loud?

25 Q Bottom of 282.

1 sections was to make sure they cover  
2 the captain in his absence, his or  
3 her absence, and making sure that  
4 documentation and paperwork was  
5 completed properly. You had a list  
6 of things that I know John in  
7 particular, the video cameras, videos  
8 from -- requests from the district  
9 attorney's offices he was responsible  
10 for.

11 So it was -- it's not a -- it's  
12 a heavy role; right? I'll say that.  
13 It requires a lot of responsibility  
14 for someone that has the fortitude  
15 and competency to run that particular  
16 position or section. It's not made  
17 for everybody, I'll say that. It  
18 takes the right type of person to  
19 lead, and to be an executive officer.

20 EXAMINATION BY MR. FARRUGIA:

21 Q Okay. Now, looking at these, you  
22 know John, Lieutenant Stelly, very well.  
23 Looking at these 18 panels on the pages here  
24 of positions that he applied for as captain,  
25 which of those positions do you think are the

1 best fit for Lieutenant Stelly's skills and  
2 abilities?

3 A Before I answer your question, let me  
4 say this. I spent 25 years with state police.  
5 I got promoted to captain at the 17-year mark.  
6 I've always heard the saying, and I'll share  
7 this with you. I know this is a deposition,  
8 but if you ever want to make God laugh, you  
9 tell him your plans. In all the positions  
10 that I got promoted in myself in state police,  
11 I didn't see myself going into those. That  
12 wasn't my plan.

13 The point I'm making here is on any  
14 given Sunday, anybody that's trained,  
15 competent, that comes through, that shows that  
16 they're able to be a leader on the commander's  
17 level, could have, or could have earned the  
18 promotion of any of these positions. When you  
19 ask me which position Lieutenant Stelly is  
20 most suitable for in his background, sir, I  
21 would tell you any position.

22 Any position he can lead with the  
23 proper training, guidance, and mentorship,  
24 experience, knowledge, education. On any  
25 given Sunday anybody could, if trained

1 properly through the department, what the  
2 department requires, could be a captain in IA,  
3 Gaming, Technical Support, Troop N, just to  
4 name some of these that are listed here.

5 I mentioned earlier that when you  
6 line up a group of troopers, and you ask them  
7 if we were here celebrating and talking about  
8 John Stelly, several troopers would tell you,  
9 intelligent, very smart, but I promise you  
10 also they would tell you if you asked, what  
11 was one of the things that you would consider  
12 that holds him back, and I say this and he  
13 knows this, because we've mentioned it.

14 Being, coming across as robotic,  
15 right, was one of the things I often tried to  
16 help. Whether he remembers this or not, we  
17 talked about trying to be more personable and,  
18 you know, when you interview, when you  
19 display, you know, you have a great list of  
20 training, that's all great. That's a great  
21 thing. Being a captain, being a commander in  
22 state police requires several things: To be  
23 able to lead, to be able to communicate to  
24 people.

25 When you talk about these positions

1 the fact that I was a part of history, by  
2 being -- there's no comparison in the number  
3 of lieutenant colonels from 2017 to 2021 as  
4 well. That means a lot. I'm part of that  
5 percentage as well, that we only had one  
6 African-American lieutenant colonel in 2017,  
7 as opposed to three in 2021.

8 Whether that's considered or not or  
9 part of the conversation, I think you look at  
10 all the ranks, and I would be curious to see  
11 how that percentage played, as well as the  
12 troopers that come up, that came on the job  
13 from 2017 to now. I would take those  
14 considerations as well, just curious to see.

15 Q Okay.

16 A I don't know where we're going with  
17 that point but I think that, you know, you'd  
18 want to make your department -- we're speaking  
19 about the demographics -- reflect the  
20 demographics of the state in which we serve,  
21 and whether it's African-Americans or whether  
22 it's females or whether it's another race  
23 listed here, I think it's important to make  
24 sure that the best persons are considered.

25 Q Okay. Now, in increasing the

1 lieutenant colonels in 2021, two  
2 African-American colonels were appointed by  
3 Colonel Davis, correct, in 2021?

4 A Yes, sir.

5 Q And that was not an advertised  
6 position, or you didn't compete for those  
7 positions, did you?

8 A According to Colonel Davis, he  
9 interviewed other candidates.

10 Q Was the position advertised?

11 A It's appointed by the superintendent  
12 of state police. No, it's not advertised.  
13 It's appointed.

14 Q Okay. Let's see.

15 MR. MILES:

16 Off the record.

17 (Brief recess.)

18 EXAMINATION BY MR. FARRUGIA:

19 Q All right, Mr. Cammon.

20 A Yes, sir.

21 Q A couple more questions for you. Was  
22 the candidate's race ever a factor, to any  
23 degree whatsoever, in his being chosen for  
24 promotion over somebody else?

25 A No.

1 Q Another question; was a candidate's  
2 race ever a factor to any degree whatsoever in  
3 his not being chosen for promotion over  
4 somebody else?

5 A No.

6 Q In any of your promotional panels  
7 that you attended, did you ever hear anyone  
8 talk about race?

9 A No, sir.

10 Q In any of those panels, did you ever  
11 hear anyone talk about diversity?

12 A No, sir, not in the sense of race, we  
13 haven't talked about diversity; no. No, when  
14 we talk about -- I say when. I can't recall  
15 us talking about anything about diversity on  
16 the panel. We've talked about diversity as a  
17 whole with the agency being, you know, when  
18 you look at diversity, you want to consider  
19 different backgrounds of personnel. You want  
20 to consider their various skill sets. That's  
21 in the sense of what I remember the point  
22 behind diversity that we were trying to make.

23 MR. FARRUGIA:

24 Okay. I have no further  
25 questions.





1 Q Okay.

2 A When I became superintendent the  
3 practice prior to that was, is that the  
4 superintendent made the decision on commanders  
5 solely. Now, he may or may not have consulted  
6 with someone else, but there was no formal  
7 process that says this is the way we're going  
8 to select commanders. They were just selected  
9 by the superintendent.

10 When I came in, I felt that that was  
11 not a very good process for us to have, and  
12 that we should have a more professional  
13 process, and so that's when we began using  
14 this process, to where the superintendent  
15 takes guidance from the panel and goes -- you  
16 know, allows those who have worked or  
17 currently work with the individual to be able  
18 to make recommendations for promotion.

19 So to address your specific question,  
20 the candidate would be called in. There would  
21 be a set of questions that were asked to all  
22 candidates. The same questions were asked to  
23 all candidates. The applicant, if you will,  
24 would come in and they would be asked a  
25 question, usually by different deputy

1 superintendents around the table.

2 At the completion of the interviews,  
3 the process was that the deputy superintendent  
4 who was over that section, or if there was a  
5 major, the major who was over that section  
6 would make a recommendation of promotion for  
7 the promotional position. Then the deputy  
8 superintendent who was over that section would  
9 either agree, or would speak to who they would  
10 recommend for the position, and then we would  
11 allow the other deputy superintendents around  
12 the table to voice their recommendations and  
13 then the chief of staff, and then a decision  
14 was made.

15 Q Okay, and in the panels that you  
16 participated in for promotion to captain, was  
17 there a disagreement on occasion as to who  
18 should be selected?

19 A I don't recall any disagreements.  
20 You know, naturally there could be anywhere  
21 from one, two, three, four names that are --  
22 that are discussed. But as I recall, all of  
23 our commander position promotions were  
24 unanimous, and I never -- I never went against  
25 the majority recommendations of the committee,

1 merit, if that answers your question.

2 EXAMINATION BY MR. FARRUGIA:

3 Q Okay. I believe you just said that  
4 the decision to promote should not be based  
5 solely on race or one of those other factors,  
6 but isn't it true that the panel must not  
7 promote someone when they consider race as one  
8 of the factors in the promotion?

9 A I'm not sure. Could she read it  
10 back? Did I say "solely"?

11 (Court reporter reads back answer.)

12 MR. FARRUGIA:

13 Now, could you repeat my  
14 followup question, so he can answer  
15 that.

16 (Court reporter reads back question.)

17 THE WITNESS:

18 And I believe I clarified that  
19 for you after I said "solely," in  
20 that the promotion should be based on  
21 merit.

22 EXAMINATION BY MR. FARRUGIA:

23 Q Okay. So isn't it true that the  
24 panel should not consider race as a factor in  
25 its promotion decision?

1           A       During my administration as  
2       superintendent we hired, transferred, and  
3       promoted individuals not based on race, sex,  
4       or nationally. We made a conscious decision  
5       to hire the right folks upon recommendations  
6       from the commanders, to transfer the folks  
7       upon recommendations from the commanders, and  
8       to promote those that we felt were best suited  
9       for the positions that were open for  
10      promotion, and we would let the race, the sex,  
11      the gender, the nationality statistics bear  
12      out where they bore.

13           Q       Okay.

14           A       So if you're --

15           Q       Now, let --

16           A       Go ahead.

17           Q       Well, let me ask you a question. Do  
18      you agree that the LSP has the legal  
19      responsibility to protect its employees from  
20      any discrimination in the workplace?

21           MS. ROSS:

22                    Objection; asking a legal  
23                    conclusion. You can answer, if you  
24                    can.

25           THE WITNESS:

1 are the individuals that are eligible  
2 from the list provided from the state  
3 police commission, to be interviewed  
4 for that position.

5 EXAMINATION BY MR. FARRUGIA:

6 Q Well, if that were the position of  
7 the Louisiana State Police Commission, they  
8 would send the list without scores; correct?

9 MS. ROSS:

10 Objection. You can answer, if  
11 you can.

12 THE WITNESS:

13 I think I've answered that. I  
14 can't answer the purpose of the  
15 Louisiana State Police Commission, as  
16 far as sending scores and not sending  
17 scores. The Louisiana State Police  
18 Commission does not say that if  
19 someone makes a 95 on a promotional  
20 exam, that they have to be promoted  
21 over someone who makes a 74. It says  
22 that you have to promote someone from  
23 within this grade range.

24 EXAMINATION BY MR. FARRUGIA:

25 Q Okay. Now, isn't it true that if a

1 candidate scores a higher score on the exam,  
2 they are more familiar with the information in  
3 the exam that they're being tested on; isn't  
4 that correct?

5 MS. ROSS:

6 Objection; you can answer.

7 THE WITNESS:

8 I don't know that I agree with  
9 that or not. Some people are better  
10 test takers, and some people are very  
11 poor test takers. It's not an  
12 indicator in my eyes. I wasn't a  
13 very good test taker, to be honest  
14 with you, and I made it to  
15 superintendent.

16 So, you know, I didn't make in  
17 the 90s on tests, so I don't think  
18 that any -- and state police is not a  
19 time and grade organization, like the  
20 New Orleans Police or the Baton Rouge  
21 Police or Shreveport Police. You  
22 know, you don't get promoted based on  
23 your time on the job plus making a  
24 high grade, so I'm not sure if  
25 you-all were aware of that or not.

1 MS. ROSS:

2 Objection. You can answer.

3 THE WITNESS:

4 Again, you're speaking of  
5 something I believe that happened  
6 some six years ago now, and asking me  
7 specifics of an interview and  
8 responses I'm just frankly unable to  
9 do, but what I can tell you about  
10 then Lieutenant Stelly's response  
11 was, and I don't mean this rudely,  
12 but I found him -- it to be very  
13 difficult for him to articulate to us  
14 his views.

15 And I did not find him -- you  
16 spoke earlier about tests, written  
17 tests, and I told you some people are  
18 brilliant test takers and some are  
19 not so good a test takers, and  
20 obviously Lieutenant Stelly was a  
21 good test taker, but contrastedly,  
22 Lieutenant Stelly was not a good  
23 interviewer.

24 He did not -- I did not feel  
25 that he did very well presenting

1           himself in an interview, but to give  
2           you specifics of what he said and  
3           didn't say, I can't say.

4       EXAMINATION BY MR. FARRUGIA:

5           Q       Okay. So you don't remember what he  
6           said; correct?

7           A       Correct.

8           Q       So what do you remember about his  
9           presentation that you say was not in his  
10          favor? What exactly did you remember?

11          A       I just remember that he -- his  
12          presentation did not make an impression on me.  
13          He was not a good interviewer. He did not --  
14          he did not speak to a fashion that really I  
15          guess conveyed to us his thoughts. I'm not  
16          saying he didn't have good thoughts, but his  
17          interview was not something that left an  
18          impression as a great interview, or even a  
19          good interview on him.

20                 Now I say that so as to not appear to  
21          be critical of him. He's a good test taker,  
22          so some people are good test takers and some  
23          people are good interviewers. And again, both  
24          of those are weighted in the system, but not  
25          one more than another.



1 broadly that it had to do with promotions. He  
2 had requested a meeting to discuss promotions.

3 Q Now, isn't it true that at that  
4 meeting after Lieutenant Stelly complained  
5 about not being promoted in the Cammon and  
6 Davis panels, isn't it true that you told him  
7 that the reason that he was not selected was  
8 that your staff selected them over Lieutenant  
9 Stelly? Isn't that what you told him?

10 MS. ROSS:

11 Objection. You can answer.

12 THE WITNESS:

13 Again, specifically I don't  
14 remember, but what -- it does sound  
15 like what I would say in effect, is  
16 that based on the recommendations of  
17 those that sit on the panel, we made  
18 a decision of who those positions  
19 would be filled by.

20 So to say that I pushed it off  
21 on the others, responsibility for the  
22 decision on the others on the board,  
23 is only a half-correct statement.  
24 The statement is, is that the way  
25 that the board is designed is that

1 each member of the panel expresses  
2 their views on their recommendation  
3 for promotion.

4 And so, yes. If he wants to  
5 take it as -- but then you could go  
6 back and you asked me earlier did I  
7 tell him that he did not get any  
8 votes on -- not one vote on the  
9 promotional panel. Well, in effect  
10 what you're asking me is, is what I  
11 told him, I relied on the  
12 recommendations of those on the  
13 panel, and he didn't get any.

14 EXAMINATION BY MR. FARRUGIA:

15 Q But you didn't tell him that, did  
16 you?

17 A Well, you just told me that I told  
18 him that I relied on the people below me and  
19 put it off on them, so I think we're doing  
20 semantics here on words of what I did and  
21 didn't tell him, and I can't specifically tell  
22 you that I remember the exact context of that  
23 conversation. I've told you that.

24 The specifics of the conversation I  
25 can't remember, but what I do remember is, is

1 the resolution of that meeting was that he was  
2 offered -- he's applying for positions at  
3 headquarters, and he was offered a lateral  
4 transfer to headquarters as a lieutenant, so  
5 that he could gain experience in various  
6 sections, and let the command staff and the  
7 senior command staff view and experience his  
8 work, and he was offered to make those  
9 transfers, to let us know that he would like a  
10 transfer to headquarters and we would help him  
11 with that, and he never took us up on that  
12 offer.

13 Q Was that a promotion?

14 A No, sir. It's a lateral transfer, a  
15 lateral transfer as a lieutenant, but it seems  
16 that he was singular focused on a promotion.  
17 If he didn't get a promotion to come to  
18 headquarters, he didn't want to come to  
19 headquarters is the way I took it, since he  
20 didn't take us up on it.

21 Q So who made that suggestion? Was  
22 that you or Lieutenant Colonel Noel?

23 A I believe that we both made it  
24 together. I really don't -- I can't recall  
25 which one came up with it, expressed it first,

1 but we wanted to give him the opportunity to  
2 come to headquarters, since he applied for  
3 positions at headquarters which he's never  
4 worked at before; come to headquarters, work  
5 with those who are decision makers, and let  
6 them see his work, and let them see his  
7 capabilities, and let them see his leadership  
8 qualities, and he did not take us up on that.

9 Q Okay. Now, all right. So you were  
10 offering Lieutenant Stelly an opportunity to  
11 go to headquarters as a lieutenant, and his  
12 current position at the time was XO of Troop  
13 B; correct?

14 A Correct.

15 Q So taking a lieutenant's job at  
16 headquarters would actually be a demotion from  
17 being an XO at Troop B, wouldn't it?

18 A No, sir. There's no change in pay.  
19 There's no change in title. He's a  
20 lieutenant, he's a lieutenant. His position  
21 at Troop B was executive officer, not shift  
22 lieutenant, but he's still a lieutenant. The  
23 pay is the same; offered him to transfer to  
24 headquarters is just into a lieutenant's  
25 position.

1           And who knows if we wouldn't, if he'd  
2           expressed an interest in an executive officer  
3           position at headquarters, he may have or may  
4           not have gotten that. I don't know. I can't  
5           answer those possibilities, but no, it is in  
6           no way a demotion.

7           Q       But it would be a reduction in status  
8           if he took a lieutenant's position at  
9           headquarters that did not have the status of  
10          an XO position; correct?

11          A       No, sir, I disagree with that. I'll  
12          be honest with you. When I was XO at Troop F  
13          for those years, I actually would have rather  
14          been a shift lieutenant.

15          Q       Now, isn't it true that Lieutenant  
16          Stelly did, did have assignments at  
17          headquarters on several occasions?

18          A       I'm sure on several occasions he  
19          probably worked on projects, but I don't know  
20          that, but it was not an assignment at  
21          headquarters.

22          Q       Well, isn't it true that he wrote  
23          part of the leadership manual at headquarters?

24          A       I have no information on that.

25          Q       Isn't it true that he wrote the study

1 road you're going down.

2 EXAMINATION BY MR. FARRUGIA:

3 Q So you've never heard any -- you  
4 never read any articles, or saw any news  
5 broadcasts, or any podcasts or any blogs or  
6 anything that says that Colonel Davis is  
7 promoting diversity at LSP. Is that what  
8 you're saying?

9 A No, I'm saying I've heard that  
10 diversity is being promoted in Louisiana. You  
11 know, you could go specific to LSP. I don't  
12 remember. I mean, I don't keep up with it  
13 that much. My life does not revolve around  
14 LSP after I walked out the door. I tried not  
15 to be that guy who got his identity from a  
16 position. When that door closed, it was time  
17 to embark on a new area of life, so...

18 Q All right. Let me ask this question.  
19 Now, isn't it true that during the years that  
20 you were superintendent, that the number of  
21 captains at the rank, the number of captains  
22 that were Caucasian went from 26 captains that  
23 were -- I'm sorry; 24 captains that were  
24 Caucasian, and by the time you left as  
25 superintendent, there were only 20 Caucasians

1 that were captain. Isn't that correct?

2 A I don't know the statistics. As I  
3 said earlier, you have to understand, I did  
4 not look at race when we were making  
5 promotions. My panel did not look at race  
6 when we were making promotions. We tried to  
7 promote the right person for the position that  
8 we thought would provide the right amount of  
9 leadership to carry that position forward and  
10 accomplish the goals of Louisiana State  
11 Police.

12 I did not keep up with how many black  
13 members of our command staff there were. I  
14 didn't try to keep up with how many females  
15 there were, or nationalities. I did not do  
16 that. So the numbers you're giving me, if  
17 that's verified by LSP, then I'll assume  
18 that's true.

19 Q Okay. Let me show you a graph of  
20 data that was supplied by LSP that showed the  
21 number of captains at LSP by race on the years  
22 2017 through 2021, January 1st of each year.  
23 So you were there January. You were the  
24 superintendent January 1st of 2018; correct?

25 A January 1st of 2018, yes, sir.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II,  
Plaintiff

\* CIVIL ACTION NO. 23-772

\*

\* SECTION "T"

\*

VERSUS

\* JUDGE GREG G. GUIDRY

\*

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

\* MAGISTRATE JUDGE  
\* JANIS VAN MEERVELD

\*

Defendant

\*

\* \* \* \* \*

DECLARATION OF COLONEL LAMAR DAVIS

Pursuant to 28 U.S.C. 1746, I, **Colonel Lamar Davis**, hereby declare, under penalty of perjury, as follows:

1. My name is Lamar Davis, I am over twenty-one (21) years of age, have personal knowledge of the matters and facts set forth herein, and I am competent to testify to such matters and facts.
2. I served as the Superintendent of the Louisiana State Police ("State Police") from October 30, 2020 to January 8, 2024. Before I became Superintendent, I was an officer of the State Police for 25 years.
3. In my capacity as Superintendent, I was on the promotional panels for the promotion to captain over Operational Development on July 9, 2021 and the promotion to captain over Gaming on July 9, 2021.
4. There are only roughly thirty Captain positions in the State Police at any given time and those positions require someone who is not only intelligent and highly capable, but also someone who has the communication skills and ability to effectively lead in the position to which the person would be promoted.



5. Lieutenant John Stelly was not selected to captain of Operational Development or Gaming on July 9, 2021 because the individuals selected had superior communication and leadership skills and had significant experience in the section that, with the promotion to captain, they would lead successfully. Stelly's leadership and communication skills, and lack of experience in Gaming and Operational Development, made him less suitable than the other candidates.
6. Stelly spent his entire career (aside from two months when he was on loan to a separate department and eight months spent in narcotics) in one department, Troop B, and he had little experience in any other department or in any other leadership role. He did not have experience in Operational Development or Gaming.
7. Stelly's inferior leadership qualities and communication skills compared to the candidates who were promoted, and his lack of experience in Operational Development and Gaming rendered him a poor fit for the position of captain in those departments.
8. During Stelly's interviews with the promotional panels for Gaming and Operational Development, he failed to convince the panel members that he possessed the capabilities to effectively lead at a higher level and that he would be the best choice for captain.
9. Stelly and I taught a leadership training class together while at the State Police. My impression of Stelly was that he lacked the ability to connect with the class and did not communicate in a manner that allowed the students to synthesize, understand nor gain confidence in the material being taught.
10. In my deposition, I confirmed that the reasons given for the promotions of Robert Burns and Saleem El Amin were "training, experience, and job performance." What this means is that for the Operational Development captain position, Robert Burns was selected as the most suitable candidate for that role because of his experience in the Operational

Development department and with testifying in legislative and committee matters, which is a responsibility he would have as captain of Operational Development. Now Major Burns demonstrated very strong leadership and communication skills through his experience and job performance.

11. Robert Burns' experience in Operational Development far exceeded Stelly's experience. In particular, now Major Burns had seven years and ten months of experience in Operational Development, which experience included managing departmental budgets, managing special department wide project, leading legislative security teams, leading agencywide, strategic planning and acting as liaison to the Governor for projects, researching policy and procedure and acting as legislative liaison, and experience working with the superintendent. In addition, now Major Burns was well-respected by legislators and a good fit for the outward-facing role of captain of Operational Development.
12. John Stelly did not have the same experience, departmental knowledge, leadership, and communication skills. No one on the promotional panel recommended John Stelly for the promotion to captain of Operational Development. Burns proved he was the right candidate for the position, having excelled at captain and ultimately being promoted again to the rank of major.
13. For the Gaming captain position, "training, experience, and job performance" means that Saleem El-Amin was selected as the best qualified candidate because of his experience in the Gaming section. The Gaming captain is an outward-facing role in which good communication skills and relationship-building skills are very important. Captain El-Amin was a superior candidate with regard to his experience in Gaming, ability to connect with the industry partners, stakeholders and with the community, and his communication skills. No one on the promotional panel recommended John Stelly for this promotion. Captain El-

Amin excelled in this role, confirming he was the correct fit. There were never complaints to me about Captain El-Amin's leadership.

14. I informed John Stelly's commander that Stelly needed to work on his interviewing skills. He was often stiff and not relatable in his interviews. In addition, he often failed to adequately explain why his experiences made him the candidate best suited for the position.
15. Then-Captain, now Major Donovan Archote did not sit on any of Stelly's promotional panels and had no vote in whether Stelly was promoted to captain.
16. Race did not factor into any of the promotions over which I was the Superintendent.
17. A candidate's race was not discussed on any of the panels over which I was the Superintendent.
18. No candidate was selected for promotion based on race.

I declare under penalty of perjury that the foregoing is true and correct.



Colonel Lamar Davis



Date



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II,  
Plaintiff

\* CIVIL ACTION NO. 23-772

\*

\* SECTION "T"

\*

VERSUS

\* JUDGE GREG G. GUIDRY

\*

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

\* MAGISTRATE JUDGE

\* JANIS VAN MEERVELD

\*

Defendant

\*

\* \* \* \* \*


DECLARATION OF COLONEL KEVIN REEVES

Pursuant to 28 U.S.C. 1746, I, **Colonel Kevin Reeves**, hereby declare, under penalty of perjury, as follows:

1. My name is Kevin Reeves, I am over twenty-one (21) years of age, have personal knowledge of the matters and facts set forth herein, and I am competent to testify to such matters and facts.
2. I served as the Superintendent of the Louisiana State Police ("State Police") from March 25, 2017 to October 31, 2020. Before I became Superintendent, I was a trooper of the State Police for 30.5 years.
3. In my capacity as Superintendent, I was on the promotional panels on several instances in which John Stelly sought promotion to captain.
4. In the promotional panels over which I was Superintendent, Stelly did not interview well and could not articulate his views or why he was the best candidate for a particular position.
5. I do not recall anyone on the promotional panels over which I was Superintendent ever recommending promoting Stelly.

6. During my tenure as Superintendent, more black individuals became eligible to become captain than at any other time in the State Police's history.
7. The reason more black individuals were promoted in 2017 and beyond is because more black individuals were rising through the ranks in the State Police than had in years past.
8. The State Police was a largely white male organization for the majority of its existence until the late 1990s and early 2000s, when more efforts were made to ensure all forms of diversity in all ranks.
9. Because of those efforts in the 90s and 00s, more black individuals were qualified and eligible to become captain during my tenure as Superintendent.
10. In 2018, through my Chief of Staff, I offered Stelly a transfer to State Police headquarters as a lieutenant to gain more experience and exposure to State Police leadership, including exposure to the groups in which he was seeking a promotion. To my knowledge, Stelly never took advantage of that opportunity.
11. Race did not factor into any of the promotions over which I was the Superintendent.
12. A candidate's race was not discussed on any promotional panel over which I was the Superintendent.
13. No candidate was selected for promotion based on race.

I declare under penalty of perjury that the foregoing is true and correct.



\_\_\_\_\_  
Colonel Kevin Reeves

June 18, 2024  
Date

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.

\* \* \* \* \*

\* CIVIL ACTION  
\* NO. 23-772  
\*  
\*  
\* JUDGE: GREG G.  
\* GUIDRY  
\*  
\* MAGISTRATE JUDGE  
\* JANIS VAN  
\* MEERVELD  
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\* MAGISTRATE JUDGE  
\* JANIS VAN  
\* MEERVELD  
\*  
\*

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 A Approximately a year.

2 Q And then were you promoted to  
3 lieutenant?

4 A No, sir. I went to Troop A as a  
5 shift sergeant for approximately a year.

6 Q Is a shift sergeant in Troop A, is  
7 that a more typical assignment for a sergeant?

8 A I mean, it's -- it's -- it's just one  
9 of the, I guess one of the basic sergeant  
10 positions in state police. All troops have  
11 shift sergeants, and that was -- I went on to  
12 just shift -- Troop A patrol as a shift  
13 sergeant, stayed there for about a year, and  
14 then I went to operational development as a  
15 sergeant, and that would have been 2013.

16 Q Okay, and what did you do at  
17 operational development, as a sergeant in  
18 2013?

19 A I was transferred into the planning  
20 sergeant position. The planning sergeant is  
21 responsible for budget, performance  
22 indicators, strategic planning, performance  
23 standards, governor liaison for multiple types  
24 of projects; just various strategic planning  
25 type duties for the department.

1 Q Okay, and who was your supervisor  
2 there?

3 A When I got there -- I'm trying to  
4 recall, because the personnel changed. I  
5 believe it was Rodney Hyatt. I believe so.  
6 I'm not 100 percent certain there.

7 Q Okay, and after that year, what did  
8 you do?

9 A In 2015 I was promoted to lieutenant  
10 on the research side of operational  
11 development. The research side includes  
12 policy and procedure, legislative liaison,  
13 general research projects for the department.

14 Q And who did you work for there?

15 A I would have worked for the captain.  
16 I believe it changed three times: Jason  
17 Starnes was one captain. Gregory Graphia was  
18 a captain, and Frank Besson was a captain, but  
19 the order, sir, I wouldn't be a hundred  
20 percent certain of, but -- but those were the  
21 captains.

22 Q Okay, and how long did you work on  
23 the research side of operational development?

24 A I believe from 2015 to 2017 or 2018,  
25 somewhere around there. I lateraled into the



1 executive officer position, which is also a  
2 lieutenant in operational development, and the  
3 executive officer position is the number -- is  
4 the commander's right-hand position, but also  
5 has a dual role and serves as the planning  
6 supervisor as well. So I went from the policy  
7 and procedure side back to the budget and  
8 strategic planning side, as executive officer.

9 Q So as the executive officer, who did  
10 you supervise?

11 A As executive officer, I supervised  
12 the planning sergeant and the grants team, and  
13 we have what's called a contracts and grants  
14 unit, that handle all of the grants for the  
15 department.

16 Q Okay. The team, how big was that  
17 team?

18 A It varied with the number of civilian  
19 positions; approximately five to six  
20 individuals, I would say.

21 Q And were they all civilians, or was  
22 it a mix of --

23 A No, sir, it's one. So as the  
24 executive officer, there's one commission  
25 person, and then there are probably five

1 captain than what's -- what's listed  
2 here. That would -- that's my  
3 assessment of that.

4 EXAMINATION BY MR. FARRUGIA:

5 Q Okay. So give me an example of -- of  
6 things that are not listed here that you need  
7 to know as a captain, that you weren't tested  
8 on?

9 A Sure. Leadership ability, project  
10 management, coordination of assets, being able  
11 to functionally supervise individuals outside  
12 of your scope of control. As a captain in  
13 operational development, you report directly  
14 to the Superintendent of State Police, which  
15 required a very, very high level of  
16 productivity and efficiency.

17 You don't have the -- I guess, the --  
18 the convenience of having a major and a  
19 lieutenant colonel over you to kind of  
20 doublecheck your work. Your -- your work in  
21 this position goes directly to the  
22 superintendent. I think it is a -- it's a  
23 very unique skill set that really being in  
24 operational development prepares you for, and  
25 I just -- I don't think that is reflected on

1 Stelly scored a 91 on the promotional exam,  
2 and you scored an 85; is that correct?

3 A Yes, sir.

4 Q So Lieutenant Stelly did score a  
5 higher score on the promotional exam; correct?

6 A Yes, sir.

7 MR. FARRUGIA:

8 Now let me hand you what we'll  
9 mark as Exhibit 4.

10 EXAMINATION BY MR. FARRUGIA:

11 Q And ask you if this is the -- is this  
12 the P.O. 229 on promotions for Louisiana State  
13 Police?

14 A Correct.

15 MR. MILES:

16 I'm just going to note an  
17 objection, that this has highlighting  
18 on it, your exhibit, so object to the  
19 document.

20 MR. FARRUGIA:

21 Object to the sidebar.

22 EXAMINATION BY MR. FARRUGIA:

23 Q So in the first paragraph,  
24 promotional panel on small Roman numeral ii it  
25 states that, "Promotional panel is responsible

1 continuous process that goes through up to and  
2 including the interview. That -- that's part  
3 of the promotional process. I just don't...

4 MR. FARRUGIA:

5 I object to his nonresponsive --

6 MR. MILES:

7 Hold on. Hold on. He didn't --  
8 he didn't finish. Go ahead. Go  
9 ahead.

10 THE WITNESS:

11 Yes, sir. I was just going to  
12 clarify that I think the -- you know,  
13 per this policy, you know, like on  
14 Page 2, other relevant data requested  
15 by the panel, I feel from a  
16 department standpoint the other  
17 relevant data is things like the  
18 interview and leadership ability;  
19 things that aren't necessarily  
20 contained on the -- the summary  
21 that's provided by internal affairs  
22 which, you know, I -- I know you're  
23 looking at for the -- the separate  
24 categories.

25 But I think to reach

1 grade, and at this point you had five years,  
2 11 months time and grade, and Lieutenant  
3 Stelly had 16 years and ten months time and  
4 grade; is that correct?

5 A Yes, sir.

6 Q So do you agree that having more time  
7 and grade gives a candidate more experience in  
8 that -- in the position of lieutenant?

9 A Yes, sir. I agree, in the position  
10 of lieutenant. I would also say, though, I  
11 think it's very relevant under LSP experience  
12 and why the department listed out the location  
13 of that experience. I do believe as a  
14 department, we weigh the location of that  
15 experience to the position that's being  
16 applied for.

17 Q Okay, and continuing, the next  
18 category where you and Lieutenant Stelly had  
19 entries on this summary report is under  
20 "Education," and there you have a bachelor's  
21 degree in sociology/criminology; is that  
22 correct?

23 A At this time, that's what I had, yes,  
24 sir.

25 Q Okay. At this time, Lieutenant

1 the summary.

2 Q So are there any other objective  
3 criteria that the panel looked at, other than  
4 what's on the summary report?

5 A Yes, sir. I would say so. You know,  
6 one of the things that we talked about on P.O.  
7 229 was that Subsection 8, which talks  
8 about -- and I'll flip to it, sir. I'm  
9 sorry is -- is where it says, "other relevant  
10 data requested by the promotional panel." You  
11 know, that data, that information can include  
12 the -- the work history; the amount of time,  
13 say, the superintendent or someone on the  
14 promotional panel spent working with someone.

15 So here, like -- like for instance,  
16 seven years and ten months, that's a -- that's  
17 an objective amount of time I spent in  
18 operational development, but also contained in  
19 that seven years and ten months was a  
20 significant amount of time that me and Colonel  
21 Davis worked together as fellow lieutenants in  
22 operational development, so he was able to see  
23 my work product firsthand in, you know,  
24 working on the legislative team, correct.

25 So, you know, things like that, those

1 becomes pertinent as the discussion takes  
2 place after the interview, yes, sir.

3 Q But the data you're talking about is  
4 already on the summary report. It already  
5 says that you had seven years in operational  
6 development, but -- but that's data they  
7 already have on the summary report?

8 A Sure, yes, sir.

9 Q That's not other data that they  
10 requested, because it's already here?

11 A Yes, sir, but what I'm saying is  
12 what's not contained here is the  
13 superintendent at the time, Colonel Davis's  
14 personal observation during the seven years  
15 and ten months of my work performance in -- in  
16 operational development which is obviously, in  
17 my opinion or in the department's opinion and  
18 his opinion, from speaking to him, you're  
19 spending time in a section under the  
20 observation of someone who's -- who's now  
21 grading you. You know, that that -- there's a  
22 lot of weight carried to that.

23 Q Okay. So you think that is data,  
24 because Colonel Davis --

25 A I would say --

1 Q -- saw you performing your job, you  
2 think that's data?

3 A Yes, sir, I would say the length of  
4 time that he was in direct observation of my  
5 skills and my performance is a relevant data  
6 point. That is a relevant length of time,  
7 just like we have nine months, seven years,  
8 ten months. I think that is a relevant length  
9 of time and -- and data to this decision.

10 Q Okay. Was that --

11 MR. MILES:

12 Hold on. Were you finished?

13 THE WITNESS:

14 I was just going to say, yes,  
15 sir, just like if there was a Troop B  
16 promotion, I would from a  
17 departmental standpoint, seeing  
18 Lieutenant Stelly's time at Troop B,  
19 if someone was grading him and worked  
20 directly with him and observed him, I  
21 would say that would be relevant for  
22 somebody to share in the promotional  
23 panel.

24 You know, "I personally observed  
25 Lieutenant Stelly at Troop B for,"



1 operational development; right?

2 A Yes, sir.

3 Q Okay. So you were in TSS before  
4 operational development at some time?

5 A As a sergeant, yes, sir.

6 Q As sergeant, okay. All right. So  
7 you testified that in operational development  
8 you did budget requests, and also you  
9 collected budget requests from the troops, and  
10 assembled them into a larger -- I don't know,  
11 program or document to forward on to your  
12 supervisor. Is that how it worked?

13 A Yes, sir. So each -- so public  
14 safety services is made up of a conglomerate  
15 of budget unit heads. State police is just  
16 one of -- of several. Office of Motor  
17 Vehicle, LP gas, fire marshal. All of those  
18 are budget unit heads. For the state police  
19 budget unit head, operational development  
20 serves as -- as the budget and planning piece  
21 for the agency.

22 So what we would do in operational  
23 development is reach out to the various troop  
24 sections, all the different units. We would  
25 do what's called a CB7, CB8. It's just state

1 forms to either request equipment or people,  
2 just recurring costs, new costs, replacement  
3 costs, and we would assemble all that -- you  
4 know, put that together -- and then yes, sir.  
5 That package for LSP would be submitted to the  
6 management and finance budget office, who was  
7 in charge of gathering the documents for all  
8 of public safety services.

9 Q Okay. For example, with the budget  
10 request the -- the XOs from the troop would  
11 prepare the budget request for the troop and  
12 give that to you, and then you would do  
13 something with that budget request, because  
14 you had to submit a budget request; correct?

15 A Yes, sir.

16 Q Okay. So now, as long as Lieutenant  
17 Stelly was an XO in Troop B, he was preparing  
18 budget requests from Troop B; correct?

19 A Yes, sir. If he was the person  
20 assigned by his captain, yes, sir, he could  
21 have been, sure.

22 Q Okay. Now, on legislative proposals  
23 that you handled in operational development,  
24 didn't you collect strategic plans from Troop  
25 B?

1 based on these objective criteria, was more  
2 qualified for this position of technology and  
3 business support than Lieutenant Davis?

4 A I -- I disagree.

5 Q Okay.

6 A If I may just expound?

7 MR. MILES:

8 You may.

9 THE WITNESS:

10 So obviously I was a lieutenant  
11 at this time, and the first --  
12 whenever I saw this in the binder,  
13 you know, one of the things that  
14 Lieutenant Davis is very well known  
15 for is his role as a command sergeant  
16 major in the Army. That's not a very  
17 easy to obtain role, and Lieutenant  
18 Davis had gone overseas to  
19 Afghanistan and Iraq and -- and led  
20 soldiers in combat zones, and so  
21 that's why I was a little bit  
22 surprised that the military piece was  
23 missing on here.

24 But trying to -- again, I was a  
25 lieutenant at this time, talking to

1 Colonel Reeves kind of about the  
2 decision-making process for this  
3 position, he explained to me kind of  
4 what I alluded to earlier. They were  
5 looking for someone to lead the  
6 section, not necessarily be like a  
7 boots-on-the-ground type of person,  
8 like actually doing the programming,  
9 but leading the people that are doing  
10 the programming.

11 And Colonel Reeves also went so  
12 far to tell me that not just specific  
13 to this panel but every panel that he  
14 chaired as superintendent, he  
15 couldn't recall a -- a specific  
16 instant in which Lieutenant Stelly  
17 received a recommendation by anybody,  
18 not just for technology and business  
19 support, but for any of the panels  
20 that he chaired as superintendent,  
21 and it was due to a lack of  
22 demonstrated leadership.

23 Again, that's -- that's from --  
24 from Colonel Reeves, in his notion.  
25 He also went so far to explain, I

1           don't know if it was after this  
2           promotion or another promotion, but  
3           he discussed with me an opportunity  
4           that they -- they presented  
5           Lieutenant Stelly with to perhaps  
6           lateral to Baton Rouge, the  
7           headquarters, to maybe get a little  
8           bit more of a diverse experience,  
9           other than Troop B, but again,  
10          that -- that's everything that --  
11          that Colonel Reeves had explained to  
12          me regarding this.

13       EXAMINATION BY MR. FARRUGIA:

14           Q       So did Colonel Reeves admit that  
15       Lieutenant Stelly had much more knowledge in  
16       the field of computers?

17           A       I -- I don't recall that being a  
18       specific. I do recall one of the things that  
19       we did discuss was what you referenced, in  
20       terms of the needed skill to be a leader, not  
21       necessarily the skill or the demonstration to  
22       be able to do computer projects, but the  
23       skills and experience to lead. I remember  
24       Colonel Reeves did speak extensively about  
25       Colonel -- Lieutenant Davis's experience in

1 time and grade versus only two years, seven  
2 months for Lieutenant El-Amin; correct?

3 A Correct.

4 Q You also see military, that  
5 Lieutenant El-Amin had eight years in the Air  
6 Force; correct?

7 A Correct.

8 Q Education-wise, Lieutenant El-Amin  
9 had a bachelor's degree and a master's degree  
10 in criminal justice; correct?

11 A Yes, sir.

12 Q And specialized training, it looks  
13 similar. I think Lieutenant Stelly has 13  
14 bullet points, versus 12 for Lieutenant  
15 El-Amin; correct?

16 A Yes, sir.

17 Q Disciplinary action is none, versus  
18 the fleet crash of Lieutenant Stelly's in '97.  
19 Awards, Lieutenant Stelly has more awards. He  
20 has a total of eight awards versus Lieutenant  
21 El-Amin's -- wait. Eight, I guess, counting  
22 all those? Nine, okay. Maybe I miscounted  
23 here. Let's see. Yes, nine, I'm sorry.  
24 Lieutenant Stelly had nine awards versus eight  
25 for Lieutenant El-Amin; correct?

1           A       Correct.

2           Q       And on commendations, Lieutenant  
3 Stelly had 12 versus three for Lieutenant  
4 El-Amin; correct?

5           A       Correct.

6           Q       So the objective factors that are  
7 listed on these summary reports indicate that  
8 Lieutenant Stelly is more qualified for this  
9 position than Lieutenant El-Amin; correct?

10          A       No, sir. Similar to the other  
11 positions, I was a lieutenant at this time.  
12 Well, actually on this date I -- I also made  
13 captain, but I believe that this was one of  
14 Colonel Davis's -- let's see what that -- 7/9.  
15 Yeah, this -- this was the same date that I  
16 was promoted to captain.

17                   So I was a lieutenant at this time,  
18 so my knowledge for this promotion had to come  
19 from -- from Colonel Davis. So speaking to  
20 Colonel Davis about the reasoning for the  
21 panel to select Saleem El-Amin, there were two  
22 things that -- that really stood out when  
23 Colonel Davis spoke about Lieutenant El-Amin  
24 on this promotion.

25                   Number 1 was that this was for a

1 gaming position, for -- for gaming. There's  
2 two gaming captains, but this was for the --  
3 the support in Indian gaming position. This  
4 captain was -- was vacant that Saleem had --  
5 had applied for obviously, but Saleem had been  
6 in gaming for a little over two years.

7 He went to internal affairs for a  
8 short amount of time, but he had done an  
9 excellent job in gaming, and actually his PES  
10 rating from Captain Van Buren -- Captain Van  
11 Buren was the gaming captain, and he rated  
12 Lieutenant Saleem -- Lieutenant El-Amin as  
13 exceptional for his performance in gaming. So  
14 that carried a lot of weight for Colonel Davis  
15 to see that he -- he was rated by the outgoing  
16 gaming captain as exceptional.

17 Captain Van Buren was actually  
18 elevated to the rank of lieutenant colonel,  
19 which is why this position became vacant.  
20 Master's degree from Lieutenant El-Amin, eight  
21 years in the Air Force, and Colonel Davis used  
22 the phrase "exceptional leadership  
23 demonstration" by Lieutenant El-Amin during  
24 his time in gaming, his time in Troop A, and  
25 other times that Colonel Davis had -- had



1 observed him.

2 So for all of those reasons Colonel  
3 Davis explained to me that Lieutenant El-Amin  
4 was selected as the qualified applicant.

5 Q So this reason that Colonel Davis  
6 gave you for promotion of Lieutenant El-Amin  
7 in this position of leadership is a subjective  
8 evaluation, because he didn't give you any  
9 specific examples of how he excelled in his  
10 leadership, did he?

11 A No, sir, so I don't have the -- the  
12 PES in front of me, but Colonel Davis spoke  
13 about the leadership qualities that he  
14 demonstrated, particularly while he was at  
15 gaming and rated by the gaming commander as  
16 weighing very, very heavily in the decision  
17 for this -- for this vacancy.

18 Q But again, you don't have any  
19 specific examples of that leadership?

20 A No, sir, not that I can recall today.  
21 No, sir.

22 Q Okay. So when the state police  
23 promote -- promoted El-Amin to captain in  
24 gaming, did it expect that he would stay in  
25 gaming for a while?

1 religion, all of those things, but in -- in  
2 terms of diversity, one of the very  
3 foundational things that we did that's really  
4 been well received is -- is our training.

5 We've installed implicit bias  
6 training, duty to intervene, active  
7 bystandership. Emotional intelligence has  
8 been an -- an outstanding initiative and, you  
9 know, all of those trainings are geared  
10 towards, it's not just racial diversity. It's  
11 cultural diversity. It's -- it's -- you know,  
12 Colonel Davis has a -- has a very famous  
13 saying. "For every hour you drive, you get  
14 into a different culture in Louisiana."

15 It's really just being more open and  
16 understanding, just of various cultures and  
17 the various people within the state. I can  
18 tell you when he took office, one of the  
19 things that he wanted to look at, and I was  
20 charged with this in operational development,  
21 is exploring how we could be more inclusive.

22 And people always think immediately,  
23 oh, inclusive is race. No, it's inclusive as  
24 a state. A lot of the things, the programs  
25 and technology and the projects we've

EXHIBIT NO. 4

J. HARPER, CCR

*P.O. 229 Promotions*

Effective From:	10-15-2012	Effective To:	Current
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*CC. P.O. 229 - Promotions*

1. PROMOTION PANEL
  - i) The Promotion Panel is designed to supplement and not replace the State Police Commission.
  - ii) The Promotion Panel is responsible selecting one candidate from an Eligibility List of qualified applicants to a position as reported by the State Police Commission in accordance with its rules.
  - iii) Only those names that appear on the State Police Commission Eligibility List will be considered for promotion.
  - iv) When an officer takes a voluntary demotion to return to a previous work assignment, or to move to a different work location, he must apply through the State Police Commission for any future promotions.
2. RESPONSIBILITIES OF THE ASSISTANT SUPERINTENDENT
  - i) The Assistant Superintendent is designated as the Facilitator of the Promotion Panel and as such is responsible for its administration.
  - ii) He shall ensure that Promotion Panels are convened in a timely manner.
  - iii) He shall ensure that members of the Promotion Panel receive adequate notification of all scheduled Promotion Panels.
3. AVAILABILITY PROCEDURES
  - i) When a vacancy is announced, the following procedures shall be followed:
    - a) The Deputy Superintendent over the Troop/Section in which the vacancy exists shall notify Human Resources through the chain-of-command.
    - b) Human Resources shall contact the State Police Commission to obtain a Certified Eligibility List.
    - c) Human Resources shall request the State Police Commission to post an availability form on the Bulletin Board in Lotus Notes for seven (7) days.
    - d) During this period all eligible candidates who are interested in the position shall complete an availability form and return it to the State Police Commission prior to the closure of the announcement period.
    - e) At the close of the announcement period, the State Police Commission will compile the list of eligibles and forward same to the Superintendent.
    - f) The Commander of the Troop/Section in which a vacancy exists should conduct an oral interview for any candidate on the Certified Eligibility List who desires to be interviewed. Commanders should utilize a uniform set of questions for each interview.
    - g) Once a promotion has been made, the name of the selected applicant shall be sent back to Human Resources and forwarded to the State Police Commission.
4. PROMOTION PANEL MEMBERS
  - i) The Promotion Panel shall consist of:
    - a) The Superintendent or his designee as Chairperson.
    - b) The Assistant Superintendent.
    - c) The Deputy Superintendent over the Troop/Section in which the vacancy exists.
    - d) The Major over the Troop/Section in which the vacancy exists, if applicable.
    - e) The Commander over the Troop/Section in which the vacancy exists.
    - f) Any other person selected by the Superintendent.
  - ii) Other Members of the Promotion Panel
    - a) The Chairperson of the Promotion Panel may appoint another member to the panel

when any member is unable to attend.

5. PROMOTION PANEL PROCEDURES
  - i) Preliminary Procedures
    - a) The Promotion Panel will convene, making sure that all panel members are aware of the procedures to be followed.
    - b) Internal Affairs will provide the panel a summary report pertinent to each candidate. An electronic copy of the report will be stored by Internal Affairs on an IA database.
    - c) Members of the Promotion Panel will review the provided data pertinent to each candidate, which shall contain:
      - 1) Performance reports.
      - 2) Educational background, both in-service and outside agency.
      - 3) Training records.
      - 4) Awards and letters of recommendation and commendation.
      - 5) Disciplinary actions.
      - 6) Personal history file, including military record.
      - 7) Record of leave taken.
      - 8) Other relevant data requested by the Promotion Panel.
    - d) Interpretations of this order and any matters not covered herein shall be left to the discretion of the Promotion Panel Chairperson.
    - e) Conduct of the Promotion Panel:
      - 1) The Chairperson is responsible for the decorum of the Promotion Panel.
      - 2) The Chairperson will vote only in the event of a tie.
    - f) A Promotion Panel Summary Form will be completed by the Assistant Superintendent on each candidate, which should reflect the opinion of the majority of the Promotion Panel.
    - g) Notification of Applicants Certified candidates who were not selected for promotion will be notified by the Promotion Panel that they were considered for the position.
    - h) Confidentiality of Proceedings:
      - 1) Every member of the Promotion Panel shall be reminded that all proceedings are strictly confidential.
      - 2) Members revealing any information about the proceedings are subject to disciplinary action.
    - i) The Superintendent reserves the right to select the candidate for promotion.
6. PROMOTION TRAINING REQUIREMENTS
  - i) Effective with the 2013 promotion testing cycle, all commissioned officers under the purview of the Louisiana State Police Commission and wishing to test for sergeant, lieutenant or captain must satisfy the requirements of this policy before being permitted to take the promotion test.
  - ii) All prospective applicants must have successfully attended the LSP Leadership Development Program.
  - iii) Officers may be detailed to a higher rank without completion of the training requirements.
7. EMPLOYEE'S RESPONSIBILITY
  - i) Officers wishing to take the promotion test for sergeant, lieutenant or captain shall:
    - a) Know and understand the course requirements applicable to their desired rank.
    - b) Apply for the required courses well in advance of the promotion test to ensure adequate time to complete the courses before the promotion test date.
8. SUPERVISOR'S RESPONSIBILITIES
  - i) Supervisors shall:
    - a) Allow time for subordinates to attend the required courses whenever possible.
    - b) Expedite training requests for required courses.

JOHN STELLY, II

April 30, 2024

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II  
Plaintiffs

\* CIVIL ACTION  
\* NO. 23-772

\*

versus

\* JUDGE GUIDRY  
\* MAG. VAN MEERVELD

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

\*  
\*  
\*  
\*

Defendants

\*

\* \* \* \* \*

Deposition of JOHN R. STELLY, II, 1588  
Zephyr Way, Bozeman, Montana 59718, taken in the  
offices of Farrugia Law Firm, LLC, 1340 Poydras  
Street, Suite 2100, New Orleans, Louisiana  
70112, on Tuesday, the 30th day of April, 2024,  
commencing at 10:05 a.m.

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1 Development, you have budgets. So I would -- we  
2 would write the budget for the troop. They have  
3 the form called the CB-7, the CB-8. Those forms  
4 have to be completed to outline sort of Troop  
5 B's budget requests. So I would complete those  
6 budget requests every year for Captain Archote,  
7 and he'd send those up with my name on it to  
8 Baton Rouge so that Baton Rouge knew that I did  
9 those, not -- he didn't want to take credit for  
10 my work, so he was rather good about non taking  
11 credit for all the things that I did.

12 Policies or statute recommendations,  
13 so that would be another thing that I would  
14 responsible for. He would -- so when policies  
15 come up or statute recommendations, it's time  
16 for the legislature to start convening again, so  
17 in anticipation of that, poll everybody and get  
18 some policies and then look for those -- try to  
19 collate them into some sort of ordered semblance  
20 of matter, look for the budget constraints on  
21 those policies, how much monies they would cost.

22 Let's see what else. And, then, I  
23 -- now, if I can hearken back to my other  
24 comment that I misspoke earlier, when sending --  
25 being tasked to Operational Development. So I



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1 was tasked there by Colonel Edmonson to  
2 investigate the -- any occurrence of racial or  
3 gender discrimination within promotions, not  
4 only under his administration but also the  
5 previous -- I want to say the previous colonels  
6 prior to him. So he was interested to see if  
7 there's any indications of racial  
8 discrimination. So I stayed up at Operational  
9 Development for quite a while, gathering data,  
10 analyzing that data, writing a report, as  
11 another lieutenant at Operational Development  
12 with whom I did that.

13 Q. How long was that for?

14 A. That was probably, my goodness,  
15 maybe two months, maybe a little bit longer.

16 Q. And when you're tasked to  
17 Operational Development, are you, for that time  
18 period, two months, however long, no longer in  
19 Troop B?

20 A. You'd have to clarify what you mean  
21 by that. Like --

22 Q. I guess what I'm asking is, is it  
23 something where you are now in Operational  
24 Development for two months and then they have to  
25 transfer you back to Troop B, or if you're in

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1 Troop B and they're just kind of loaning you out  
2 to Operational Development?

3 A. It was the latter, not the former.

4 Q. Okay. So they're loaning you to  
5 Operational Development, but you're still  
6 technically in Troop B?

7 A. Yes, ma'am. I don't think my  
8 position, I guess, location descriptor ever  
9 changed in that regard from Troop B to  
10 Operational Development. I was just sort of,  
11 like you said, loaned out for my talents to  
12 Operational Development.

13 MS. ROSS:

14 Okay. Could we go off the record  
15 for just a second?

16 MR. FARRUGIA:

17 Yes.

18 (Following a brief recess, the  
19 following proceedings were had.)

20 MS. ROSS:

21 Let's go back on.

22 EXAMINATION BY MS. ROSS:

23 Q. Okay. We were talking about you  
24 being tasked to Operational Development, and my  
25 understanding is that it was about two months,



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1 give or take?

2 A. Yes, ma'am. That would be my rough  
3 guess.

4 Q. But you were still technically in  
5 Troop B, but they had just sort of loaned you  
6 out to Operational Development, correct?

7 A. Yes, ma'am.

8 Q. And that was too, I guess, gather  
9 data and analyze it regarding whether there was  
10 any evidence, from a statistical standpoint, of  
11 discrimination in the LSP's hiring or  
12 promotional practices?

13 A. Limited to race and gender. And it  
14 was not hiring. It was for promotional  
15 practices.

16 Q. Just promotional, race and gender?

17 A. Yes, ma'am.

18 Q. Okay. And we may look at that  
19 later. I think I have that. I think I have  
20 that with me.

21 Is there anything else that we  
22 haven't talked about that you --

23 A. Yes, ma'am.

24 Q. -- did as a lieutenant?

25 A. Of course.

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1           A.       Not that I know of. But the ones  
2 from Nos. 14 down, that is exhaustive except for  
3 the exclusion of Robert Burns. From Nos. 1 to  
4 13, I cannot attest to whether that's exhaustive  
5 or not exhaustive.

6           Q.       Okay. So as I think I asked  
7 earlier, before we got back on this, I want to  
8 get into your allegations a little bit in the  
9 lawsuit.

10          A.       Sure.

11          Q.       So you allege that you believe you  
12 were first discriminated based on your race in  
13 2017; is that right?

14          A.       Yes, ma'am.

15          Q.       And my understanding is that you  
16 believe you were passed over for promotion in  
17 2017 in favor of Chavez Cammon, who is black; is  
18 that right?

19          A.       Yes, ma'am.

20          Q.       All right. Why don't you tell me  
21 why you think you were denied captain in favor  
22 of Mr. Cammon.

23          A.       Because in my opinion, looking at  
24 the -- our -- I guess our factors objectively, I  
25 am much more qualified than him.

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1 you.

2 Q. But you do have that and he doesn't,  
3 correct?

4 A. Yes, ma'am.

5 Q. And, then, commendations, he's got  
6 seven and you've got 12; is that right?

7 A. Yes, ma'am.

8 Q. So it's your opinion that you were  
9 more qualified than Mr. Cammon for this  
10 position; is that right?

11 A. Yes, ma'am.

12 Q. Is it your opinion that you were the  
13 most qualified of all of these candidates for  
14 the position?

15 A. I'd have to go review the other  
16 candidates, but certainly in comparison to Mr.  
17 Cammon, yes.

18 Q. Tell me exactly why you think you  
19 were more qualified than Mr. Cammon.

20 A. Well, I excel in Mr. Cammon in just  
21 about every single category. The only one he  
22 sort of excels over me, just based on these  
23 objective criteria, is disciplinary action. And  
24 the extent of my disciplinary action was a  
25 letter of reprimand for an incident that

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1 occurred -- this was a 2017 promotion, so my  
2 only reprimand was 20 years ago, for a fleet  
3 crash, so -- which I didn't get suspended. The  
4 extent of my punishment was, hey -- this letter  
5 that you showed me earlier. I think it was  
6 Exhibit 1, that says, hey, in the future be more  
7 careful. That was the extent of my reprimand.  
8 So that was sort of just an extremely minor  
9 thing.

10           So, to me, that's sort of what -- if  
11 I had two people using basically solely these  
12 objective -- solely these objective criteria, if  
13 I had two people who were close, then that would  
14 sort of -- might tilt the scale. But,  
15 otherwise, that's -- that's a very, very minor  
16 thing. It's not something that happened, say,  
17 the year prior or there's not three fleet  
18 crashes on there. That's only one fleet crash.  
19 So it's not a pattern nor is it something  
20 that's, I guess, substantive in my mind that  
21 would be -- merit a change in decision.

22           So of those other categories,  
23 especially time in grade for being experienced  
24 as a lieutenant -- so, for example, when I was  
25 XO, there was bunches of times when Captain

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1 Archote was on vacation and now I'm the captain,  
2 effectively, for -- all things fall onto me. So  
3 -- and I did that job, at this time -- this was  
4 in 2017, so I had been doing that for -- since  
5 2013, so for four years by that time; in  
6 addition, doing all the other things as  
7 administrative that an XO would do that a  
8 regular lieutenant would not do, like things I  
9 did not do as a shift lieutenant that I did do  
10 as an executive officer, which are much closer  
11 in character to things that a captain would do.  
12 So --

13 MR. FARRUGIA:

14 You want to let him finish? Go  
15 ahead.

16 A. So the time in grade, my experience  
17 is slightly more than his. Neither of us has  
18 prior law enforcement experience. So time in  
19 grade, to me, that's -- my time in grade is,  
20 what, about five times what he has in terms of  
21 lieutenant experience. So the amount of  
22 experience that you have in a position,  
23 especially going -- when you're going to the  
24 next position, to me, that is an invaluable  
25 gaining experience how to perform at the next

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1 level.

2                   So just as a -- I'm -- you're a  
3 lawyer. If you want to be a supervisor lawyer,  
4 you have to have -- you're probably not going to  
5 do that after your first six months on the job.  
6 You'd have to be longer. The longer you have,  
7 that's the more experiences you have; that's the  
8 more kind of variety of matters that you've  
9 handled and investigated. And then once you do  
10 that, now you have enough experience to be able  
11 to go to the next level to sufficiently  
12 supervise someone who is below you who would  
13 have to do those types of things. So that, to  
14 me, is a big indicator.

15                   Education is another big indicator.  
16 So, like I mentioned earlier, he has one  
17 bachelor's degree. His is political science,  
18 which that's really not as applicable, I would  
19 say, as my training, formal training, for  
20 Internal Affairs to be able to employ those  
21 abilities that you learned back in formal  
22 education to investigate matters.

23                   Specialized training, his, on there,  
24 he has -- I guess his only thing on there for  
25 specialized training relative to his is staff

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1 techniques and operational planning. That is --  
2 that's nice. I had -- like, on mine, I have LSP  
3 direct leader course, as a field training  
4 officer. I was a relational leadership model  
5 instructor. I'm one of the people who  
6 coauthored State Police's leadership manual, the  
7 very manual that they use today to teach people  
8 how to be leaders. So I have that over him. He  
9 was not -- he didn't coauthor the manual and  
10 it's -- it's not on here. I taught the classes,  
11 how to be a leader, and, to my knowledge, he  
12 didn't teach those classes, at least it's not on  
13 here that he taught those classes.

14 Both of us have an exceptional PES  
15 rating, so that's sort of a wash. We already  
16 talked about disciplinary. Awards, that was --  
17 I had, what, one more than him, I think we  
18 tallied up, and then commendations, I have a  
19 little more than him.

20 So by looking objectively on this  
21 matrix, I am by far more qualified than Chavez  
22 Cammon, in my opinion.

23 EXAMINATION BY MS. ROSS:

24 Q. Do you think that his experience,  
25 his prior work experience in BOI or ISS, maybe

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1           A.       And it's not a -- not -- how would I  
2 phrase that? Having more certainly helps you  
3 out, but that's not a necessity, by any means,  
4 especially since you did the same exact -- well,  
5 I did the same exact function, just on the  
6 Southshore. And, again, I --

7           Q.       But it could have put him over the  
8 edge for the promotion, right?

9           A.       I don't know that.

10          MR. FARRUGIA:

11                    Objection. Objection. Calls for  
12 speculation.

13          EXAMINATION BY MS. ROSS:

14           Q.       You can answer, if you can answer.

15           A.       No, I don't know the answer. That's  
16 what I was going to say, I don't know the answer  
17 to that question.

18           Q.       Okay. I'll show you what's been  
19 Bates labeled LSP\_STELLY 1078 and 506 to 514.

20                    All right. This is the summary  
21 sheet for Technical Support Services that Aaron  
22 Marcelle got. Do you see that, if you look at  
23 the next page? 20-1383 is the number.

24           A.       Oh, yes. On the summary sheet, yes,  
25 ma'am, I see 20-1383.



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1 statistical analysis regarding promotions within  
2 the LSP after the 2013, that 2013 analysis,  
3 correct?

4 A. Yes, ma'am.

5 Q. And as we talked about in the  
6 beginning of your deposition, you're serving as  
7 your own expert in this case, correct?

8 A. Not exclusively, but yes.

9 Q. I understand you have others.

10 And so, as I told you, I'm not going  
11 to walk through your reports or anything like  
12 that in this deposition. We're going to do that  
13 at a later time. But I just do want to ask a  
14 couple of questions.

15 You mentioned in 2017 you first  
16 started being concerned that you were being  
17 passed over because of your race. Tell me when  
18 you did the statistical analysis that you are  
19 using in this case.

20 A. I would -- when the -- once I  
21 started being concerned about those, I can't  
22 tell you the exact date I started doing some  
23 sort of statistical record-keeping, but I would  
24 make a -- a chart that showed the, I guess,  
25 years of service versus time in grade of every

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1 candidate on the list. So I don't recall when I  
2 started doing that, but I know it was probably  
3 subsequent to 2017. So if that -- is that -- is  
4 that the question you're asking --

5 Q. Yes.

6 A. -- or did you want something more  
7 specific?

8 Q. No, that's right.

9 And so you mentioned earlier the  
10 result of the analysis that you did in 2013 was  
11 that there was no race discrimination or gender  
12 discrimination?

13 A. No, ma'am. I said there was --

14 Q. Age?

15 A. -- evidence --

16 Q. I'm sorry. Go on.

17 A. I said there was no evidence of race  
18 or gender. I didn't say there was none. I said  
19 there's no evidence of race or gender  
20 discrimination in promotions.

21 Q. From a statistical point of view,  
22 correct?

23 A. Yes, ma'am.

24 Q. You did ultimately file an EEOC  
25 complaint; is that correct?

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1 finish up.

2 (Discussion off the record.)

3 MS. ROSS:

4 So I am marking as Exhibit 3, LSP\_  
5 STELLY 1066 and LSP\_STELLY 438 through 443.

6 (Following a luncheon brief recess,  
7 the following proceedings were had.)

8 EXAMINATION BY MS. ROSS:

9 Q. Mr. Stelly, before the break, we had  
10 discussed the promotions that you applied for  
11 between 2008 and 2016, correct?

12 A. 2008 and 20--

13 Q. '16. Those 15 --

14 A. Yes, ma'am.

15 Q. -- promotions?

16 A. Yes, ma'am.

17 Q. And I just want to clarify one  
18 point.

19 Well, let me ask you this. Do you  
20 recall how many, if any, black individuals were  
21 on those panels?

22 A. Do I remember myself? No, ma'am, I  
23 do not.

24 Q. Because you had mentioned that one  
25 thing to consider, if you were considering the

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1 our conversation, and somehow he asked me -- or  
2 it might have been Donovan that asked me -- I do  
3 not recall -- what do you think about it? I  
4 said, well, I think I did -- I'm number one  
5 here, number one here, number one here. I might  
6 be tied at -- whatever I told them, but I was  
7 the clear decider based on those objective  
8 deciding factors. So he told me, basically,  
9 well, none of that matters. Don't worry about  
10 that. That doesn't matter.

11 Q. And did he say this is what does  
12 matter?

13 A. No, ma'am.

14 Q. Did he say race was a factor at all?

15 A. No, ma'am, he did not.

16 Q. Okay. Let's look at what I will  
17 mark as Exhibit 4. And this is, for the record,  
18 Bates labeled LSP\_STELLY 1032 and LSP\_STELLY 444  
19 to 448. Take a look at that for me.

20 You've seen this document before?

21 A. Yes, ma'am, I have.

22 Q. If you look on page 1032, this is  
23 the Official Certification of Eligibles, at  
24 least that's what it says it is -- for Gaming  
25 Enforcement, and Kendrick VanBuren and yourself

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1 are both on the list, correct?

2 A. Yes, ma'am.

3 Q. And you understand Kendrick VanBuren  
4 was selected for this promotion, correct?

5 A. Yes, ma'am.

6 Q. And let me ask you something. Does  
7 this page 1032 say anything about the  
8 applicant's race?

9 A. It does not.

10 Q. Had you worked at any Gaming  
11 department prior to this promotion?

12 A. No, ma'am, I had not.

13 Q. And if we go to page 445, you see  
14 that Mr. VanBuren has spent eight years and five  
15 months in the Indian Gaming Department, correct?

16 A. Let's see. Yes, ma'am.

17 Q. All right. Is it your contention  
18 that you were more qualified than Mr. VanBuren  
19 for this position?

20 A. Yes, ma'am.

21 Q. And is that based on the objective  
22 factors that we've already discussed?

23 A. And other things. For example, my  
24 having coauthored State Police's Leadership  
25 Manual, my having taught leadership classes. So

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1 Q. The panel considered, your  
2 experience in a particular division.

3 It is possible that a candidate's  
4 experience in a particular division is something  
5 that the panel considered?

6 A. I would -- hopefully, they  
7 definitely considered it, because it's listed as  
8 a factor.

9 Q. Right.

10 A. So I would hope they considered it.

11 Q. Okay.

12 A. So I just don't know -- like I said  
13 here, this sheet is not, I guess, dispositive of  
14 the capacity in which this experience actually  
15 existed.

16 Q. I understand.

17 A. Okay.

18 Q. I want to now mark Exhibit 5, which  
19 is LSP\_STELLY 1031, 1068, and 449 through 459.

20 All right. This is the  
21 Certification of Eligibles, if you look at  
22 LSP\_STELLY 1031, for the Technical Support  
23 Services position, No. 18-1223, correct?

24 A. Yes, ma'am.

25 Q. And you understand Chris Eskew was

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1 selected as captain for this position, correct?

2 A. I know he was made a captain. I  
3 don't know if it was over this position or not,  
4 because it usually has -- it's usually  
5 highlighted, who got promoted, on the sheet. So  
6 I know he was promoted to captain. I'm just not  
7 sure in which section.

8 Q. I understand. And I'll represent to  
9 you it was over this section.

10 Mr. Eskew is white; is that right?

11 A. Yes, ma'am.

12 Q. And if you look on the list of  
13 eligibles, we've got you, Mr. Eskew, Charron  
14 Thomas.

15 You understand Mr. Thomas is black?

16 A. It's a lady. But yes, ma'am.

17 Q. Oh, it's a lady. Okay.

18 A. Yes, ma'am.

19 Q. Ms. Thomas is black. And Lamar  
20 Davis is, obviously, black, correct?

21 A. Yes.

22 Q. Are any of the other individuals on  
23 this list black?

24 A. Yes, ma'am.

25 Q. Who else?

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1 THE WITNESS:

2 This one is --

3 MR. FARRUGIA:

4 -- four?

5 THE WITNESS:

6 No. One, two, three, four, five,  
7 six, seven, eight, nine, ten, eleven, twelve,  
8 thirteen.

9 MR. FARRUGIA:

10 Can I see it?

11 THE WITNESS:

12 (Tendered.)

13 MS. ROSS:

14 All right. This one, I don't have a  
15 single-sided copy of it. This we'll mark as  
16 Exhibit 6, if you'd just put the sticky on the  
17 bottom of that.

18 THE WITNESS:

19 Sure. This page here?

20 MS. ROSS:

21 Yes. And this is Bates labeled  
22 LSP\_STELLY 1069 and LSP\_STELLY 674 to 678.

23 EXAMINATION BY MS. ROSS:

24 Q. And if you look at the first page,  
25 1069, this is a Summary Sheet For Job Search



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1 Announcements, at the top, and it is for, looks  
2 like, captain for Troop N.

3 Do you see that?

4 A. Yes, ma'am.

5 Q. And you understand Dean Behrens was  
6 selected for this position?

7 A. Yes, ma'am. That one, I do know.

8 Q. And Mr. Behrens is white, is he not?  
9 He's white?

10 A. Yes, ma'am, he is.

11 Q. Do you contend that you were better  
12 qualified than Mr. Behrens for this position?

13 A. In certain regards, yes.

14 Q. Do you think you should have been  
15 selected for this position?

16 A. I do not have all the -- a sheet on  
17 here that is reflective of Mr. Behrens' --

18 Q. Let's see. You're right. It looks  
19 like we're missing that. Okay. We'll move on  
20 to the next one, then.

21 This we'll mark as Exhibit 7. This  
22 is Bates labeled LSP 1033, and the second  
23 document does not have a Bates label, but it is  
24 the summary sheets for the Lamar Davis  
25 promotion.

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1                   Okay. If we look at page 1033 --  
2 first of all, you've seen this, correct?

3           A.       Yes, ma'am.

4           Q.       And page 1033 has got the  
5 Certification of Eligibles, correct?

6           A.       Yes, ma'am.

7           Q.       And you understand that Lamar Davis  
8 was awarded this position, correct?

9           A.       Yes, ma'am. That one, I do  
10 remember.

11          Q.       And Mr. Davis was formerly in the  
12 military, wasn't he?

13          A.       Yes. According to his sheet here,  
14 he was, and his testimony yesterday, in casual  
15 conversation, reflected yes.

16          Q.       And Colonel Davis ultimately became  
17 the superintendent over the entire Louisiana  
18 State Police, correct?

19          A.       Yes, ma'am.

20          Q.       And is that the highest-ranking  
21 position in the agency?

22          A.       Yes, ma'am.

23          Q.       Do you contend that you should have  
24 been promoted over Colonel Davis?

25          A.       Yes, ma'am. For this one, I contend

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1 limited -- they limited you artificially to 15  
2 minutes, regardless of the number of positions  
3 for which you applied, so -- which I thought  
4 that, in itself, was unfair, because I --

5 Q. But everyone was limited, correct?

6 A. Yes. But if you only applied for  
7 one position, you got to speak for 15 minutes on  
8 one position; whereas, I applied for three  
9 positions, and I had the 15 minutes to speak on  
10 three positions.

11 Q. Right. But that doesn't have  
12 anything to do with race, correct?

13 A. No, ma'am, it does not. Obviously  
14 not. So --

15 I forgot what I was telling you now  
16 with respect to that.

17 Oh, yeah. That's what it was.  
18 Colonel Reeves made particular mention, he  
19 noticed that when I gave my commentary after the  
20 interview questions, that he said I was ultra  
21 prepared for the Technology and Business Support  
22 section.

23 Q. Knowing now that Colonel Davis  
24 ultimately becomes the superintendent of State  
25 Police, do you still contend that you were more

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1 qualified than him for this position?

2 A. Yes, ma'am. To me, his successes  
3 after that are irrelevant, because that is not  
4 to say that I wouldn't have been more successful  
5 had I been promoted.

6 Q. Is there more successful than the  
7 superintendent?

8 A. I could have done a better job,  
9 possibly.

10 Q. But that is the highest position,  
11 correct?

12 A. Yeah. Well, just because one  
13 reaches the highest position, that does not mean  
14 one is successful.

15 Q. I understand. But objectively  
16 speaking, that is success in --

17 A. He rose to the highest rank. I  
18 would agree to that statement.

19 Q. Okay.

20 A. But I would disagree that he -- that  
21 I could not have done necessarily a better job  
22 than he did in that. So just --

23 Q. No. I didn't say you couldn't do --

24 A. Right. Yeah.

25 Q. -- a fine job.

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1 A. Yes.

2 Q. I'm just saying --

3 A. Yes, he did rise --

4 Q. -- he did.

5 A. But that is not indicative of lack  
6 of racial discrimination.

7 Q. Well, it is indicative of something.

8 A. It's indicative that he rose through  
9 the ranks and was continued to be promoted, yes.  
10 That's the extent of its indication.

11 Q. All right. I'm going to show you  
12 what we will mark as Exhibit 8. This is  
13 LSP\_STELLY 1037 and LSP\_STELLY 471 to 489. This  
14 is the Certification of Eligibles and the  
15 summary sheet for --

16 MS. ROSS:

17 I'm sorry. What are we calling it  
18 again?

19 MR. FARRUGIA:

20 Summary Report.

21 EXAMINATION BY MS. ROSS:

22 Q. -- Summary Report for the ISS  
23 position that ultimately Robert Hodges got.

24 Do you recall that promotion?

25 A. Yes, ma'am, I do.

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1 Q. And if we look on the Certification  
2 of Eligibles, Robert Hodges is white; is that  
3 right?

4 A. Yes, ma'am.

5 Q. It doesn't say that here, but you  
6 know he's white?

7 A. Yes, ma'am.

8 Q. And also on this list are Charron  
9 Thomas, who's black, correct?

10 A. Yes, she is.

11 Q. And Aaron Marcelle we know is also  
12 black, correct?

13 A. Yes, he is.

14 Q. Okay.

15 A. As is Sheldon Perkins.

16 Q. As is Sheldon Perkins. So three  
17 black individuals, the rest white, and Mr. --

18 I'm sorry?

19 A. I was looking -- I was counting.  
20 You said three. I was counting --

21 Q. Oh, okay.

22 A. -- to agree with or not with you.

23 Yes, ma'am. Three black  
24 individuals.

25 Q. And Mr. Hodges is white, we already

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1 said, correct?

2 A. Yes, ma'am.

3 Q. Do you contend that you were better  
4 qualified for this position?

5 A. I would have to look at Robert  
6 Hodges -- let me see.

7 Probably slightly better qualified  
8 than Robert, but not to the degree of the two  
9 that I had strenuously -- that much, much more  
10 qualified earlier; namely, Internal Affairs and  
11 Technology and Business Support. So those two  
12 much, much more; this one, maybe a little more  
13 qualified.

14 Robert Hodges was a sergeant for me.  
15 I was his lieutenant for a while. He was a --  
16 he was a great sergeant. He did spectacular  
17 work as a sergeant.

18 Q. Do you think that you should have  
19 been promoted in this promotional panel over Mr.  
20 Hodges?

21 A. Again, that was -- how would I  
22 phrase that? I'd go back to the same thing,  
23 like Kenny VanBuren, or Kendrick VanBuren, one  
24 of the first ones about which we spoke. This is  
25 a -- we can make opinions and say this is my

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1 opinion, and so I can -- I might disagree with  
2 that, but I can live with that.

3 The one about Lamar Davis and Chavez  
4 Cammon, those, to me, are absolutely incorrect  
5 opinions. So --

6 Q. I guess my question is, do you think  
7 that you should have been promoted over Mr.  
8 Hodges?

9 A. Yes.

10 Q. Okay.

11 A. To me, I have a slight advantage  
12 over Robert Hodges. So nothing, like I said,  
13 nearly to the degree of the others.

14 Q. Are you aware of anyone on the panel  
15 recommending you for the position?

16 A. Same answer as before. I was not  
17 privy to that conversation, so my answer is no.  
18 But it's also I don't know.

19 Q. I understand.

20 All right. Let's look at what I'll  
21 mark as Exhibit 9. This is LSP\_STELLY 1071 and  
22 LSP\_STELLY 1042 to 1052.

23 This is the Summary Sheet For Job  
24 Search Announcements for Crime Lab. Do you see  
25 that at the top of 1071?



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1 A. Yes, ma'am.

2 Q. And if we look at the first page of  
3 this exhibit, the summary sheet, it's got the  
4 list of names. And this, actually, the summary  
5 sheet does have the individual's race on it, so  
6 we can see that two individuals are black, one  
7 is Asian, and the rest are white, correct?

8 A. Well, again, these sheets were --  
9 had several errors on them, so I'd have to  
10 actually go through and verify the information.  
11 So --

12 Q. You can look.

13 A. Yes. With regard to race, that  
14 sheet is correct.

15 Q. And Kevin Marcel got this position,  
16 correct?

17 A. This is the Crime Lab? Yes, ma'am,  
18 he did.

19 Q. Mr. Marcel is white, correct?

20 A. Yes, ma'am, he is.

21 Q. Do you think that you were more  
22 qualified than Mr. Marcel for this position?

23 A. That's probably about the same. So  
24 I think Mr. Marcel did a -- was an equal  
25 contender with me, pretty much on even keel with

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1 A. No, ma'am.

2 Q. Okay.

3 A. So I'm only --

4 Q. So you're making an assumption?

5 A. I'm making the assumption that what  
6 he mentioned is important and what he didn't  
7 mention is not important. So I can't imagine  
8 that he would mention the unimportant things and  
9 not mention the important things.

10 Q. Well, could you imagine that he had  
11 assumed that the merit was a given, that the  
12 qualifications once you got to the Certificate  
13 of Eligibles was a given and that to get to that  
14 next level you would need a sponsor?

15 A. That, to me, is not a reasonable  
16 conclusion.

17 Q. Why not?

18 A. That just -- again, I go back to the  
19 explanation of when you look at the panel, you  
20 should look at all the candidates objectively,  
21 right, and then you should look at them and add  
22 any subjective influences that you have based on  
23 that person.

24 As I said, each person on that panel  
25 knows each of the candidates, so it's not

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1 something that you need somebody to, quote,  
2 unquote, vouch for you. If this were an  
3 organization, for example, like New York Police  
4 Department and you were going up -- I think  
5 there's maybe 10,000, or even more than that,  
6 officers. So the odds of the commanders knowing  
7 all of those, that's much, much, much more  
8 difficult.

9 As I said in here, that's not the  
10 case in State Police. All of the command staff  
11 -- like I said, I've yet to know any commander,  
12 even having lunch or sitting with another  
13 lieutenant -- any command staff person says,  
14 "Hey, how you doing, John? How you doing, Tim?  
15 "Sue, how are you doing?" And they're --  
16 everyone knows everyone else. Your reputation  
17 precedes you in State Police.

18 Q. But you didn't work with all of  
19 those people, right?

20 A. What you mean?

21 Q. Well, I guess, just because someone  
22 knows who you are doesn't mean that they know  
23 how you operate in the work environment.

24 A. That's correct. And that would be  
25 the purpose of evaluations. So --

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1 Q. Right.

2 A. And all my evaluations, ever since  
3 lieutenant, they're all the top level and  
4 without a single piece of detrimental  
5 information. In any of the evaluations as  
6 lieutenant, I have -- none that I can remember  
7 in any of my -- especially since the ones  
8 applicable to this panel, or these panels, I  
9 should say.

10 Q. Mr. Barnum didn't mention race at  
11 all, did he?

12 A. No, ma'am, he did not.

13 Q. And, then, on October 3rd of 2018 I  
14 understand that you -- we already talked about  
15 the fact that you had -- you were given 15  
16 minutes to explain why you were the best for the  
17 position, even if you applied for two or three  
18 positions, right?

19 A. Yes, ma'am. That's correct.

20 Q. And some discovery responses  
21 indicate that you decided that that led you to  
22 the conclusion that the promotional decisions  
23 had already been made before the interviews; is  
24 that right?

25 A. That was my conclusion, yes, ma'am.

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1 Q. Did someone tell you that the  
2 promotional decisions had been made?

3 A. No, ma'am. Not at that time, no,  
4 ma'am.

5 Q. Did anyone say that the promotional  
6 decisions had been made and that they were based  
7 on race?

8 A. No. I did have people tell me that,  
9 yes, the promotional decision had been pre-made,  
10 but not based -- he did not say based on race.  
11 He said they had been pre-made for -- for  
12 example, like, Lieutenant Colonel Davis'  
13 position, when he got captain over Technology  
14 and Business Support, I was told know that he  
15 expressly told the person that, yes, I was told  
16 that this position is going to be -- I'm going  
17 to get this position; the colonel himself called  
18 and told me.

19 Q. So Lamar -- I'm sorry. So --

20 A. Colonel -- I'm sorry. Colonel -- I  
21 need to give names instead of an ambiguity.

22 Q. Okay.

23 A. I was told that Colonel Reeves or --  
24 I'm going to rephrase -- Lamar told my source of  
25 information, Chris Bodet, that the colonel

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1 himself called Lamar and told Lamar that he was  
2 going to be leader of the Technology and  
3 Business Support section, says, "I want you for  
4 this section." And this was before the  
5 interviews occurred.

6 Q. Did he say he wanted him because he  
7 was black?

8 A. No, ma'am. That was not conveyed to  
9 me. The extent of the conversation that was --  
10 whether he said that, that I do not know because  
11 I wasn't privy to the conversation between  
12 Colonel Davis and Chris Bodet. However, Bodet  
13 related to me that the conversation went that  
14 Colonel Reeves called Lamar Davis and told Lamar  
15 Davis that he is going to be the head of the  
16 Technology and Business Support section; that he  
17 wants then Lieutenant Davis for that position.

18 So whether race played a part in  
19 their original conversation. I can't answer  
20 that because I wasn't privy to that  
21 conversation.

22 Q. But Chris did not tell you that  
23 Lamar had said race placed a part, correct?

24 A. No, ma'am, he did not.

25 Q. Race was not mentioned, correct?

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1 would it not be -- why would that, I guess,  
2 preclude its use of racially discriminatory  
3 procedures for choice of captain. It would not.  
4 It would only say that racially discriminatory  
5 procedures are used at State Police.

6 Q. But that's just your assumption that  
7 it might have had an impact on your position,  
8 correct?

9 A. It's a logical conclusion. It's not  
10 my assumption. It's a logical conclusion that  
11 it's possible.

12 Q. Did Captain Archote have the power  
13 to promote you to captain?

14 A. No, ma'am, he did not.

15 Q. Did he sit in on any your  
16 promotional panels?

17 A. He certainly did not sit in them as  
18 a voting member. Whether he was there as a  
19 non-voting member, I do not recall.

20 Q. But he would not have had any vote  
21 with respect to whether you made captain or not?

22 A. You are correct. He would not have  
23 a vote.

24 Q. I want to turn your attention now to  
25 what has been marked as LSP\_STELLY 1073 and 490

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1 to 492. This is the Summary Sheet For Job  
2 Search Announcements for Public Affairs  
3 position, correct?

4 A. Yes, ma'am.

5 Q. And it looks like there are three  
6 people on the applicant list, correct?

7 A. According to that summary sheet,  
8 yes. But those -- like I said, those summary  
9 sheets have usual errors on them. So --

10 Q. And one of those individuals is  
11 black, correct?

12 A. Yes, ma'am, she is.

13 Q. And J.B. Slaton won this position,  
14 right?

15 A. Yes, ma'am. I remember that.

16 Q. And do you think that you should  
17 have been promoted to this position over J.B.  
18 Slaton?

19 A. Yes. I have -- over him in several  
20 of those categories.

21 Q. So you think you were more qualified  
22 than Mr. Slaton, correct?

23 A. Yes.

24 Q. And are you aware of anyone  
25 recommending you for promotion to this panel?



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1           A.       Same answer.  No, because I was not  
2   privy to the discussion, so I can't say "no" or  
3   "yes," and I can't say definitively -- well, I  
4   can say "no," because I'm not aware, but that's  
5   sort of a vacuous statement.

6           Q.       I understand.  And you did not  
7   complain to anyone after this promotion, did  
8   you?

9           A.       No, ma'am, I did not.

10          Q.       All right.  I want to turn to --

11          THE REPORTER:

12                    Did you want to mark that?

13          MS. ROSS:

14                    Yes.  That's 11.

15          EXAMINATION BY MS. ROSS:

16          Q.       Okay.  I'm going to show you what I  
17   will mark as Exhibit 12, and this is LSP\_STELLY  
18   1036 and 493 to 499.

19                    All right.  This is the Certificate  
20   of Eligibles, 1036 is the Certificate of  
21   Eligibles, for BOI/Gaming Enforcement.  You see  
22   that?

23          A.       Yes, ma'am, I do.

24          Q.       You applied for this promotion?

25          A.       Yes, ma'am, I did.

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1 Q. And it looks like there's at least  
2 one African-American on the panel, Aaron  
3 Marcelle, correct?

4 A. Let me count for you. There's  
5 exactly one, yes, ma'am.

6 Q. Patrick Bradley ultimately got this  
7 promotion, correct?

8 A. Yes, ma'am, he did.

9 Q. He is white, correct?

10 A. Yes, ma'am, he is.

11 Q. Do you think that you were better  
12 qualified than Mr. Bradley?

13 A. Yes, I do.

14 Q. And do you think you should have  
15 gotten this promotion?

16 A. That one, yes, I do.

17 Q. And are you area of anyone that  
18 recommended you for this promotion?

19 A. I'll have to give the same vacuous  
20 "no."

21 Q. Okay. I'm going to turn your  
22 attention to -- you can put that one away.

23 A. I'm trying to keep them in order for  
24 you here.

25 Q. Sure. I'll turn your attention to

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1 what I will mark as Exhibit 13. This is  
2 LSP\_STELLY 1076 and then 500 to 505.

3 Do you see that?

4 A. Yes, ma'am.

5 Q. This is the Summary Sheet For Job  
6 Search Announcements and the summary for Troop L  
7 captain, correct?

8 A. Yes, ma'am, it is.

9 Q. And you understand Hiram Mason got  
10 that position?

11 A. Yes, ma'am, I remember that.

12 Q. And Mr. Mason is black, correct?

13 A. Yes, ma'am, he was. Or is.

14 Q. Is he?

15 A. Yes, ma'am.

16 Q. Did you say was or is?

17 A. I said "was," but I'm thinking he  
18 was the captain. But, well, that probably means  
19 he's dead, so I don't want to phrase it like  
20 that. I was trying to do it past tense, because  
21 I don't think he's captain any longer. So I was  
22 trying to do it -- reflect past tense, but that  
23 was probably a bad use of my past tense.

24 Q. And what is he now, do you know?  
25 Major?

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1           A.       And it's not a -- not -- how would I  
2 phrase that? Having more certainly helps you  
3 out, but that's not a necessity, by any means,  
4 especially since you did the same exact -- well,  
5 I did the same exact function, just on the  
6 Southshore. And, again, I --

7           Q.       But it could have put him over the  
8 edge for the promotion, right?

9           A.       I don't know that.

10          MR. FARRUGIA:

11                    Objection. Objection. Calls for  
12 speculation.

13          EXAMINATION BY MS. ROSS:

14           Q.       You can answer, if you can answer.

15           A.       No, I don't know the answer. That's  
16 what I was going to say, I don't know the answer  
17 to that question.

18           Q.       Okay. I'll show you what's been  
19 Bates labeled LSP\_STELLY 1078 and 506 to 514.

20                    All right. This is the summary  
21 sheet for Technical Support Services that Aaron  
22 Marcelle got. Do you see that, if you look at  
23 the next page? 20-1383 is the number.

24           A.       Oh, yes. On the summary sheet, yes,  
25 ma'am, I see 20-1383.

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1 Q. Yes. And Aaron Marcelle won this  
2 promotion, correct?

3 A. Yes, ma'am, he did.

4 Q. Mr. Marcelle is black; is that  
5 right?

6 A. Yes, ma'am.

7 Q. And do you contend that you were  
8 better qualified than Mr. Marcelle for this  
9 position?

10 A. Yes, ma'am, I do.

11 Q. You understand, if we look at  
12 LSP\_STELLY 509, that Mr. Marcelle had spent some  
13 time in TSS, correct?

14 A. Well, one year. So nothing of any  
15 substance.

16 Q. Well, that's still a year, right?

17 A. Yes, ma'am. But it's a year. It's  
18 not as -- as if it's 15 years or 20 years.

19 Q. Okay. But we just saw that Hiram  
20 Mason spent 13 years, and you didn't think that  
21 was impressive either.

22 A. No. That's because that was a troop  
23 function. That was Troop L and this is Troop B,  
24 same exact function. So that wasn't too  
25 impressive because we served the same function.

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1 understood that. He said that basically, well,  
2 that's the system we have, so that's the system  
3 we're stuck with. It was a very short meeting.

4 Q. Did you express that you thought  
5 that you were being passed over because you're  
6 white?

7 A. No, ma'am, I did not tell him  
8 anything -- race did not -- I did not mention  
9 race in our conversation with Riles.

10 Q. Okay. Let me show you what has been  
11 marked LSP\_STELLY 1035, 1041, and --

12 A. Can I put these -- this No. 14 away?

13 Q. Yes.

14 -- and 515 to 523. I'm going to  
15 mark it as Exhibit 15. There you go.

16 All right. This is the  
17 Certification of Eligibles for Technology and  
18 Business Support, correct?

19 A. Yes, ma'am, it is.

20 Q. This is the same panel that you  
21 thought you should have gotten over Mr. Davis,  
22 right?

23 A. Yes, ma'am.

24 Q. And you understand David Stelly was  
25 selected?

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1 A. Yes, ma'am, I do.

2 Q. Any relation?

3 A. No, ma'am. At least none I know of,  
4 none we've ever found.

5 Q. Mr. David Stelly is white, correct?

6 A. He is.

7 Q. And if we look on the list of  
8 eligibles, Mr. Burns is on the list, correct?

9 A. Yes, ma'am, he is.

10 Q. And we've already discussed you  
11 believe him to be Asian, right?

12 A. Yes, ma'am.

13 Q. Are there any other Asians on the  
14 list?

15 A. Yes, ma'am.

16 Q. Who?

17 A. Rodney Hyatt.

18 Q. Is Jonas Martin Asian?

19 A. No, ma'am.

20 Q. Are there any black people on the  
21 list?

22 A. No, ma'am.

23 Q. Do you think that you were more  
24 qualified for this position than David Stelly?

25 A. Absolutely.

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1 Q. Do you think that you should have  
2 been promoted over David Stelly?

3 A. For that position, yes, absolutely.

4 Q. How do you explain the fact that you  
5 weren't promoted over David Stelly in this  
6 position?

7 A. I can't answer that question. That  
8 would be a question for you to ask Colonel  
9 Davis. That wasn't my decision.

10 Q. But you can say that it was not  
11 because you're white, correct, because David  
12 Stelly is white as well?

13 A. Yes. It was obviously not a racial  
14 issue because he's white and I'm white.

15 Q. Are you aware of anyone recommending  
16 you for promotion on this panel?

17 A. I'll give you the same vacuous, "No,  
18 I am not."

19 Q. All right. Let's go to what has  
20 been marked as LSP\_STELLY 1079 and 524 to 532,  
21 which I'll mark as Exhibit 16.

22 All right. This is the summary  
23 sheet for the promotion to captain of Police  
24 Logical Services. Do you see that?

25 A. Yes, ma'am, I do.



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1 Q. And you understand that Nicole  
2 Kilgore got this position?

3 A. Yes, ma'am, that's what I remember.

4 Q. And she is white, correct?

5 A. Yes, ma'am, she is.

6 Q. And it looks like there are two  
7 Asian individuals on the list, too, correct?

8 A. Let's see. Yes, ma'am. But, again,  
9 this list, I can't vouch for the accuracy of  
10 this list.

11 Q. I understand. But according to this  
12 list?

13 A. According to that list, yes.

14 Q. And is it your position that you  
15 were more qualified than Ms. Kilgore?

16 A. Yes. I was more qualified than Ms.  
17 Kilgore, and for this one, it's for different  
18 reasons than -- well, I guess a different reason  
19 than I mentioned earlier. So this was more I  
20 was executive officer for a while, which  
21 basically this is the exact -- one of the  
22 functions of an executive officer is police  
23 logistics, supplying things to -- across the  
24 state instead of just at the troop. So I did  
25 basically the same exact function, and I was

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1 made a racial decision because he said, "I want  
2 a white person." So he could have discriminated  
3 against, say, Rodney Hyatt and Robert Burns at  
4 that time, but not to say that he did. So I can  
5 only say there was no discrimination with  
6 respect to against me.

7 Q. I understand. And that's all I'm  
8 asking.

9 A. Okay. I just want to make sure I  
10 wasn't trying to overstate --

11 Q. This is your lawsuit, so --

12 A. Yes. I was making sure I wasn't  
13 overstating the answer to your question.

14 Q. I understand. Okay. You can put  
15 that one away.

16 I'm going to show you what we'll  
17 mark as Exhibit 17. This is LSP\_STELLY 1030,  
18 1075, 533 to 539. And this is the Summary Sheet  
19 For Job Search Announcements and the  
20 Certification of Eligibles for Public Affairs.

21 Do you see that?

22 A. Yes, ma'am.

23 Q. And if we look at the list of  
24 eligibles, we've got at least one Asian  
25 individual, Robert Burns, correct?

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1           A.     And -- two.  So there's Rodney Hyatt  
2 as well, so two.

3           Q.     Right.  Okay.  And then Nicholas  
4 Manale won this promotion, correct?

5           A.     Yes, ma'am, I remember that.

6           Q.     And Mr. Manale is white?

7           A.     Yes, ma'am, he is.

8           Q.     Do you think that you were better  
9 qualified than Mr. Manale?

10          A.     Yes, ma'am.  So for the same reasons  
11 I gave earlier for the other categories -- or  
12 the other promotions or for the majority of the  
13 other promotions.  I'm by far senior in  
14 experience.

15          Q.     Do you think that you --

16          MR. FARRUGIA:

17                 Excuse me.  Wait until she asks you  
18 a question.  She didn't ask you that question  
19 yet.  So just wait for a question.

20          THE WITNESS:

21                 All right.

22          EXAMINATION BY MS. ROSS:

23          Q.     Do you think you should have been  
24 promoted to this position over Mr. Manale?

25          A.     Yes, ma'am.

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1 Q. And are you aware of anybody  
2 recommending you for this position on the panel?

3 A. Same vacuous "no." No, I am not.

4 Q. All right. I'm going to show you  
5 what's been marked as LSP\_STELLY 1039, 1080, and  
6 540 to 544.

7 If we look at LSP 1039, this is the  
8 Certification of Eligibles for Internal Affairs,  
9 correct?

10 A. Yes, ma'am.

11 Q. And this is --

12 MR. FARRUGIA:

13 Excuse me. Is this a good time to  
14 take a little break?

15 MS. ROSS:

16 Let me finish this exhibit, and then  
17 we'll take a break. Is that okay?

18 MR. FARRUGIA:

19 Okay.

20 EXAMINATION BY MS. ROSS:

21 Q. All right. This is for Internal  
22 Affairs, correct?

23 A. Yes, ma'am.

24 Q. And you understand that Treone  
25 Larvadain --

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1 A. Yes.

2 Q. -- got that position?

3 A. Yes, ma'am.

4 Q. Am I saying that right?

5 A. Yes, ma'am.

6 Q. And Ms. Larvadain is black, correct?

7 A. Yes, ma'am.

8 Q. We've already talked about you have  
9 never worked in Internal Affairs, correct?

10 A. I was -- well, you'd have to clarify  
11 your question, please.

12 Q. Did you ever work in Internal  
13 Affairs?

14 A. Was I ever assigned to Internal  
15 Affairs?

16 Q. Yes.

17 A. I was never assigned to Internal  
18 Affairs.

19 Q. Okay. That's my question.

20 A. So I worked on Internal Affairs  
21 investigations, but I was never assigned to  
22 Internal Affairs.

23 Q. And Ms. Larvadain was assigned to  
24 Internal Affairs, correct?

25 A. Yes, for a little over a year. But

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1 THE REPORTER:

2 No.

3 MS. ROSS:

4 Yes. I would like to mark that as  
5 Exhibit 18, then.

6 (Following a brief recess, the  
7 following proceedings were had.)

8 MS. ROSS:

9 Ready?

10 THE WITNESS:

11 Yes, ma'am.

12 EXAMINATION BY MS. ROSS:

13 Q. All right. I'm going to show you  
14 what we'll mark as Exhibit 19, and it's  
15 LSP\_STELLY 1081, 1040, and 545 to 548.

16 This is the summary sheet and  
17 Certification of Eligibles for Operational  
18 Development captain. You see that?

19 A. Yes, ma'am.

20 Q. All right. And if we look on the  
21 certification, we've got four individuals up for  
22 this promotion: you, Mr. Burns, Mr. Hasselbeck,  
23 and Mr. El-Amin, correct?

24 A. Yes, ma'am.

25 Q. All right. Mr. Burns ultimately got

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1 this promotion, right?

2 A. Yes, ma'am.

3 Q. Do you think you were better  
4 qualified for this promotion than Mr. Burns?

5 A. Yes. I was much more qualified than  
6 Mr. Burns.

7 Q. Why were you much more qualified  
8 than Mr. Burns?

9 A. Well, we can do sort of a  
10 side-by-side comparison here again. So similar  
11 to some of the other ones, which I didn't  
12 mention on the others, but I was number one  
13 scorer on the test on all these other deals. My  
14 position is, if you go back and reflect on those  
15 other exhibits, I was always top scorer on the  
16 tests.

17 So the tests sort of -- now,  
18 granted, here, the difference is eight -- I'm  
19 sorry -- six points between there; however, that  
20 promotional test tests one's knowledge on  
21 selected policies and procedures, tests one's  
22 knowledge on selected criminal statutes and  
23 traffic statutes, tests one's knowledge on the  
24 entirety of the District Attorney's handbook and  
25 also on leadership material. So -- and as I

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1 indicated, I was the top scorer on all those. I  
2 was the top scorer on all those exhibits, all  
3 those panels.

4 Q. Okay.

5 A. I tied twice with two individuals.  
6 Once was Dean Behrens and once was David Stelly.  
7 So all other ones I was number one on the panel,  
8 and I was sometimes only separated by a few  
9 points; otherwise, by a wide, wide margin of  
10 points over the person who was promoted.

11 So the same thing would apply here.  
12 I scored above Mr. Robert Burns on the  
13 promotional test. My experience over Robert  
14 Burns was, again, substantial. So five years,  
15 say, six years, to be approximate there, versus  
16 more than 16 years. So ten years of experience  
17 more than Robert Burns, LSP experience;  
18 although, that's -- that's only -- what is that  
19 -- say, seven years, approximately. So time in  
20 grade is much, much more important as experience  
21 being a lieutenant.

22 Both of us -- neither of us has law  
23 enforcement experience. Neither of us has  
24 military. Robert Burns' formal education was in  
25 sociology and criminology with -- as a



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1 bachelor's degree. So not too helpful for  
2 Operational Development. Operational  
3 Development is more of a research section, where  
4 research policies and procedures of the State  
5 Police, to say, hey, is this a good policy? Can  
6 we adopt this policy to make it better? How can  
7 we improve it? What are some deficits of the  
8 policy? What are some, I guess, things that  
9 cause the policy issues?

10 For example, the use of force policy  
11 or the pursuit policy, how does that get State  
12 Police in trouble down the road when it  
13 authorizes troopers to do things that maybe they  
14 shouldn't do? So that requires a lot of  
15 research. Being a person who did his master's  
16 and doctorate, that was a thing I regularly do.  
17 I'm quite acclimated at doing research.

18 Same thing for specialized training.  
19 My -- my specialized training by far exceeds Mr.  
20 Robert Burns' specialized training. So he has  
21 -- in his list of training deals there, he has  
22 not a single thing which would help him in his  
23 Operational Development job. So I -- like I  
24 said, I have a post FBI instructor development  
25 course.

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1                   What else is in that list there?  
2    Direct leader certification. Let's see what  
3    else is in there. Field training officer, which  
4    I don't -- oh, no. I'm sorry. Mr. Burns has  
5    that as well.

6           Q.     Mr. Burns had been in Operational  
7    Development for almost eight years, right?

8           A.     Yes. But I was going to go through  
9    -- I'm going through the -- I'm finishing my --  
10   you asked me a question. I was going to finish  
11   the answer to that question.

12          Q.     Okay.

13          A.     So my specialized training is by far  
14   superior to Mr. Burns' specialized training.

15                   PES ratings are pretty much the  
16   same. Commendations, I have two more than  
17   Robert Burns. Awards, I have a couple more than  
18   Burns. However, the most glaring thing on this  
19   list of deficiency of Robert Burns is his  
20   disciplinary action.

21                   So the extent of my disciplinary  
22   action for the entirety of my career in State  
23   Police, specifically up to and including this  
24   promotion, was that letter of reprimand back in  
25   1997 for that fleet crash that I explained. So

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1 Robert Burns, on the other hand, had a rather  
2 substantial incident. He was suspended for 64  
3 hours. Reading his letter of discipline, which  
4 is a public record, those -- he committed 52  
5 separate and distinct acts in violation of State  
6 Police policy, state law and federal law, for  
7 which he could have been imprisoned had he been  
8 charged. So of those 52 separate and distinct  
9 acts, he admitted to 51 of them. All right?

10 He admitted to 51 of those distinct  
11 acts. Those acts were not something that he  
12 did, say, on just one day. Those acts span the  
13 span of three years. He repeatedly,  
14 deliberately, and intentionally violated policy  
15 and procedure, criminal state law and federal  
16 law over a span of three years.

17 So, to me, that's a fairly  
18 significant deviation from me or my discipline.  
19 And that's not something that occurred a long  
20 time ago. That's something that was -- what --  
21 this is in 2017 he was suspended for that.  
22 That's -- and this panel was in 2021, so about  
23 four years prior. So that's a -- that's a gross  
24 deviation.

25 So on top of that, reading his

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1 letter of discipline, in the letter of  
2 discipline, not only did he admit to committing  
3 51 of those 52 violations, he admitted to  
4 knowing that that was wrong, which certainly he  
5 should have known it's wrong just being a  
6 lieutenant. But he admitted to knowing it's  
7 wrong. In furtherance, he entered into a  
8 conspiracy with his ex-wife to help her -- to  
9 have her conceal that information from the  
10 Department to prevent his termination, which he  
11 knew was a possible consequence of his  
12 committing those 51 acts.

13           So that, to me, is a gross deviation  
14 of leadership. So if you are going to be a  
15 captain and you're going to be enforcing these  
16 policies, then I can see maybe if it's something  
17 -- say it's as a fleet crash. It's hard to go  
18 through and tell -- lead people and tell them,  
19 look, you're not supposed to get in fleet  
20 crashes if you, as a captain, keep on getting in  
21 fleet crashes. So, likewise, along those same  
22 lines, it's hard to tell people and lead people  
23 in your section or otherwise -- this is a  
24 Department-wide section -- it's hard to have --  
25 instill confidence in people that you have the

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1 that I would have done doing research in  
2 Operational Development.

3 So although, yes, he was in that  
4 section for seven years and ten months, so I  
5 hope he'd do all those things, but I did those  
6 exact same things as an executive officer -- at  
7 least as part of my responsibilities as  
8 executive officer for Troop B.

9 Q. Okay. Are you aware of anyone on  
10 the panel recommending you for this position?

11 A. On the panel, no. But, like, I --  
12 how would I phrase that? Like some of these  
13 other ones, they're -- Captain Archote  
14 recommended me for these other positions.  
15 Although he wasn't a panel member, he certainly  
16 recommended me for several of those positions to  
17 various people on the command staff. So -- but  
18 on the panel, no, I am not aware.

19 Q. Did anyone tell you that Mr. Burns,  
20 now Major Burns, was selected because he is  
21 Asian?

22 A. No, ma'am. No one told me that.

23 Q. All right. I want to turn your  
24 attention now to -- you can put that away --  
25 what I'll mark as Exhibit 20. This is

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1 LSP\_STELLY 549 to 556. This is the Certificate  
2 for Gaming, Indian Gaming, that Saleem El-Amin  
3 ultimately got, correct?

4 A. I don't have a certificate.

5 Q. I know. I don't have the  
6 certificate for this one either. But if you  
7 look through, it looks like Saleem is  
8 highlighted on the last page of the exhibit.

9 A. Let me turn to that.

10 Yes, ma'am.

11 Q. And you understand that Mr. Saleem  
12 is black, correct?

13 A. Yes, ma'am.

14 Q. Is it your contention that you were  
15 better qualified than Mr. El-Amin?

16 A. Yes, ma'am, much more so.

17 Q. What makes you much more qualified  
18 than Mr. El-Amin?

19 A. Again, doing a sort of category-by-  
20 category comparison of these objective criteria,  
21 experience with State Police, I have probably  
22 about ten years of experience with State Police  
23 over Mr. El-Amin. For time in grade as a  
24 lieutenant, so that experience as a lieutenant  
25 that one gathers in preparation for captain, I

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1 have probably about seven times his experience,  
2 just by eyeballing it.

3 He has military experience, but I  
4 don't. But that's not a -- that's helpful but  
5 not certainly a requirement. He has a  
6 bachelor's degree in criminal justice and a  
7 master's degree in criminal justice. Nothing, I  
8 guess, would be helpful there with respect to  
9 gaming. So I have -- my training is in computer  
10 science. This was for gaming and potentially, I  
11 was led to believe, that this is also for an  
12 upcoming position for sports betting. So sports  
13 betting, you know, is technology-based betting,  
14 which is -- sort of goes part and parcel with my  
15 technological formal training, with geofences of  
16 gaming prohibitions based on either parishes or  
17 community-wide. There's issues of offshore  
18 gaming. That sort of delves into larger areas  
19 of law.

20 Specialized training, I certainly  
21 have more than Mr. El-Amin. We both have  
22 exceptionals. He has no discipline. I have --  
23 the only discipline I have is, again, that  
24 letter of reprimand for that fleet crash about  
25 which we spoke early, which occurred, what, more

JOHN STELLY, II

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1 than 20 years earlier.

2 Awards, I have, looks like, a couple  
3 more than he does, and commendations, I have  
4 about four times what he does.

5 So, on top of that, I served as  
6 executive officer for State Police Troop B, the  
7 second in command of the biggest troop here in  
8 the State. So I did that for, at this time,  
9 since 2013. This happened in 2021. So for  
10 those seven, eight years, depending on how you  
11 want to look at that, which puts me in that  
12 leadership role as executive officer, as  
13 admitted to by Colonel Davis during the  
14 commission hearings that an executive officer  
15 plays an extended leadership role over just a  
16 regular lieutenant. So -- of which Lieutenant  
17 El-Amin was just a regular lieutenant, as far as  
18 I know. He was not an executive officer.

19 Q. And Mr. El-Amin had two years in  
20 Gaming, correct?

21 A. Yes, ma'am. I'm going to get to  
22 that.

23 Q. Okay.

24 A. So he did have two years in Gaming,  
25 I think, if -- on here, I didn't see where that



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1 interview, I went through and studied all the  
2 administrative codes for Gaming, and I certainly  
3 don't remember those now because that was quite  
4 a while ago, but I studied all the  
5 administrative codes for Gaming and I was  
6 familiar with the administrative codes in  
7 Gaming. So I knew the laws for Gaming. So  
8 that's stuff that I would have gotten experience  
9 had I been in Gaming at some point in my career,  
10 which I was not. But I was certainly capable of  
11 learning those. I can read something and retain  
12 it fairly quickly, as you noticed here. I know  
13 -- without even looking at this document, I know  
14 what it says even though I haven't seen it in a  
15 while.

16 Q. Okay. Is it your contention that  
17 you should have been promoted instead of Mr.  
18 El-Amin?

19 A. Yes, ma'am. Absolutely.

20 Q. Are you aware of anyone on the panel  
21 recommending you for this promotion?

22 A. On the panel, no, ma'am.

23 Q. And is that the same caveat, that  
24 Mr. Archote -- you believe Mr. Archote  
25 recommended you, but he was not a voting member

JOHN STELLY, II

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1 of the panel?

2 A. I do not know if he recommended me  
3 for this position. I can't answer that  
4 question.

5 Q. Is there someone else that you think  
6 might have recommended you for this position  
7 that was on the panel?

8 A. I do not know the answer to that  
9 question.

10 Q. And did anyone tell you that Mr.  
11 El-Amin got this promotion because he is black?

12 A. No, ma'am.

13 Q. Okay. The last one. I'm sorry.  
14 This is the last panel, not the last question.

15 This is LSP\_STELLY 1038 and 1053 to  
16 1059. This is the Certification of Eligibles  
17 for the Bureau of Investigation that Jonas  
18 Martin ultimately received. Are you aware of  
19 that?

20 A. Yes, ma'am.

21 Q. And is it your contention that you  
22 were more qualified than Mr. Martin?

23 A. Yes, ma'am.

24 Q. Are you aware of anyone that  
25 recommended you for this panel?

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1 bet on, I'm not going to bet on even odds if I  
2 have four-to-one odds. I'm going to take,  
3 certainly, four-to-one odds. That's a  
4 hands-down bet.

5 So I had that, again. And then the  
6 number of standard deviations past expectation  
7 rose from two to three to above three. So now  
8 you're talking above three standard deviations  
9 above expectation. So, for example, for the 18  
10 panels that were conducted for captain from  
11 September -- from the panel of September 2017,  
12 on which Chavez Cammon was accepted, through my  
13 signing my retirement papers in early October of  
14 2021, there was 18 panels for which I applied.

15 Of those 18 -- I'm sorry. There  
16 were 18 captain panels, not for which I  
17 necessarily applied. There were 18 captain  
18 panels conducted. Of those 18 captain panels,  
19 nine people were selected -- nine black  
20 individuals, or candidates, were selected for  
21 promotion, one Asian candidate was selected for  
22 promotion. So despite the fact that black  
23 candidates made up, on average, around a fifth  
24 or sometimes less of an average panel  
25 composition, they were promoted about half --

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1                   Now, when you add the race to it,  
2 then certainly now it's racially discriminatory  
3 in addition to that. So -- and that's the thing  
4 about which I really object, the racially  
5 discriminatory aspect.

6           Q.     Do you recall Colonel Reeves  
7 discussing with you a lateral move to Baton  
8 Rouge at one point?

9           A.     Colonel Reeves? No, ma'am.

10          Q.     So you don't recall Colonel Reeves  
11 or Mike Noel having a conversation with you  
12 regarding a lateral transfer to HQ in Baton  
13 Rouge?

14          A.     No, ma'am, I do not. I was told  
15 that Lieutenant Barnum had that discussion with  
16 me and made me that offer. I was not interested  
17 in moving to Baton Rouge as a lieutenant.

18          Q.     Okay. I'm sorry. Then Mr. Barnum  
19 had a conversation with you about moving to  
20 Baton Rouge?

21          A.     No, ma'am. I don't recall that  
22 conversation. I said that I was told that  
23 Lieutenant Barnum had that conversation with me.  
24 I do not recall his asking me to do that. So --  
25 and, then, even if he did ask me to do that, I

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1 would not be interested in moving to Baton Rouge  
2 or transferring to Baton Rouge as a lieutenant.

3 Now, certainly, he can transfer me.  
4 That's certainly within his purview. But if  
5 he's asking me if I'm interested in doing it,  
6 then, as I mentioned, said to other people, I  
7 was not interested in moving as a lieutenant.  
8 That would be sort of a demotion from the Troop  
9 B XO. I was looking for promotion, not  
10 demotion.

11 Q. You understood, didn't you, that  
12 more goes into the selection of captain than  
13 just what's on those promotional summary sheets  
14 than we looked at?

15 A. Yes, ma'am. And as I alluded to,  
16 there are other aspects that are not on that  
17 sheet, like leadership, for example, which is  
18 obviously not on any of those sheets. And I  
19 explained how leadership is important, how I  
20 was, I guess, well capable of exhibiting  
21 leadership. I was certainly deemed acceptable  
22 to be put as the executive officer of the troop  
23 and sub in for the captain in his absence, and  
24 certainly none of that happens without the  
25 approval of Headquarters, who the captain's XO

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1 is. That's certainly not just exclusively his  
2 decision. He has to sort of get that decision  
3 approved. So given that that's a leadership  
4 position, being XO, especially since I was XO  
5 for quite a while and co-wrote the leadership  
6 material that State Police uses to teach its own  
7 personnel about leadership. And I taught that  
8 class, and I taught bunches of other classes for  
9 State Police. I taught to their own cadets. I  
10 taught all around the state on various topics,  
11 other than leadership, DWI, Intoxilyzer, field  
12 sobriety, radar, crash investigation.

13 So no one can contend that I don't  
14 have communication abilities and no one can  
15 contend that I don't have leadership abilities.  
16 So those two things I mentioned earlier, those  
17 aren't certainly on that sheet, and those  
18 things, just by my career and my history of what  
19 I've done at State Police, I certainly excel at  
20 all of those.

21 Q. Did someone tell you that the person  
22 with the most years in grade as a lieutenant  
23 would become captain?

24 A. Not those words, no, ma'am.

25 Q. Did someone tell you that the person

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1 with the most experience in LSP would become  
2 captain?

3 A. No, ma'am. The only comment I have  
4 relative to those two questions is what Colonel  
5 Reeves expressed at the meeting at Troop B that  
6 I've alluded to earlier.

7 Q. Did someone tell you that the person  
8 with the highest grade on the promotional exam  
9 would be selected to captain?

10 A. No, ma'am.

11 Q. All right. I'm going to show you  
12 the P.O. 229 that we've talked about.

13 THE REPORTER:

14 You didn't mark that last one.

15 MS. ROSS:

16 Oh, I'm sorry. I'm going to mark  
17 the last one as 21, please. And I'll mark this  
18 as 22.

19 (Discussion off the record.)

20 EXAMINATION BY MS. ROSS:

21 Q. So LSP P.O. 229, you know about  
22 this, right?

23 A. Yes, ma'am.

24 Q. You've looked at this?

25 A. Yes, ma'am.

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1 Q. And if we look on Section 5 of this,  
2 it says, Section 5 (i)(c): Members of the  
3 Promotion Panel will review the provided data  
4 pertinent to each candidate, which shall  
5 contain: Performance reports, educational  
6 background, training, awards and letters of  
7 recommendation and commendation, disciplinary  
8 actions, personal history file, including  
9 military record, record of leave taken, and  
10 other relevant data requested by the Promotion  
11 Panel, correct?

12 A. Yes, ma'am.

13 Q. All right. In terms of other  
14 relevant data, because you were never on the  
15 promotional panels, do you know what other  
16 relevant data that might include?

17 A. Only to what -- the stuff that  
18 Colonel Davis alluded to yesterday, in which he  
19 was extremely vague.

20 Q. But your personal knowledge, you  
21 don't know what that might include, "Other  
22 relevant data," right?

23 A. Other than what he said yesterday,  
24 no, because I was not on the panel. You are  
25 correct.



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1 Q. It could include the interview,  
2 right?

3 A. Yes.

4 Q. It could include the work history of  
5 the individual; is that right?

6 A. That's on the -- one of those  
7 factors. That's on the promotional -- the  
8 Summary Report that we've been discussing.

9 Q. Right. Okay. I thought you meant  
10 it's on here. But --

11 A. Oh, no, ma'am.

12 Q. -- you meant on --

13 A. It's -- it's on here already  
14 (indicating). So it does -- hopefully, it does  
15 include that.

16 Q. And none of those promotional  
17 summary panels that we looked at included the  
18 candidates' race, did they?

19 A. Those panels, no. The Summary  
20 Reports --

21 Q. Yes.

22 A. -- no, they did not. The Summary  
23 Reports did not include race. However,  
24 everybody in the panel knows the race of  
25 everyone, all the candidates. That's -- given

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1 personnel matters.

2 Q. Did Lieutenant Robert Mills ever  
3 tell you that you were being passed over for  
4 promotion because you're white?

5 A. Because I'm -- no, ma'am, I don't  
6 recall his saying that.

7 Q. Did Lieutenant Chris Bodet tell you  
8 that you were being passed over for promotion  
9 because you're white?

10 A. No, ma'am. The extent of his  
11 conversations I've already described.

12 Q. Did Jacob Dickinson tell you you  
13 were being passed over for promotion because  
14 you're white?

15 A. Yes. He's -- that's -- that's his  
16 opinion, yes.

17 Q. Mr. Dickinson's opinion --

18 A. Yes.

19 Q. -- is that you were passed --  
20 Which one? Which promotion?

21 A. There's no promotion in particular.  
22 He and I are friends.

23 Q. Is he still with the Louisiana State  
24 Police?

25 A. No, ma'am, he is not.

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1 Q. Did he retire?

2 A. Yes, ma'am.

3 Q. Did he retire as a captain or a  
4 lieutenant?

5 A. Trooper.

6 Q. A trooper. Okay. Did he tell you  
7 why he thought that you were being passed over  
8 because you're white?

9 A. No, ma'am.

10 Q. Did he tell you that someone else  
11 had told him that?

12 A. That's his appreciation, so -- of  
13 the circumstances.

14 Q. But no one had told him that?

15 A. Other than, for example, when Dwight  
16 Robinette told him about Trooper -- or then  
17 Lieutenant Larvadain becoming commander of  
18 Internal Affairs so that Trooper Robinette --  
19 well, then Lieutenant Robinette can become  
20 Captain Robinette.

21 Q. So during that conversation,  
22 Robinette told Dickinson that Larvadain was  
23 being promoted because she's black?

24 A. No. That's -- so she's being  
25 promoted so that he can be promoted, who are

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1 both black individuals.

2 Q. And did anyone say that both or  
3 either of them were being promoted because  
4 they're black?

5 A. That was not directly said. That  
6 was the implication of our conversation as two  
7 friends.

8 Q. Paul Edmonson, has he told you that  
9 you were passed over because you're white?

10 A. No, ma'am.

11 Q. Layne Barnum, has he told you you're  
12 being passed over because you're white?

13 A. No, ma'am.

14 Q. John Riles?

15 A. No, ma'am.

16 Q. Carl Saizan?

17 A. He did not tell me that, no. The  
18 extent of his was that he was surprised at the  
19 number of times I was passed over and even more  
20 so surprised when I corrected his number to a  
21 more approximate correction.

22 Q. Chad Guidry, has he ever said that  
23 to you?

24 A. No, ma'am.

25 Q. Has Captain Archote ever told you

JOHN STELLY, II

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1 that you're being passed over because you're  
2 white?

3 A. He -- yes. He said that is in part  
4 the reason, because it does not comport -- or  
5 did not comport with Colonel Davis' goal of  
6 increasing diversity. So that's -- I guess the  
7 implication of that statement is your statement,  
8 or your question.

9 Q. Did Archote tell you that someone  
10 told him that you were being passed over because  
11 you're white?

12 A. Say the question one more time,  
13 please.

14 Q. Did Archote tell you that someone  
15 told Archote that you were being passed over  
16 because you're white?

17 A. Yes.

18 Q. Okay. Who?

19 A. That was Ray Meyers.

20 Q. How do you spell Meyers?

21 A. M-E-Y-E-R-S.

22 Q. So Ray Meyers told Donovan Archote  
23 that you, Stelly, were passed over because  
24 you're white?

25 A. Not those words. He told Archote,

JOHN STELLY, II

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1 according to Archote, that Lamar Davis was  
2 selected as captain of Technology and Business  
3 Support because he's black per the behest of the  
4 Black Caucus.

5 Q. All right. I want to show you some  
6 documents that have been produced in this  
7 litigation, Stelly 266 to 281. I'll mark these  
8 as Exhibit 23.

9 This looks like a series of -- or  
10 I'm sorry -- different text messages that you  
11 produced. And so I just want to kind of go  
12 through some of these so I can understand what  
13 they're saying.

14 A. Okay.

15 Q. So on Stelly 266, this is a  
16 conversation between you and Chris.

17 Chris who?

18 A. I do not know. I'd have to read the  
19 conversation to --

20 Q. Go ahead.

21 A. -- to recall.

22 Yes. This is Chris from the FDIC.

23 Q. Chris who? What's his last name?

24 A. I do not know his last name. I knew  
25 it back then, but I do not recall it now.

**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**  
\*  
\*  
\*

**EXHIBITS 3 - 9 AND 11 - 21 OF EXHIBIT "G" TO MEMORANDUM  
IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT  
FILED UNDER SEAL**

Respectfully submitted,

**LIZ MURRILL  
ATTORNEY GENERAL**

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Louisiana, through Department of Public  
Safety and Corrections, Office of State Police*

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  
\*  
\*  
\*

DECLARATION OF MAJOR ROBERT BURNS

Pursuant to 28 U.S.C. 1746, I, **Major Robert Burns**, hereby declare, under penalty of perjury, as follows:

1. My name is Robert Burns, I am over twenty-one (21) years of age, have personal knowledge of the matters and facts set forth herein, and I am competent to testify to such matters and facts.
2. I am currently a Major in the Louisiana State Police in Strategic Support in the Office of the Superintendent. Before I became a Major, I was a trooper, sergeant, lieutenant, and captain in the LSP for 22 years.
3. I am the corporate representative of the Louisiana State Police for purposes of this litigation.
4. The LSP is an agency of approximately 950 troopers, sergeants, lieutenants, captains, majors, and lieutenant colonels.
5. The LSP's mission is to ensure the public safety of the citizens of the State of Louisiana and, consistent with that mission, the LSP has a responsibility to ensure that the individuals



most qualified for the agency's highest positions, including captain positions, are installed in those positions, regardless of race.

6. There are roughly thirty-one captain positions in the LSP at any given time and those positions require someone who is not only intelligent and highly capable, but also someone who has communication skills, relationship skills, and the ability to effectively lead in the position to which the person would be promoted.

I declare under penalty of perjury that the foregoing is true and correct.

  
Major Robert Burns

6-17-2024  
Date

JOHN STELLY

June 13, 2024

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY II	*
	* CIVIL ACTION
VERSUS	* NO. 23-772
	* JUDGE GUIDRY
STATE OF LOUISIANA,	*
THROUGH DEPARTMENT OF	*
PUBLIC SAFETY AND	*
CORRECTIONS, OFFICE OF	*
STATE POLICE	*
* * * * *	*

Deposition of  
JOHN RAY STELLY II,  
1588 Zephyr Way, Bozeman, Montana 59718, given  
via ZOOM Videoconference on Thursday, June 13,  
2024.

JOHN STELLY

June 13, 2024

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1           Certainly it's the case that the  
2 length of the skidmark is probably the easiest  
3 of those three to measure. So you just  
4 basically get out a tape measure and pull a  
5 tape measure and measure the skidmark. So  
6 there is some, however, variability in the  
7 measurement of a skidmark, because any two  
8 people looking at a skidmark, let's say "I  
9 think it starts here"; someone else says "No, I  
10 see a little shadow for maybe ten feet prior,  
11 so I think it starts here." So no two people  
12 will come across the same length of a skidmark.  
13 That's more for the beginning of the mark than  
14 the end of the mark.

15           The same thing would apply to the drag  
16 factor, the coefficient of friction of the  
17 road. Two people come out and say "Hey, this  
18 road here, for example, in front of a house  
19 is -- is bituminous asphalt." You can look at  
20 a table and come across that; say, it's in this  
21 range here from here to here. Now, there's  
22 also the categories. For example, is it new,  
23 is it traveled, is it travel polished, is it  
24 wet, dry; do you think the speed was higher or  
25 lower than a certain threshold. So all of

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1 remained in the pool of people who could  
2 continue to apply for captain; you would agree  
3 with that?

4 A Yes, sir, I do agree with that.

5 Q All right. And each time you did not  
6 get promoted during those 31 times, all right,  
7 you would therefore be an applicant again in  
8 the next panel up for captain; true?

9 A No, sir.

10 Q You would not?

11 A No, sir.

12 Q Okay. Because there's some captains  
13 that you didn't apply for?

14 A There were many captains for which I  
15 did not apply.

16 Q Okay. Got it. So you agree with me,  
17 -- Let's narrow it then. So the 2017 to 2021  
18 panels that really are the crux of your report,  
19 you -- I think it's -- we'll use your numbers.  
20 All right? There were a total of 18 panels  
21 with non-white people on them from 2017 to  
22 2021; true?

23 A You have to be a little more specific.  
24 From when in 2017 to when in 2021?

25 Q Okay. That's a good point. Why don't

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1 we go there. All right. So I am bouncing  
2 around a little bit, but I'm going where you're  
3 taking me. So for your data, for your report,  
4 you chose 2017 as the start point; correct?

5 A I chose -- well, a specific date in  
6 2017.

7 Q Okay. What date did you choose?

8 A September 26 of '17.

9 Q All right. So you had data from  
10 before September 26 of 2017; true?

11 A You'd have to clarify what you mean by  
12 that. Data? What do you mean, I have data?

13 Q Yes. You had promotional panel data,  
14 meaning the individuals who were promoted, all  
15 right, the applicants, and then demographics,  
16 you had that data for earlier than 2017; true?

17 A To a certain extent, yes, sir, but not  
18 from as a by-product of this.

19 Q All right. And you had data for --  
20 you had demographic data, applicants for  
21 promotion to captain and who was selected for  
22 at least some dates after -- after 2021, which  
23 was the last date in your report; true?

24 A Yes, sir.

25 Q All right. And so you -- I now want

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1 Well, when you're yelling as much  
2 as you do, Victor, it probably gets  
3 tiring.

4 MR. FARRUGIA:

5 I object to that characterization  
6 of my comments.

7 Okay. Let's take a break.

8 (Recess taken.)

9 EXAMINATION BY MR. MILES:

10 Q Mr. Stelly, we were just talking about  
11 the Reeves promotions and I wanted to ask you  
12 about the start date of the data set you used.  
13 So you told us earlier that you started -- you  
14 started with the promotions on 9/26/17 and did  
15 not include in your analysis any promotional  
16 panels to captain before that date; true?

17 A In this analysis, yes, sir.

18 Q All right. And it's true that -- I  
19 think you said this -- you said you thought you  
20 observed African-Americans being promoted at a  
21 higher rate in 2017. Is that an accurate  
22 statement of what you thought?

23 A No, I don't think I actually said  
24 that. I don't recall saying that. So I could  
25 recall saying something akin to that, but not

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1 So here, if you're talking panels, I think this  
2 was only 16 of the 18 panels back then. So I  
3 can have two panels' worth of the candidates;  
4 and on top of that, I also did not have the  
5 score -- the scorings of the people on panel  
6 2017. So what I attempted to do here, since I  
7 didn't have that and I wasn't able to get that  
8 from State Police, I used the data from tables  
9 1B onward to I guess give a guess -- best  
10 guesstimate, a best projection I should say of  
11 the information that was relative from 2017  
12 through the end of the panels.

13 Q So even on August 3rd, 2022 for your  
14 EEOC response, the Chavez Cammon promotion,  
15 that for you was a start date of when you  
16 thought there was racial discriminatory  
17 practices; is that fair?

18 A That is almost. I would say that was  
19 the start date in which I had indicators of  
20 racial discriminatory practice. I can't say  
21 obviously for certain it was, but certainly it  
22 gave me indicators that there were.

23 Q Got it. Okay. All right. And so  
24 that same Chavez Cammon promotion in September  
25 of 2017, that's the same start date that you

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1 use in your expert reports that you have  
2 delivered in this case; true?

3 A Yes, sir.

4 Q All right. And you actually have  
5 data, some data from earlier than September,  
6 2017; true?

7 A Relative to -- You have to clarify  
8 what you mean by "some data".

9 Q Yes. You have promotional panel data  
10 for promotions to captain including  
11 demographics and who applied for it and who  
12 obtained the promotion, you have that for at  
13 least some panels prior to 2017 in September;  
14 true?

15 A Again, you have to be a little more --  
16 can you be more specific about what data? You  
17 say "some data". Like data is like "I know  
18 that Bill got this promotion." That's data.  
19 So are you asking me do I know that or do I  
20 know something more specific? You have to be  
21 more specific what you mean by "data".

22 Q Yes. Sure. I can be more specific.  
23 You have the data earlier than 2017 of who was  
24 promoted to positions of captain when you  
25 applied and what their race was.



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1           A       I do not know -- Well, I have data  
2 somewhere, which I did not use for these expert  
3 reports, from 2000 -- sometime in 2000 through  
4 sometime -- or early 2013, on which I based  
5 that 2013 report in which I said hey, there's  
6 no indicators that I could say that are  
7 indicative of racial or gender discrimination  
8 promotions. So if that's to what you're  
9 referring, then yes, I have that, but I did not  
10 rely on that for any of this other than the  
11 fact that my conclusion back in 2013 was that I  
12 saw no indicators of racial or gender  
13 discrimination. So the only thing in addition  
14 to that I could say would be that -- do I have  
15 some sort of incidental piece of paper in one  
16 of my files somewhere that lists who the  
17 candidates were for occasional things that were  
18 promoted, I might, but nothing on which I  
19 relied for any of this analysis.

20           Q       Okay.

21           A       I'm not sure of the question, what  
22 you're asking me.

23           Q       No, no. Well, you answered my  
24 question. But I guess my follow-up question  
25 is, I just want to understand, is the reason --

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1 the reason you started September, 2017 is  
2 because that's when Chavez Cammon was promoted  
3 and you suspected that there may be racial  
4 factors in promotion? That is the reason you  
5 started September of 2017; true?

6 A Yes. I suspected there were -- there  
7 were to me indicators of potential racism from  
8 that promotion forward, so that's why I  
9 started. And, for example, in 2013 to 2017 I  
10 didn't say anything because -- well, from 2000  
11 to 2013, obviously I said there was none. From  
12 '13 to '17, I didn't see anything, even though  
13 I certainly -- Well, I have no records when I  
14 applied for then, but I think State Police does  
15 and I think I applied for records back then.  
16 Even though black individuals were promoted to  
17 captain, I didn't see anything in there that  
18 would have been a strong indicator to me that  
19 this -- there's -- Hmm, there's something just  
20 not right sitting about this. And while maybe  
21 there's something wrong, and one thing that  
22 State Police always taught us was document,  
23 document, document. So I started making my  
24 documentation from that point forward very much  
25 more thoroughly than I did prior to that.

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1 Q Okay. Got it. All right. So the  
2 data set -- Let's move on to Lamar Davis's  
3 tenure as Superintendent. So you used  
4 promotional panels from -- for Lamar Davis, and  
5 this is on page 8 of your report if you want to  
6 look at it, your amended report.

7 A All right.

8 Q All right. So you conclude that  
9 between October 30th, 2020 and October 4th of  
10 '21 Colonel Davis led ten captain panels and he  
11 promoted four non-white candidates and six  
12 white candidates from those ten panels; true?

13 A Yes, sir. That's what it says here.

14 Q All right. And you concluded that the  
15 most probable number of non-white candidates to  
16 have been promoted during that time frame was  
17 two instead of the four that actually occurred;  
18 true?

19 A Yes, sir.

20 Q All right. And the standard deviation  
21 on that was -- you said it was 1.09 standard  
22 deviations above expectation; true?

23 A Yes, sir.

24 Q Okay. Now, you ended that data set,  
25 all right, October 4th of '21. And as I read

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1 your report, your reason for doing that, tell  
2 me if I am wrong, your reason for doing that is  
3 because soon after October 4th of '21 you  
4 submitted your paperwork to retire from the  
5 State Police; is that right?

6 A I think it was either October 4th or  
7 October 5th that I signed that paperwork.

8 Q Right. But your signing of that  
9 paperwork caused you to end the data set that  
10 you were looking at; true?

11 A Yes, sir. That was the rationale for  
12 my termination of the analysis of the data set.  
13 So if anything that happened after that, I was  
14 only affected from that point forward, given  
15 that that signing of that paperwork is  
16 irrevocable. Nothing else that can happen,  
17 good or bad, in my favor or against me, could  
18 alter my opinion at that point.

19 Q Right. So because nothing that  
20 happened after that could affect you, you ended  
21 the data set collection and analyzed only  
22 through October 4th of 2021; is that fair?

23 A Yes, because this was discriminatory  
24 behavior against me. So nothing can be done --  
25 I am not going to apply for promotion after I

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1 sign for retirement, especially knowing that  
2 it's irrevocable. So that to me would be just  
3 crazy. So it wouldn't make sense for me to  
4 analyze opinion or I guess panels after I  
5 signed my retirement paperwork. So that would  
6 not be a logical data set. I would be  
7 analyzing something that is inapplicable to me.  
8 So that would not be -- can't be accurate.

9 Q Okay. Now, let me ask you this. I  
10 know Mr. Broadway does, he does an analysis  
11 similar to yours and he uses the same begin and  
12 end date that you use, doesn't he?

13 A Yes, sir.

14 Q Okay. Now, did you instruct him to  
15 use the beginning and end dates that you used?

16 A I don't remember instructing him in  
17 that. I remember discussing with him that why  
18 I ended mine that date --

19 Q Okay.

20 A -- as I explained earlier.

21 Q Was there any discussion between you  
22 and he about continuing on and using data past  
23 October 4th of '21?

24 A Other than Miss Kovacs using it, no.  
25 That she used it, but I don't think we even

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1 Q But did you?

2 A I do not recall if I looked at those  
3 numbers or not. I couldn't tell you offhand  
4 off the top of my head, sir.

5 Q Okay. Well, I know you conclude that,  
6 I think there's a standard deviation of 3.30  
7 for -- that's what you were just getting at, or  
8 just telling me that you concluded, I think on  
9 page --

10 A I forgot what page that was. Yes,  
11 page 9. Right in the middle.

12 Q Yes. Yes. You concluded LSP  
13 promoting nine blacks and nine non-blacks was  
14 3.30 standard deviations above expectation.  
15 That's for the period 9/26/2017 through October  
16 4th of '21; true?

17 A Yes, sir.

18 Q Okay. You actually, if you include  
19 the 2022 data -- And by the way, the  
20 composition of the promotional panels didn't  
21 change in 2022, did it?

22 A I'm not sure what you mean, "the  
23 composition of the promotional panels".

24 Q Well, you know, Colonel Lamar Davis  
25 was the -- he was the Superintendent in 2022

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1 is provide a reasonable, logical cogent  
2 argument. I started on this date because of  
3 this; I ended on this date because of this. I  
4 could have ended earlier and it would have  
5 benefited me. It would have made my argument  
6 much stronger. Right? But I didn't, because  
7 that to me would have been unfair, because I  
8 still have the opportunity to apply for captain  
9 positions past the date on which the last black  
10 candidate was selected over me. And it just so  
11 happened the next candidate was white. I  
12 included that. To me, that is the ethically  
13 responsible thing to do to make a good  
14 argument.

15 Q Now, Mr. Stelly, do you believe that  
16 -- Well, I know you believe that there were  
17 racially discriminatory promotional practices,  
18 but do you believe they ended when you retired?

19 A I have no evidence. I didn't look  
20 past that, so I don't recall looking at that.  
21 So I can't give you an answer to that question.

22 Q All right. Well, I'll tell you, and  
23 we're going to put on evidence of this at  
24 trial, that in 2022, all right, if you actually  
25 looked at 2022, if you included that in your

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1 analysis, the standard deviations go way down.  
2 All right? For black and non-white. All  
3 right? So you didn't include that. All right?  
4 And you didn't like my use of the word  
5 "fixated", but you didn't include it because  
6 your focus was on you. All right? Your focus  
7 was on -- Isn't that right? Your focus was on  
8 when you retired; true? That's why you didn't  
9 include any of the 2022 data?

10 A Yeah, because this is discrimination  
11 against me. So I am confused as to why I would  
12 include the 2022 data when that's not  
13 discriminatory against me. I didn't apply for  
14 any of those panels. Those panels, I can't --  
15 to me it's just as wrong to -- to me -- How  
16 would I phrase that? It would be just as wrong  
17 of me to include that data as to exclude the  
18 data when a white candidate was selected for  
19 the panel, was in the last panel when Jonas  
20 Martin was selected over me. It would be just  
21 as wrong to include what you're wanting me to  
22 include as for me to exclude what I just told  
23 you. Those things are -- I picked that date  
24 range, as I explained to you, I picked that  
25 date range not because that's the date range



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1 that's going to help me. I could have picked a  
2 different date range that would have helped me  
3 more. I didn't. I picked the date range that  
4 affected me because I am the person who is  
5 suing for discrimination. I can't help what  
6 happens on the panels well after I retired in  
7 2022. Those didn't affect me. I can't. Why  
8 should I analyze those? Those are for someone  
9 else to champion down the road. That's not for  
10 me. Maybe State Police decided "All right.  
11 Well, this is -- we have done this practice  
12 long enough, it was wrong, let's not do this  
13 any more, let's fix our ways." But that  
14 doesn't affect -- that doesn't retroactively  
15 cure my ailment. That only helps the people  
16 from that point forward. And that's -- The way  
17 you are characterizing things is -- that to me  
18 is very disingenuous.

19 Q Now, Mr. Stelly, you just told me, you  
20 said you picked the data that affected you.  
21 That's why you ended in 2021; right?

22 A Yes, sir.

23 Q Okay. Well, you agree with me that  
24 any decisions or practices prior to  
25 September 26 of 2017 also would have affected

## **John Ray Stelly II vs. State of Louisiana**

**CIVIL ACTION NO. 2:23-cv-00772**

**Eastern District of Louisiana**

**United States District Court**

### **Amended Report of Statistical Analysis of the Use of Race in the Promotions to Captain by LSP**

**John Stelly II, B.S. in Mathematics, B.S. in Computer Science, M.S. in  
Mathematics**

**May 31, 2024**

The task of this report is to determine by statistical analysis if race was a factor that Louisiana State Police (LSP) used in selecting lieutenants for promotion to captain. Since my submitting my last expert report in this matter on 01-19-24, LSP submitted more documents in response to both my then still pending and my additional requests for production of documents in support of my claim that the LSP discriminated against me because of my race by promoting black and non-white candidates over me to captain despite their being much less qualified than me. This report serves to both supplement my original report and further analyze the totality of all data that LSP has submitted thus far.

This Amended Report concludes that large racial disparities exhibited in LSP's promotions to captain from 09-26-17 through 10-04-21 would occur by chance less than 5% of the time. These disparities were adverse to me because I applied for captain 18 times from 09-26-17 through 10-04-21, and the LSP Commission qualified me as eligible all 18 times. As a white lieutenant on those 18 panels, I competed against non-white candidates 17 times (94.4%) and against black candidates 13 times (72.2%).

#### **Materials reviewed**

1. LSP's position statement on Stelly's EEOC complaint.
2. Stelly's response to LSP's position statement.

3. Stelly's second amended complaint (USDC, Eastern District of Louisiana, Civil Action 23-722).
4. Documents Stelly received via subpoena from the LSP Commission.
5. Documents Stelly received from LSP via requests for production of documents.
6. Documents Stelly received from public records requests.
7. Reports of Melissa Kovacs, LSP's statistical expert.
8. Reports of Tyler Broadway, Stelly's statistical expert.
9. Deposition of LSP COL Lamar Davis.
10. Deposition of John Stelly.
11. 30(b)(6) deposition of LSP.

## **Assumptions and observations**

### **1. Selection criteria for determining which panels conducted from 09-26-17 through 10-04-21 should be analyzed.**

This first issue to resolve is choosing the sets of candidates that best allow the fairest calculations of indicators that show the extent of racially discriminatory promotional practices. Choosing otherwise is obviously suboptimal.

To that end, the first option would be to choose all candidate panels. In particular, this choice would consider all panels from 09-26-17 through 10-04-21. Such a choice would include promotions to sergeant, lieutenant, and captain. Analysis of data based on that choice would investigate whether promotional decisions (to any of those ranks) during this time frame were generally made in a racially discriminatory manner. Although affirmative evidence from such an analysis would indicate racially discriminatory promotional practices were generally afoot, negative evidence would not imply that racially discriminatory promotional practices were not afoot at any particular level. For example, even rampant racially discriminatory promotional practices to captain could be easily obscured by non-racially discriminatory promotional practices to sergeant and lieutenant because of the much smaller number of promotions to captain. Therefore, the most appropriate slates of panels of candidates to analyze to determine whether captain promotions were made in a racially discriminatory manner would be only those slates of candidates who were competing for a captain position.

Another consideration would be whether all slates of candidates competing for captain should be analyzed or just some subset thereof. Basic observation of the captain panels reveals that some of the panels were composed of only white candidates. LSP rules require that the promotee for any position be chosen from only the list of qualified candidates who applied for that position. For example, suppose that all candidates for a

particular position were only white. Then including that panel in the final data set would taint the analysis because LSP had no choice over the race of the candidate it would choose to promote to captain from that panel. So, in addition to restricting analysis to only captain panels, only panels that permitted LSP to make racially discriminatory promotion decisions should be included in the data set to be analyzed to determine whether LSP acted in a racially discriminatory manner in making those promotions.

For any particular promotion, including those for captain, the LSP promotion system considers only qualified candidates who are presumptively eligible for promotion with eligibility being established by having sufficient experience as a lieutenant, completing all necessary leadership courses, passing a written promotional exam, timely applying for the desired promotion, and scoring in the top grade groups of fellow lieutenants who also applied for the same position. Therefore, the LSP promotion system itself when combined with the above panel restrictions facilitates a comparison of the demographics of lieutenants promoted to captain from a qualified pool of lieutenants eligible for promotion and thereby allows inferences about racial discrimination in those promotions.

I categorize members of the captain panels in two ways: black / non-black and non-white / white. The black / non-black categorization considers all candidates of only those captain panels at least one of whose candidates was black. Similarly, the non-white / white categorization considers all candidates of only those captain panels at least one of whose candidates was non-white. Of course, these divisions do not preclude the analysis of subcategories, for example analyzing white candidate promotions under the black / non-black categorization.

## **2. Methodologies.**

My initial report analyzed captain promotional data under two methods. The first method assumed the data was binomially distributed. As previously mentioned, to satisfy the binomial constraint of the constant success rate of black (non-white) candidates being promoted, I used the average proportion of black (non-white) candidates across all panels that contained at least one black (non-white) candidate as the constant success rate. I found this a reasonable approximation given that black, non-white, non-black, and white candidates should be assumed to be generally equally qualified. Furthermore, to satisfy the binomial constraint that panel compositions be independent of each other, I noted that not only did I include for analysis only captain panels with at least one black (non-white) candidate regardless whether I was a candidate, all eligible lieutenants, regardless of race, were free to apply for any open

captain position regardless whether they applied for another previous position. In other words, relative to my analysis in my EEOC rebuttal to LSP's position statement, I eliminated any dependence potentially induced by restricting panels to only those for which I applied, and I further bolstered independence by observing that despite not being promoted, individuals of all races sometimes chose to apply for a later open position but sometimes chose not to apply.

My second method employed Monte Carlo simulations. In each simulation, the promotee was chosen uniformly in proportion to the racial makeup of each panel. For example, suppose a ten-candidate panel contained seven white candidates, two black candidates, and one Asian candidate. Then for each black / non-black simulation, the probability of choosing a black candidate to promote was 20% and the probability of choosing a non-black candidate to promote was 80%. Similarly, for each non-white / white simulation, the probability of choosing a non-white candidate to promote was 30% and the probability of choosing a white candidate to promote was 70%. These simulations were run 100,000 times under each scenario. This method obviously eliminated the constant success rate requirement of the binomial method and further bolstered independence of racial proportions between panels.

This report partly summarizes the results of my previous report and adds some further analysis, specifically relative risk calculations. For the relative risk calculations, I composed the list of all lieutenants who applied and were certified eligible for promotion to captain. Of course, this list contained only those lieutenants who were on a panel with at least one black (non-white) lieutenant. I then deduplicated that list by retaining only each lieutenant's last such record which contained his name, his race, and his promotional status. For lieutenants who were promoted to captain, their promotional status was recorded as positive; for lieutenants who were never promoted to captain, their promotional status was recorded as negative. My relative risk calculations are consistent with Broadway's.

Relative risk for two categories was then the ratio of the probabilities of promotion from within those categories. For example, if the categories were Black and Non-black, then the relative risk  $R$  associated with those two categories would be  $R = \frac{b/B}{n/N}$  where  $b$  is the number of black candidates promoted,  $B$  is the total number of black candidates,  $n$  is the number of non-black candidates promoted, and  $N$  is the total number of non-black candidates. The closer  $R$  is to 1, the stronger the indication that racial discrimination

was not afoot. On the other hand, the farther  $R$  is from 1, the stronger the indication that racial discrimination was afoot.

As a numeric example, suppose that 9 of 10 black candidates were promoted and 10 of 40 non-black candidates were promoted. Superficial inspection of this scenario would show that more non-black candidates were promoted compared to black candidates, thereby refuting claims of racial discrimination. However, this is a specious conclusion because 90% of all black candidates were promoted but only 25% of all non-black candidates were promoted despite that non-black candidates out-numbered black candidates four-to-one. Relative risk quantifies this level of disparity. Here, the relative risk would be  $R = \frac{9/10}{10/40} = \frac{18}{5} = 3.60$ . The interpretation of 3.60 would be that black candidates were 3.60 times more likely to be promoted than non-black candidates. On the other hand, had 4 of 10 black candidates been promoted and 15 of 40 non-black candidates been promoted, then  $R = \frac{4/10}{15/40} = \frac{16}{15} = 1.07$ , meaning black candidates were barely more likely to be promoted than non-black candidates. Certainly, the significance of the 260% better chance of a black candidate being promoted with  $R = 3.60$  dwarfs any significance of the trivial 7% better chance of a black candidate being promoted with  $R = 1.07$ .

The three sets of analyses below all exhibit gross statistical disparities between promotion rates of both white and non-black candidates to captain versus both non-white and black candidates. Specifically, white and non-black candidates experienced statistically significant lower rates of promotion to captain. In analyzing those rates, the various measures compare the number of minority candidates promoted to captain against the number of minority candidates that statistically should have been promoted to captain in the absence of any discrimination. These measures show that the numbers of minority candidates who were promoted to captain were statistically greater than the number of minority candidates expected to receive promotion to captain despite the insistence of COL Lamar Davis, LSP Superintendent from 10-30-20 through 01-08-24 who is black, that he did not have a policy to increase diversity. In his report, Broadway showed that objective criteria like promotional exam score and factors enumerated in LSP PO 229 / Promotions, eg years of service, time-in-grade as lieutenant, discipline, awards, and education, had no bearing on the actual promotional choice, leaving effectively only subjective criteria to establish those choices.

### 3. Analysis of captain panels conducted from 09-26-17 through 10-29-20.

From 09-26-17 through 10-29-20, COL Kevin Reeves conducted 14 captain panels whose candidates included at least one black candidate. Reeves promoted 6 black candidates and 8 non-black candidates.

- Binomial analysis.
  - On average, black candidates composed 19.0% of each panel and non-black candidates composed 81.0% of each panel.
  - The most probable number of black candidates to be promoted was 2.
  - $P(2 \text{ B}, 12 \text{ NB}) = 0.262$  and  $P(6 \text{ B}, 8 \text{ NB}) = 0.026$ .
  - LSP's promoting 6 black and 8 non-black candidates as it did was 9.99 times less probable than promoting 2 black and 12 non-black candidates.
  - LSP's promoting 6 black and 8 non-black candidates as it did was 2.27 standard deviations above expectation.
  - Black candidates were 3.20 times more likely to be promoted than non-black candidates.
  - This is statistically significant at the 95% confidence level ( $p = 0.0350$ ).
- Relative Risk analysis.
  - 6 / 9 (66.7%) of all black candidates were promoted.
  - 8 / 35 (22.9%) of all white candidates were promoted.
  - 8 / 38 (21.1%) of all non-black candidates were promoted.
  - 6 / 14 (42.9%) of all promotions went to black candidates.
  - 8 / 14 (57.1%) of all promotions went to white candidates.
  - 8 / 14 (57.1%) of all promotions went to non-black candidates.
  - 9 / 47 (19.2%) of all candidates were black.
  - 35 / 47 (74.5%) of all candidates were white.
  - 38 / 47 (80.9%) of all candidates were non-black.
  - Black candidates were 2.92 times more likely to be promoted than white candidates.
  - Black candidates were 3.17 times more likely to be promoted than non-black candidates.
  - This is statistically significant at the 95% confidence level ( $p = 0.0134$ ).

From 09-26-17 through 10-29-20, COL Kevin Reeves conducted 15 captain panels whose candidates included at least one non-white candidate. Reeves promoted 6 non-white candidates and 9 white candidates.

- Binomial analysis.
  - On average, non-white candidates composed 28.0% of each panel and white candidates composed 72.0% of each panel.
  - The most probable number of non-white candidates to be promoted was 4.
  - $P(4 \text{ NW}, 11 \text{ W}) = 0.226$  and  $P(6 \text{ NW}, 9 \text{ W}) = 0.126$ .
  - LSP's promoting 6 non-white and 9 white candidates as it did was 1.80 times less probable than promoting 4 non-white and 11 white candidates.
  - LSP's promoting 6 non-white and 9 white candidates as it did was 1.03 standard deviations above expectation.
  - Non-white candidates were 1.71 times more likely to be promoted than white candidates.
- Relative Risk analysis.
  - 6 / 12 (50.0%) of all non-white candidates were promoted.
  - 9 / 36 (25.0%) of all white candidates were promoted.
  - 6 / 15 (40.0%) of all promotions went to non-white candidates.
  - 9 / 15 (60.0%) of all promotions went to white candidates.
  - 12 / 48 (25.0%) of all candidates were non-white.
  - 36 / 48 (75.0%) of all candidates were white.
  - Non-white candidates were 2.00 times more likely to be promoted than white candidates.
  - This is statistically significant at the 85% confidence level ( $p = 0.1057$ )

#### **4. Analysis of captain panels conducted from 10-30-20 through 10-04-21.**

From 10-30-20 through 10-04-21, COL Lamar Davis conducted 4 captain panels whose candidates included at least one black candidate. Davis promoted 3 black candidates, 1 Asian candidate, and 0 white candidates.

- Binomial analysis.
  - On average, black candidates composed 20.3% of each panel and non-black candidates composed 79.7% of each panel.
  - The most probable number of black candidates to be promoted was 1.
  - $P(1 \text{ B}, 3 \text{ NB}) = 0.411$  and  $P(3 \text{ B}, 1 \text{ NB}) = 0.027$ .
  - LSP's promoting 3 black and 1 non-black candidates as it did was 15.46 times less probable than promoting 1 black and 3 non-black candidates.
  - LSP's promoting 3 black and 1 non-black candidates as it did was 2.72 standard deviations above expectation.



- Black candidates were 11.79 times more likely to be promoted than non-black candidates.
- This is statistically significant at the 95% confidence level ( $p = 0.0283$ ).
- Relative Risk analysis.
  - 3 / 4 (75.0%) of all black candidates were promoted.
  - 0 / 10 (0.0%) of all white candidates were promoted.
  - 1 / 12 (8.3%) of all non-black candidates were promoted.
  - 3 / 4 (75.0%) of all promotions went to black candidates.
  - 0 / 4 (0.0%) of all promotions went to white candidates.
  - 1 / 4 (25.0%) of all promotions went to non-black candidates.
  - 4 / 16 (25.0%) of all candidates were black.
  - 10 / 16 (62.5%) of all candidates were white.
  - 12 / 16 (75.0%) of all candidates were non-black.
  - Black candidates were infinitely more likely to be promoted than white candidates (since no white candidates were promoted).
  - Black candidates were 9.00 times more likely to be promoted than non-black candidates.
  - This is statistically significant at the 95% confidence level ( $p = 0.0269$ ).

From 10-30-20 through 10-04-21, COL Lamar Davis conducted 10 captain panels whose candidates included at least one non-white candidate. Davis promoted 4 non-white candidates and 6 white candidates.

- Binomial analysis.
  - On average, non-white candidates composed 25.1% of each panel and white candidates composed 74.9% of each panel.
  - The most probable number of non-white candidates to be promoted was 2.
  - $P(2 \text{ NW}, 8 \text{ W}) = 0.281$  and  $P(4 \text{ NW}, 6 \text{ W}) = 0.147$ .
  - LSP's promoting 4 non-white and 6 white candidates as it did was 1.92 times less probable than promoting 2 non-white and 8 white candidates.
  - LSP's promoting 4 non-white and 6 white candidates as it did was 1.09 standard deviations above expectation.
  - Non-white candidates were 1.99 times more likely to be promoted than white candidates.
- Relative Risk analysis.
  - 4 / 6 (66.7%) of all non-white candidates were promoted.
  - 6 / 21 (28.6%) of all white candidates were promoted.

- 4 / 10 (40.0%) of all promotions went to non-white candidates.
- 6 / 10 (60.0%) of all promotions went to white candidates.
- 6 / 27 (22.2%) of all candidates were non-white.
- 21 / 27 (77.8%) of all candidates were white.
- Non-white candidates were 2.33 times more likely to be promoted than white candidates.
- This is statistically significant at the 85% confidence level ( $p = 0.1117$ )

## 5. Analysis of captain panels conducted from 09-26-17 through 10-04-21.

From 09-26-17 through 10-04-21, LSP conducted 18 captain panels whose candidates included at least one black candidate. LSP promoted 9 black candidates, 1 Asian candidate, and 8 white candidates.

- Binomial analysis.
  - On average, black candidates composed 19.3% of each panel and non-black candidates composed 80.7% of each panel.
  - The most probable number of black candidates to be promoted was 3.
  - $P(3 B, 15 NB) = 0.235$  and  $P(9 B, 9 NB) = 0.003$ .
  - LSP's promoting 9 black and 9 non-black candidates as it did was 90.00 times less probable than promoting 3 black and 15 non-black candidates.
  - LSP's promoting 9 black and 9 non-black candidates as it did was 3.30 standard deviations above expectation.
  - This is statistically significant at the 99% confidence level ( $p = 0.0033$ ).
  - Black candidates were 4.18 times more likely to be promoted than non-black candidates.
- Monte Carlo analysis.
  - The probability of LSP's selecting 9 black candidates and 9 non-black candidates for promotion as it did was approximately 0.0024.
  - The probability of alternatively selecting 3 black candidates and 15 non-black candidates for promotion was approximately 0.2359.
  - The probability of alternatively selecting 4 black candidates and 14 non-black candidates for promotion was approximately 0.2156.
  - LSP's actual scenario was about 100 times less probable than the most likely scenario and about 91 times less probable than the second most likely scenario.
- Relative Risk analysis.
  - 9 / 12 (75.0%) of all black candidates were promoted.

- 8 / 38 (21.1%) of all white candidates were promoted.
- 9 / 41 (22.0%) of all non-black candidates were promoted.
- 9 / 18 (50.0%) of all promotions went to black candidates.
- 8 / 18 (44.4%) of all promotions went to white candidates.
- 9 / 18 (50.0%) of all promotions went to non-black candidates.
- 12 / 53 (22.6%) of all candidates were black.
- 38 / 53 (71.7%) of all candidates were white.
- 41 / 53 (77.4%) of all candidates were non-black.
- Black candidates were 3.56 times more likely to be promoted than white candidates.
- Black candidates were 3.42 times more likely to be promoted than non-black candidates.
- This is statistically significant at the 95% confidence level ( $p = 0.0013$ ).
- As a more concrete example, suppose that a bag contains 12 marbles all painted with B (for black) and 41 marbles all painted with NB (for non-black). Make 18 blind picks from the bag without returning the chosen marble each time. This is a hypergeometric distribution. What is the probability of choosing 9 B marbles and 9 NB marbles? Answer about 0.0012, or 0.12%, which is 3.38 standard deviations beyond the most probable answer of 4 B marbles and 14 NB marbles which has probability about 0.2700, or 27.00%. In other words, choosing 4 B and 14 NB is about 226.3 times more probable than 9 B and 9 NB, which corresponds to LSP's chosen promotion scenario.
- To appreciate how unlikely LSP's chosen promotion scenario is, Figure 1 is a plot of the probabilities of each  $(b, n)$  scenario, where  $b$  is the number of black promotees and  $n$  is the number of non-black promotees. LSP's scenario is in red above (9,9) in Figure 1. (This bar is barely visible because it is so small.)

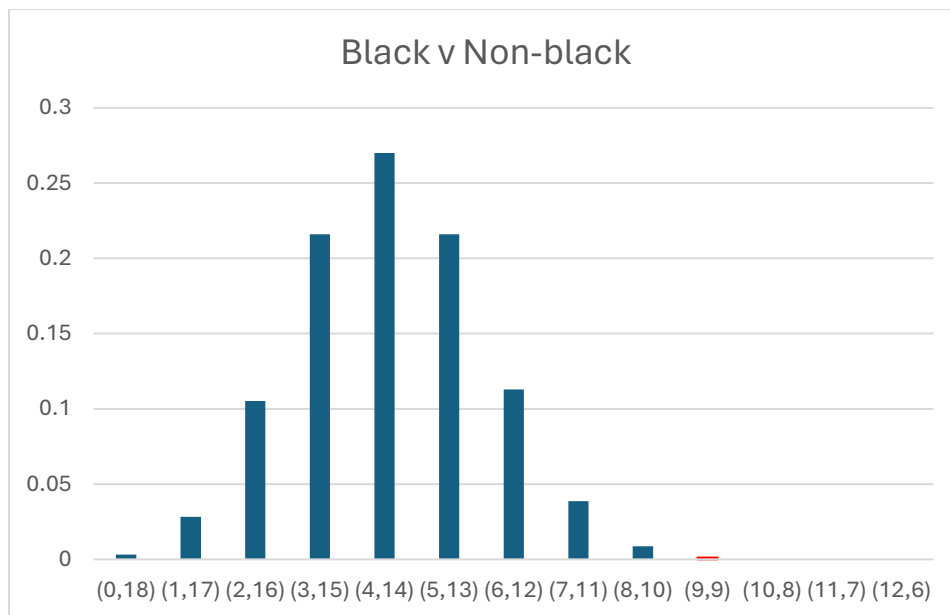


Figure 1.

From 09-26-17 through 10-04-21, LSP conducted 25 captain panels whose candidates included at least one non-white candidate. LSP promoted 10 non-white candidates and 15 white candidates.

- Binomial analysis.
  - On average, non-white candidates composed 26.9% of each panel and white candidates composed 73.1% of each panel.
  - The most probable number of non-white candidates to be promoted was 6.
  - $P(6 \text{ NW}, 19 \text{ W}) = 0.175$  and  $P(10 \text{ NW}, 15 \text{ W}) = 0.058$ .
  - LSP's promoting 10 non-white and 15 white candidates as it did was 2.99 times less probable than promoting 6 non-white and 19 white candidates.
  - LSP's promoting 10 non-white and 15 white candidates as it did was 1.48 standard deviations above expectation.
  - This is statistically significant at the 85% confidence level ( $p = 0.1068$ ).
  - Non-white candidates were 1.82 times more likely to be promoted than white candidates.
- Monte Carlo analysis.
  - The probability of LSP's selecting 10 non-white candidates and 15 white candidates for promotion as it did was approximately 0.0583.
  - The probability of alternatively selecting 7 non-white candidates and 18 white candidates for promotion was approximately 0.1785.

- The probability of alternatively selecting 6 non-white candidates and 19 white candidates for promotion was approximately 0.1770.
- LSP's actual scenario was about 3.06 times less probable than the most likely scenario and about 3.04 times less probable than the second most likely scenario.
- Relative Risk analysis.
  - 10 / 15 (66.7%) of all non-white candidates were promoted.
  - 15 / 47 (31.9%) of all white candidates were promoted.
  - 10 / 25 (40.0%) of all promotions went to non-white candidates.
  - 15 / 25 (60.0%) of all promotions went to white candidates.
  - 15 / 62 (24.2%) of all candidates were non-white.
  - 47 / 62 (75.8%) of all candidates were white.
  - Non-white candidates were 2.09 times more likely to be promoted than white candidates.
  - This is statistically significant at the 95% confidence level ( $p = 0.0189$ ).
  - As a more concrete example, suppose that a bag contains 15 marbles all painted with NW (for non-white) and 47 marbles all painted with W (for white). Make 25 blind picks from the bag without returning the chosen marble each time. This is a hypergeometric distribution. What is the probability of choosing 10 NW marbles and 15 W marbles? Answer about 0.0153, or 1.53%, which is 2.37 standard deviations beyond the most probable answer of 6 NW marbles and 19 W marbles which has probability about 0.2368, or 23.68%. In other words, choosing 6 NW and 19 W is about 15.5 times more probable than 10 NW and 15 W, which corresponds to LSP's chosen promotion scenario.
  - To appreciate how unlikely LSP's chosen promotion scenario is, Figure 2 is a plot of the probabilities of each  $(n, w)$  scenario, where  $n$  is the number of non-white promotees and  $w$  is the number of white promotees. LSP's scenario is in red above (10,15) in Figure 2.

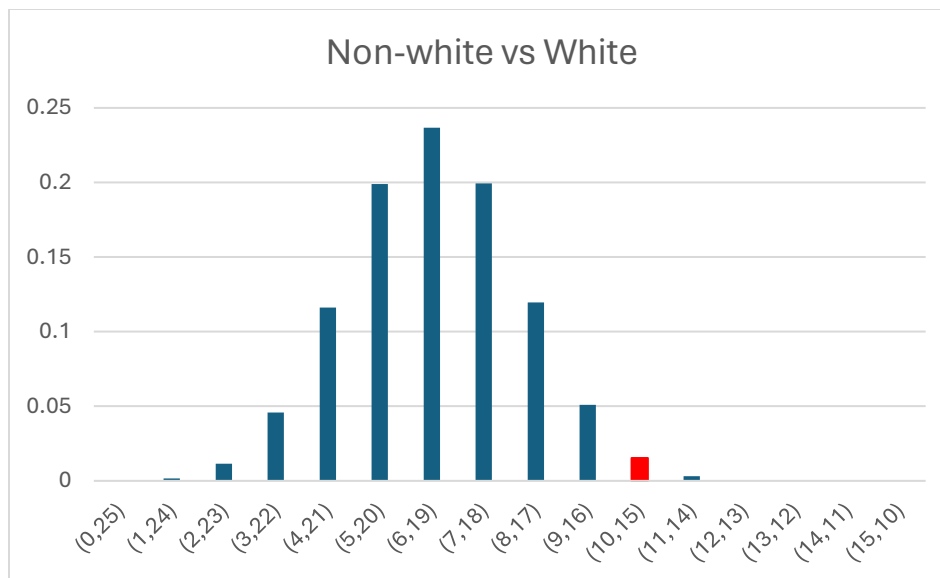


Figure 2.

### Errors in the report by Kovacs, LSP's expert

LSP submitted an expert report by Melissa Kovacs, Ph.D. To fairly evaluate Kovacs' methodology, I attempted to organize the data in a manner that would result in the same values as she lists in her Tables 1 and 2. The only method I discovered resulting in almost identical values was to de-duplicate based solely on the applicant names once the list of all sergeant, lieutenant, and captain applicants was put in reverse chronological order. Kovacs' analysis suffers from several issues regardless whether she used the de-duplication of the reversed list methodology.

First, my complaint covers from 09-26-17 through 10-04-21. I chose 10-04-21 as the ending date of my complaint because, due to my experiences of discrimination from 09-06-17 through 10-04-21, on 10-05-21, I formally requested retirement – an irrevocable decision – on 12-17-21. This was after the LSP Commission found me eligible at least 32 times for promotion to captain but LSP rejected me for promotion every one of those times despite among other things my receiving the highest rating on my last 17 annual evaluations, my supervisors' repeated endorsements for my promotion, my extended formal education, my always receiving the highest promotional exam scores of my competitors, my greater experience as a lieutenant and an executive officer especially against those chosen for promotion, my supplementary training, and my co-developing and teaching LSP's leadership program that it still uses today. In her *Summary of Opinion* section, Kovacs wrote

there is no difference between the proportions of white and black personnel who were promoted to captain between September 26, 2017 through **January 25, 2022** (emphasis

added) in this matter, and no difference between the proportions of white and non-white personnel who were promoted to captain during this same time period in this matter.

Second, in contrast to her above wording in her *Summary of Opinion* section, in her *Analysis Approach* section, Kovacs wrote

I examined whether there is a difference in the proportion of white personnel who are promoted compared to black personnel, and the proportion of white personnel who are promoted compared to non-white personnel.

In her subsequent comments, Kovacs actually provided her analysis of the differences in the overall proportions of white vs black promotees and in the overall proportions of white vs non-white promotees. On the other hand, Kovacs offered no analysis of any particular level of promotions in specific. In particular, Kovacs offered no analysis of promotions to captain in specific. In support of my interpretation of Kovacs' analysis, I note that she reported that approximately 240 people were promoted but did not specify the ranks to which those approximately 240 people were promoted. However, LSP did not promote approximately 240 people to captain but only 37 people from 09-26-17 through 01-25-22 and only 32 people from 09-26-17 through 10-04-21. Kovacs based all of her numerical analyses on these approximately 240 promotions without regard for rank and thusly are inapplicable to captain promotions specifically. Therefore, all conclusions that Kovacs made about captain promotions are clearly unsupported. In particular, Kovacs' *Summary of Opinion* is unsupported as is her similarly worded ending conclusion in light of her providing absolutely no analysis of captain promotions specifically.

From another perspective, Kovacs' chosen data organization would restrict her analysis to allow her to render opinions on only whether LSP's promotions to sergeant, lieutenant, and captain were in general made in racially discriminatory manner. In other words, her choosing not to separate out promotions at each level precludes her from being able to opine whether LSP's promotions at any of the sergeant, lieutenant, or captain levels in particular exhibited evidence of having been made in a racially discriminatory manner. For example, Kovacs' chosen data organization would obscure even hypothetically grossly rampant racially discriminatory promotional practices at the captain level against hypothetically non-discriminatory promotional practices at the lieutenant and sergeant levels because the sub-population of captain-level promotions was smaller than lieutenant-level promotions and much smaller than sergeant-level promotions. Making such a distinction in this analysis is crucial because my complaint was specifically aimed at practices of promotions to the captain rank. By blending promotions to sergeant, lieutenant, and captain together, Kovacs diluted and artificially reduced the power and applicability of her analysis of promotions to the captain rank. Moreover,

Kovacs' report was completely silent on any measure of racial discrimination in awarding captain promotions specifically. Nevertheless, without any captain-specific analysis, Kovacs somehow concluded that there is no difference between the proportions of white and black personnel who were promoted to captain and no difference between the proportions of white and non-white personnel who were promoted to captain.

Third, Kovacs made no effort to isolate from consideration all panels in which LSP could not have made a racially discriminatory promotional decision because all candidates in those panels were of one race. In fact, Kovacs expressly included in her calculations panels in which LSP could not have made a racially discriminatory decision, thereby artificially decreasing both her measure of LSP's use race in promotions and the applicability of that measure. Kovacs analyzed black / white and non-white / white promotion rates only in a global sense. Further, Kovacs' inclusion of LSP's choosing white candidates on panels with all white candidates artificially increased LSP's white and non-black candidate promotion rates and artificially decreased LSP's black and non-white promotion rates. In other words, Kovacs effectively credited LSP for choosing white candidates on panels all of whose candidates were white. Most disturbingly, under Kovacs' reasoning, conducting enough panels with only white candidates and therefore promoting enough white candidates could "cure" even hypothetically blatant discrimination of always *de facto* choosing black candidates on all panels at least one of whose candidates was black.

In short, Kovacs' holistic methodology for selecting which records to include for analysis of indicators of racial discrimination does little to facilitate a fair analysis, especially relative to my complaint of racial discrimination in captain promotions. In particular, Kovacs' argument is akin to concluding that because the majority of American companies do not pollute the environment, then no sector is more likely to pollute the environment than any other sector. Such an argument and any consequent conclusions are obviously fatally invalid.

As for her critique of my report, I note that she erroneously interpreted my binomial analysis as being based on the identity of promotional candidates. If that were true, then her dependence argument would have some merit. However, my binomial analysis was instead based on the average proportion of black or non-white candidates on each panel irrespective of the identity of any candidate.

## **Conclusions**

Binomial, Monte Carlo, and Relative Risk methodologies all consistently indicate the presence of racial discrimination in captain-level promotional decisions during COL Reeves' administration individually, COL Davis' administration individually, and from 09-06-17 through 10-04-21 which covered time during both their administrations.



All indicators above showed partiality to black and non-white lieutenants in comparison to their non-black and white counterparts when competing for promotion to captain.

Multiple indicators above conclude that large racial disparities favoring black and non-white candidates over non-black and white candidates in LSP's promotions to captain from 09-26-17 through 10-04-21 would occur by chance less than 5% of the time. These large disparities in promotion of black vs non-black and non-white vs white lieutenants to captain show that there was race discrimination in the LSP promotion system.

/s/John Ray Stelly II

05-31-24

In accordance with Rule 26 of the Federal Rules of Civil Procedure, I do hereby state the following:

I co-authored one publication within the preceding ten (10) years. That publication is a chapter on uncertainty in the textbook *Traffic Crash Reconstruction*, 3<sup>rd</sup> edition that is scheduled to be published in 2024. (This is the textbook that Northwestern University, Center for Public Safety uses in the traffic reconstruction courses that I teach for them.)

I have not testified as an expert at trial within the preceding four (4) years.

Other than for this case, I have not been deposed within the preceding four (4) years.

## John Ray Stelly II

### Professional and Business History

PreCrash, LLC, Founder, May 2022 to present

Northwestern University, Center for Public Safety, June 2021 to present

Louisiana State Police, January 1995 to December 2021

University of New Orleans, Mathematics Department, May 1993 to December 1994

### Education

Master of Science, Mathematics, University of New Orleans (May 1993)

Bachelor of Science, Computer Science, Magna Cum Laude, University of New Orleans  
(December 1991)

Bachelor of Science, Mathematics, Magna Cum Laude, University of New Orleans (May 1990)

### Range of Experience

Stelly's experience includes application of various areas of general mathematics, programming in various computer languages, and consulting.

### Qualifications

Co-author of Uncertainty chapter, *Traffic Accident Reconstruction*, 3<sup>rd</sup> edition. To be published 2024.

### Personal

Stelly has served as the editor of Northwestern University, Center for Public Safety's *Traffic Crash Reconstruction*, 3<sup>rd</sup> edition since May 2022.

Stelly has been accredited by the Accreditation Commission for Traffic Accident Reconstruction, ACTAR.org, as a crash reconstructionist since January 2022.

Stelly is a member of the National Association of Professional Accident Reconstruction Specialists, NAPARS.org.

Stelly is a member of the Society of Automotive Engineers, SAE.org.

Stelly has been an adjunct instructor for crash investigation and reconstruction for Northwestern University, Center for Public Safety since June 2021.

Stelly served as the secretary and treasurer of the charitable non-profit Troop B Children's Grant A Wish Foundation from its founding in 1997 until around his retirement from Louisiana State Police in December 2021.

Stelly served as a faculty member of the Mathematics Department of the University of New Orleans from May 1993 through December 1994.

Transcript of the Testimony of  
**Andrew Broadway**

**Date: June 14, 2024**

**John R. Stelly II v. State of Louisiana, et al**

All electronic deposition & exhibit files  
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**EXHIBIT K**

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1 would make sense to take that perspective. However,  
2 the lawsuit, as I understand it, focuses on John  
3 Stelly's experience of being discriminated against,  
4 so I -- I do believe that looking at the time frame  
5 that pertains to John Stelly is defensible, though  
6 there -- though there is some degree of philosophical  
7 discussion that can be made with regard to statistics  
8 in general.

9 BY MR. MILES:

10 Q. Let me ask you this. Did you -- did you know  
11 that there were eight promotions in 2022 by Lamar  
12 Davis's panels and seven went to white people and one  
13 went to a nonwhite? Did you know that?

14 A. I did not know that.

15 Q. Okay. And that if you actually incorporated  
16 that information into your analysis, it would  
17 actually -- it would change the standard deviations,  
18 it would change the -- it would change the outcome,  
19 wouldn't it?

20 A. Quite possibly. I would have to look -- look  
21 and see the data and run the analysis on -- however,  
22 it also -- it also makes sense to argue that the -- it  
23 doesn't -- going back and fixing -- changing hiring  
24 patterns doesn't necessarily pertain to time frame  
25 before that, so.

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1 Q. Right, right. But you did not do it for all  
2 of Davis's panels; you just did it for one year of  
3 them. True?

4 A. I did it -- yes, I -- I conducted it for  
5 Reeves' panels for that one year.

6 Q. You mean Davis's panels for the one year?

7 A. Sure, yeah.

8 Q. Okay.

9 A. Davis's panels for one year.

10 Q. Okay. All right. Just a few more questions  
11 here. We're almost done.

12 I want to talk to you about independence, the  
13 concept of independence. All right. And I know  
14 Ms. Kovacs (inaudible) --

15 (Reporter clarification.)

16 BY MR. MILES:

17 Q. So I know Ms. Kovacs was, you know, critical  
18 of you and of Mr. Stelly because the concept of -- of  
19 independence was, in her view, not satisfied by your  
20 analyses. I want you to tell me what your response is  
21 to that, Mr. Broadway.

22 A. It's a very perplexing question -- or is a  
23 very perplexing statement from her considering we  
24 actually took, more or less, a very similar approach to  
25 this problem. So she said in her report -- I don't

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1 (Reporter clarification.)

2 A. Just double-checking that I have this correct.

3 So I deduplicated -- sorry. I only isolated  
4 to all captain rank panels. I sorted by time frame,  
5 and I -- I sorted by promotion, and I sorted by time  
6 frame so that -- so that most recent records were --  
7 first test scores were retained for each individual.

8 BY MR. MILES:

9 Q. Okay. So I got it. So let me ask you this  
10 question. So if you -- so you pooled the data, but you  
11 pooled the data only for lieutenants who are on panels  
12 with a nonwhite on them, correct?

13 A. Yes.

14 Q. Okay. So if you had a white lieutenant --

15 A. Sorry. To clarify, it's not a nonwhite. It's  
16 a Black candidate.

17 Q. Okay. So you only -- so you only pooled the  
18 data for if there was a Black candidate on that?

19 A. Yes.

20 Q. Okay. Why did you not only pool the data if  
21 there was a nonwhite on there?

22 A. I felt it better -- I felt it better fit  
23 the -- the overall case.

24 Q. Okay. But you do know that Mr. Stelly -- or  
25 maybe you don't. Mr. Stelly's claim is that in two

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1 get in because you didn't qualify him. So I  
2 guess we'll just -- that's fine, you know. So  
3 you won't get to have him testify.

4 BY MR. MILES:

5 Q. So -- but let me ask you some questions,  
6 Mr. Broadway, based on --

7 A. Sure.

8 Q. -- what was just -- what was just said.

9 So -- all right. Mr. Farrugia asked you some  
10 questions about whether the number of nonwhites or  
11 African Americans promoted over a particular time  
12 frame -- whether -- the chances that that would be by  
13 chance. You recall that line of questions, right?

14 A. Yes.

15 Q. Okay. And we're here today about the  
16 promotions of two individuals. All right. One of them  
17 is Mr. -- or Major Robert Burns, and the other one is  
18 Captain Saleem El-Amin. All right.

19 So you've never met either one of these  
20 gentleman, correct?

21 A. Yes.

22 Q. "Yes," you have met them?

23 A. I have not met them.

24 Q. Okay. So you've never met either of these  
25 gentlemen. Do you know that Burns -- Robert Burns,



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1 since this promotion to captain in July of 2021, has  
2 been promoted to major in the state police? Do you  
3 know that?

4 MR. FARRUGIA: Objection; irrelevant.

5 Irrelevant. What's --

6 BY MR. MILES:

7 Q. Did you know -- did you know that?

8 MR. FARRUGIA: -- (indiscernible) is  
9 irrelevant.

10 A. It's --

11 MR. MILES: Objection noted.

12 A. No, I did not. But it's -- but it's outside  
13 the relevance of my analysis, and it is -- I believe  
14 it's outside of the relevance of the -- you know, the  
15 lawsuit as a whole since -- since this -- this entire  
16 thing pertains to John Stelly's experiences at the  
17 Louisiana State Police. Whether they changed their  
18 behavior or changed their hiring practices later, it  
19 doesn't really relate to the issue of the analysis very  
20 much.

21 BY MR. MILES:

22 Q. Yes. And that's -- you brought up a point  
23 that I was going to ask you about, Mr. Broadway.

24 So practices during one time period or at one  
25 point in time are not necessarily relevant to what

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1 all right, were based on analyses that excluded panels  
2 where there was a nonwhite on the panel but there was  
3 no African American; isn't that true?

4 A. There -- my inclusion criteria was based on a  
5 panel having at least one Black candidate. However,  
6 this -- this -- there were very, very few candidates  
7 that were excluded because of this reason, and it does  
8 not play -- it plays almost no role whatsoever in  
9 promotional factors.

10 Q. How do you know that if you didn't include  
11 them in your analysis?

12 A. Because the -- because the complete data for  
13 promotional factors is in my analysis. And I retained  
14 all information for -- for -- information for -- all  
15 information on John Stelly's panels, so I have complete  
16 information for all -- all of his panels, and it was --  
17 all that information was retained.

18 Q. Got it. So you retained the information. You  
19 just didn't use it to -- for the opinions 1 through --  
20 1 through 6, correct?

21 A. One through six?

22 Q. Yeah, opinions 1 through 6. You retained  
23 the information, but you didn't use it to run your  
24 statistical analysis?

25 A. I think you might be a little confused. Sir,

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1 there were 73 unique candidates who were qualified. My  
2 analysis is on a subset of 53 of them. I ran analysis  
3 on the -- on the 53, so basically of -- so originally,  
4 there were 32 panels. Fourteen of them had only white  
5 individuals. Eighteen of them had at least one Black  
6 individual.

7 Q. Are you finished?

8 A. Give me a second. I'm trying to put my  
9 thoughts together. It's been a long day.

10 So I have -- I have -- for the 53 -- for the  
11 53 candidates that I have, they are -- I see very  
12 strong associations for race. For John Stelly's  
13 panels, I have 30 --

14 Q. Maybe I can help. And, look, you can continue  
15 to answer if you need to, but I might be able to help  
16 you out here with just a simple follow-up.

17 My question for you, Mr. Broadway, is: To  
18 come up with your 53, you did not -- you did not look  
19 at the candidates who are on the panels where there was  
20 no African American on the panels, true?

21 A. Restate that.

22 Q. Sure. To come up with the 53 that you -- the  
23 53 unique individuals that you analyzed --

24 A. Yeah.

25 Q. -- right, you did not look at panels where

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 MAJOR DONOVAN T.  
ARCHOTE, taken on Wednesday, June 5, 2024,  
commencing at 10:12 AM, in the law offices of  
Pipes Miles Beckman LLC, 1100 Poydras Street,  
Suite 3300, New Orleans, Louisiana, 70163.

1 me to tell him that, and that's probably the  
2 only reason why I didn't do it, was because of  
3 my family. Other than that, I would have. I  
4 would have attempted. I don't think I would  
5 have probably got it, but -- you know.

6 Q Okay. Now --

7 MR. MILES:

8 Let the record reflect,  
9 Mr. Stelly was nodding his head in  
10 agreement on that last answer.

11 EXAMINATION BY MR. FARRUGIA:

12 Q Isn't it true that you told  
13 Lieutenant Stelly that Colonel Davis didn't  
14 like you?

15 A I was unsure. In relation to that,  
16 Lamar and I had -- Colonel, then Cadet Davis  
17 who I went through the academy with, we have a  
18 good relationship with. I have a good  
19 relationship with, or had, and he's come in my  
20 office and stopped by. We've always talked  
21 and spoke or whatnot. After he made captain,  
22 the one that John was competing with him with,  
23 and I was -- when he came in my office, Lamar  
24 came to my office days before the promotion of  
25 that TBS spot, the one that Lamar got.

1 I didn't foresee Lamar getting that  
2 spot. I thought, if I'm not mistaken, the  
3 training academy was going to be on that day,  
4 and I thought that he was going to get that  
5 spot, because Lamar I thought would have been  
6 a good -- again, this is all from my  
7 persecutive, my point of view on the outside  
8 looking in.

9 I thought Lamar was going to probably  
10 get the training academy spot. I relayed to  
11 Lamar that John would be a perfect fit for the  
12 TBS spot, and in hopes of maybe perhaps  
13 getting Lamar to help John with that. To our  
14 surprise, Lamar got the TBS spot. So days  
15 went past, or I should say weeks went past. I  
16 see Lamar at cadet graduation, and Lamar  
17 snubbed me, snubbed me two times in a row,  
18 which was very odd.

19 So I confronted him and I said, you  
20 know, "What's wrong? What's the problem?"  
21 And he told me that he was bent out of shape  
22 basically because he called to congratulate me  
23 back in 2013, and that I didn't call to  
24 congratulate him when he got captain, and he  
25 took that as I guess I was a big -- I was such

1 a big proponent for John that I was against  
2 him.

3 So that conversation left not too  
4 good like that, even though he and I's  
5 friendship goes back a long way, that my  
6 loyalty or my backing was for John, which is  
7 probably accurate. It wasn't anything against  
8 Lamar. It was my pro-John, and when he  
9 didn't -- when I didn't call Lamar, Lamar took  
10 that as another layer that I was against him,  
11 so he was very upset at that. He reminded me  
12 that he called me back in 2013, which I didn't  
13 remember that he called me.

14 So we left that conversation with  
15 kind of a rift, if you will, and then he gets  
16 colonel. Later he gets colonel, so I didn't  
17 know where I truly stood with him, just based  
18 on this, that lack of me calling him and me  
19 backing John for that TBS spot. So that was  
20 my feeling initially, that I didn't know where  
21 I stood with Lamar. I didn't know if he was  
22 going to hold that against me still, because  
23 he seemed pretty upset about it.

24 So I didn't know if that was going to  
25 have a difference in selecting me for major,

1 and again, I'm not at headquarters, so I don't  
2 know who's -- you know, those guys have all  
3 the experience and all the face time, if you  
4 will; so I knew that I would be a longshot at  
5 that time.

6 Q Excuse me. A longshot? You would be  
7 a longshot?

8 A I think so.

9 Q For -- I don't know?

10 A A major in the bureau.

11 Q Oh, to get promoted to bureau?

12 A Yeah, in a bureau, and the spot would  
13 have -- if the spot with patrol would have  
14 came up, I probably -- I had a really good  
15 chance.

16 Q Now, isn't it true that you told  
17 Lieutenant Stelly that Colonel Davis didn't  
18 like you, because you told someone that  
19 Colonel Davis was promoted over Lieutenant  
20 Stelly because Davis is black?

21 A No.

22 Q So did you ever tell anyone that  
23 Lieutenant Davis was promoted over Lieutenant  
24 Stelly for that position because Lieutenant  
25 Davis is black?



1           A       No.

2           Q       Okay. Now, did you tell Stelly that  
3 Lieutenant Davis's technological incompetence  
4 forced him to be relegated to accounting for  
5 radios?

6           A       I don't think anything that specific.  
7 We basically talked in general of John's  
8 knowledge in that area, extreme knowledge in  
9 that area, and how great of a fit he would  
10 have been; how it was unknown to us that Lamar  
11 had the same skills as John did when it came  
12 to computers, pushing the department in a  
13 forward-leaning position where we needed to be  
14 technology-wise, and I still stand to this  
15 day: John would have been great in that  
16 position, and I wish he would have gotten it,  
17 twice.

18          Q       Okay. Isn't it true that in May of  
19 2021, that Lieutenant Stelly came into your  
20 office when you were already speaking to  
21 someone about the LSP Commission decision to  
22 reinstate Sheldon Perkins? Do you recall him  
23 entering your office when you were having that  
24 discussion?

25          A       I don't.

**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**  
\*  
\*  
\*

**NOTICE OF SUBMISSION**

PLEASE TAKE NOTICE that the Motion for Summary Judgment filed by Defendant, The State of Louisiana through Department of Public Safety and Corrections, Office of State Police, is hereby set for submission before the Honorable Greg G. Guidry, United States District court for the Eastern District of Louisiana, on Wednesday, July 3, 2024, at 10:00 a.m.

Respectfully submitted,

**LIZ MURRILL  
ATTORNEY GENERAL**

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