

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JOHN R. STELLY, II,  
Plaintiff,

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CIVIL ACTION NO. 2:23-cv-00772

JUDGE GREG G. GUIDRY

Versus

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

MAGISTRATE JUDGE  
JANIS VAN MEERVELD

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MEMORANDUM IN OPPOSITION TO DEFENDANT’S MOTION  
MOTION FOR SUMMARY JUDGMENT

MAY IT PLEASE THE COURT:

Plaintiff John R. Stelly, II (“Stelly”), by and through his undersigned counsel, hereby respectively submits this Memorandum in Opposition to Defendant State of Louisiana through Department of Public Safety and Corrections, Office of State Police (“Defendant” or “State Police” or “LSP”)’s Motion for Summary Judgment. Stelly respectfully submits, for the reasons set forth below, that the Court should enter an Order denying summary judgment and allowing Plaintiff’s race discrimination case to trial by jury.

INTRODUCTION

Stelly began his employment with LSP on January 22<sup>nd</sup>, 1995. To join the Louisiana State Police Stelly gave up a fellowship at Tulane University where he had just finished his first semester work on a PhD in computer science. Prior to that Stelly earned 2 bachelors degrees from the University of New Orleans one in mathematics one in computer science. Stelly also earned a masters degree in mathematics from the University of New Orleans. Stelly loved his job as a Louisiana state trooper. And 2008 after being a Lieutenant for two years Stelly was eligible

to be promoted to captain from that point until he retired in 2021 Stelly applied for and was denied promotion to captain 31 times. Under Superintendent Michael Edmondson Lieutenant Stelly was requested to perform a study to determine if there was any race or gender bias in the promotion system of the Louisiana State Police in 2013. He performed this statistical analysis for the Superintendent and determined that there was no evidence of race or gender discrimination in the promotional decisions of the Louisiana State Police. However, a few years later when Lieutenant Chavez Cameron was promoted to Internal Affairs over Lieutenant Stelly in September of 2017 Lieutenant Stelly suspected race discrimination because of his qualifications for that position compared to Lieutenant Cammon. For example, Lieutenant Stelly merit and efficiency were at the very top level for all of 17 of his annual evaluations as a LSP Lieutenant. Exceptional under the evaluation system used from 2011 through 2021 Lieutenant Stelly scored at the highest level on each of the 11 factors in each evaluation.

In order to be eligible for promotion to a particular position advertised on a vacancy announcement, a Lieutenant must take a promotional exam which is required by the Louisiana Constitution chapter 10 section 45. That requirement says that all exams shall be competitive. The Lieutenant Stelly always scored at the top scoring Level on these exams compared to his competing lieutenants for the positions. The LSP also has PO229 which is the policy that states the factors that should be considered in a promotion. Lieutenant Stelly usually was very competitive on most of these objective criteria for promotion.

Lieutenant Stelly's belief that the promotion system at the LSP did not discriminate because of race changed in the period 2017 to 2021. During that time the tenant Stelly applied 18 times to be promoted to captain and of those 18 times an African American or non-white was promoted instead of Stelly eight times. This racial bias in promotions to captain became

exaggerated when Lamar Davis, a Black, became Superintendent in October of 2020. In his first year as Superintendent Davis promoted three blacks and one Asian to captain out of the 8 panels for promotion that Stelly applied for. For these eight panels whenever there was a black on the panel that black was promoted during that. There were four whites promoted to captain and on all of those promotions there were no blacks that were eligible to be promoted.

After being denied promotion to captain so many times, the process was injuring his health and his marital life. He finally gave up his career and in October 2021 requested retirement.

This motion for summary judgment should be denied because of the evidence that Stelly has that race was a motivating factor in his promotion denials. That evidence includes statistical analysis that shows that this large disparity of promotion rates to captain of those eligible for promotion of whites as compared to non-whites and to blacks would happen by chance less than 5% of the time. This is statistically significant and represents a standard deviation of greater than 2. Stelly also has direct evidence and evidence of pretext.

#### FACTUAL AND LEGAL ARGUMENTS

Stelly disputes the claim that race was not discussed at any panel.<sup>1</sup> That is not the case. Major Carl Saizan was on a promotional panel on October 3, 2018, when both Lamar Davis and Robert Hodges were promoted to Captain. He was in the room for all the promotions that day because he was on the promotion panel for the Captain in BOI/ISS promotion. Col. Reeves, LTC Noel, LTC Adam White, and Major Saizan were on the panel. Saizan believed that Robert Hodges was the best qualified of the candidates and that he should be promoted to Captain. Among the objective factors he considered were Lt. Hodges' 23 years of service in LSP, 8 years

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<sup>1</sup> Defendant Memorandum (Rec. Doc. 118-2) p.2.

as a Lieutenant, PES rating of Exceptional, and number of commendations. In his declaration, Saizan wrote, “I also considered the subjective factors of his leadership skills and his interview presentation. I believed he was the most qualified for the position of Captain -BOI/ISS position. During the discussion of the panel about who was to be promoted, LTC White disagreed with my selecting Lt. Hodges and wanted to promote an African American candidate to the position. Col. Reeves initially agreed with LTC White. LTC Noel supported me, and eventually Col. Reeves conceded and promoted Lt. Hodges to Captain. I was initially taken aback that they wanted to promote someone to Captain who was not the best qualified for that position at the time.”

Exhibit G, Saizan declaration.

Regarding the promotion of Robert Burns to Operational Development on July 9, 2021, Defendant claims that Burns, had strategic planning and acted as liaison to the Governor for certain projects, researching policy and procedure and experience working with the Operational Development department.(Def. Memo., p. 2,3) Although Stelly did not testify at the legislature, Stelly has testified in numerous criminal cases and several civil cases. Additionally, Stelly work the legislative detail for several years as a trooper and a sergeant. (Exhibit A, Stelly depo, pp 38-40, 42.) While a lieutenant, Stelly would participate in strategic planning meetings at Troop B. (Exhibit A, Stelly depo, pp 52-53.).

Defendant acknowledges many of Stelly’s accomplishments in stating that 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. (Def. Memo. p. 3.) However, it then attempts to minimize Stelly’s accomplishments at Troop B in stating, “ But nearly all of his experience was in a patrol division, Troop B”.

This mischaracterizes Stelly roles at Troop B. While not actually assigned to other

sections, Stelly performed the functions that he would have had he been assigned to those other sections. For example, during his time as shift sergeant and especially during his time as shift lieutenant, he investigated countless allegations of policy violations, whether they originated from a personnel complaint or an observed violation. Stelly also supervised many such investigations when he delegated them to one of his various sergeants. (Exhibit A, Stelly depo, pp 62-72, 104-105, 203-204.) This is the same experience that he would have gained had he been assigned to Internal Affairs. As another example, while Troop B Executive Officer, Stelly did many of the same things that he would have done had he been assigned to Operational Development (Exhibit A, Stelly depo, pp 220, 225-226):

- Stelly completed Troop B's annual budget requests on the CB-7 and the CB-8 forms. (Exhibit A, Stelly depo, pp 57-58.)
- Stelly composed suggestions for statute modification or creations with projected costs, and he collected and collated the same from Troop B personnel who submitted them. (Exhibit A, Stelly depo, p 58.)
- When Stelly saw that LSP policy conflicted with statutes or criminal procedure, he suggested amendments to the defective policies. (Exhibit A, Stelly depo, pp 57-58.)
- Stelly suggested amendments to LSP policy that would be more efficient for LSP operations. (Exhibit A, Stelly depo, pp 57-58.)
- Under his own volition, Stelly designed and implemented an automated version of LSP's early identification system (EIS). It ensured accountability for completing EIS forms and was very well-received at Troop B. Stelly modified it for LSP-wide use and sent it to HQ at its request. (Exhibit I, Cammon depo, p 68.)
- Under his own volition, Stelly designed and implemented a time and citation

accountability system for use in Troop B's LACE program. This program was in large part responsible for maintaining stringent accountability of time and citations of troopers who participated in Troop B's LACE overtime program. (Exhibit A, Stelly depo, pp 70-72; Exhibit D, Stelly expert depo pp 31-37.)

- Under his own volition, Stelly designed and implemented an automated timekeeping accountability system that not only verified personnel had properly coded their work hours but also flagged suspicious entries and those in violation of policy. Exhibit L, Stelly declaration, par 12.
- Under his own volition, Stelly designed and implemented a system that statistically analyzes the amount of work product a trooper completed against the amount of time that he actually worked in a comparative nature against his fellow troopers. Even a troop commander could use it to compare the productivity of each team under their respective lieutenant's leaderships. Stelly continually refined that software until he retired. (Exhibit D, Stelly expert depo pp 24-30.)

To ensure that LSP was aware of Stelly's contributions and work as above, Archote would forward to LSP command Stelly's email to him about projects and assignments with a comment akin to "Please see the below from LT Stelly. He addresses all matters, did an excellent job. Please see the attached." (Exhibit F, Archote depo, pp 79-81; Exhibit A, Stelly depo, p 58.)

Further, contrary to Reeves' assessment of Stelly's interview for the TBS position during deposition, Stelly contends that Reeves praised Stelly's TBS interview in their 10-16-18 meeting. (Exhibit 33.1, Stelly 00283; Exhibit 33.2, 00421-00435; Exhibit A, Stelly depo, pp 105-110, 114-115, 151-153, 172; Exhibit D, Stelly expert depo pp 49-50, 74-77, 177-181.) Carl Saizan's

declaration shows that his impression is consistent with Stelly's accounting and wholly inconsistent with Reeves' accounting during deposition. Exhibit G, Saizan declaration. Stelly claims that no member of the LSP promotional panels ever relayed negative comments to him regarding his interviews. In fact, on 07-09-21 prior to his announcing that he chose Robert Burns for commander of Operational Development, COL Davis told all four candidates that they had "great interviews." (Exhibit 34, Stelly 00287.)

While Stelly cannot attest to the intention of Cammon (while Cammon was commander of Internal Affairs) when he travelled to Troop B to allegedly meet with Stelly to discuss helpers for upcoming promotional interviews, Stelly can attest to what happened during that closed-door meeting (Exhibit 35, Stelly 00282-00283, Exhibit A, Stelly depo, pp 129-131, 246-247):

- Cammon or Archote inquired as to what Stelly thought his chances were for the upcoming captain position for which he applied.
- Stelly went down the list of objective factors enumerated in PO 229, citing that he was at or near the top of all such categories and thereby concluding that he had a very good chance when those are combined with his being XO, co-authoring leadership program, and teaching leadership.
- Cammon explained that none of the objective factors matter.
- Cammon then relayed to Stelly what the three interview questions would be. (These were not the questions that were actually posed.)

Defendant claims that Stelly, as an expert witness, and Tyler Broadway, Stelly's other expert witness, cherry-picked their statistics. (Def., Memo, p. 7). No statistics were cherry-picked. In 2013, at the behest of then-COL M Edmonson, Stelly analyzed LSP promotional data from 2000

through early 2013 for indicators of racial or gender discrimination. Stelly and LT William Morange of LSP Operational Development co-authored a report concluding that they found no indicators of racial or gender discrimination since 2000, which included COLs Whittington (white), Landry (black), Whitehorn (black), Griffin (black), and Edmonson (white). Stelly reached this conclusion despite having been previously denied promotion. (Exhibit 36, LSP\_STELLY 001001 – 001024; Exhibit A, Stelly depo, pp 40-41, 58-61, 108-109, 112; Exhibit D, Stelly expert depo pp 22-24, 59-65, 92.) From the time of that report until 09-26-17, Stelly applied at most four times for promotion to captain but not once sensed racial discriminated. (Exhibit 37, Stelly 00251.) Stelly first suspected racial discrimination in the promotion of Chavez Cammon over him on 09-06-17 and started keeping copious notes about his interactions with others, especially things that seemed inappropriate. (Exhibit A, Stelly depo, pp 82-105, 111-114.) On 10-05-21, Stelly requested retirement on 12-17-21; this request was irrevocable. As such, when Stelly later filed his EEOC racial discrimination complaint, the period over which he said such behavior was indicated was 09-06-17 through 10-04-21. Stelly could have applied for promotion from 09-06-17 through 10-04-21. Therefore, Stelly concluded that the most appropriate period to analyze was 09-06-17 through 10-04-21. In Stelly's EEOC analysis, Stelly's original expert report in this case, and Stelly's amended report, he consequently analyzed 09-06-17 through 10-04-21. (Exhibit 38, Stelly 00190-00217; Exhibits 2, 39, Stelly's expert reports.) Tyler Broadway, Stelly's expert, also concluded that the same period was the most appropriate to analyze to address whether LSP racially discriminated against Stelly in his seeking to be promoted to captain. (Exhibit M, Broadway depo, pp 14-16, 18, 108-110; Exhibits 40, 41, Broadway's expert reports.) Lastly, Stelly and Broadway analyzed every single captain panel from 09-06-17 to 10-04-21, regardless whether such inclusion helped or hurt Stelly's cause.



(Exhibit D, Stelly expert depo, pp 84-86, 90-95, 109-113, 121-131, 135-138.)

LSP asserted that Stelly and Broadway should have included in their analyses a period prior to 09-06-17 and a period after 10-04-21 up to 01-25-22. Such a claim is ludicrous. Stelly had already previously concluded and even stated that there were no indicators of racially discriminatory promotional practices prior to 09-06-17, thereby eliminating that period from consideration as to whether LSP had been engaging in such illegal practices. (Exhibit 36, LSP\_STELLY 001001-001024; Exhibit A, Stelly depo, pp 108-109, 112.) Likewise, anything that happened after 10-04-21 and especially after Stelly's 12-17-21 retirement obviously could not have affected Stelly's retirement decision on 10-05-21. (Exhibit D, Stelly expert depo, pp 84-86, 90-95, 109-113, 121-131, 135-138.) In short, LSP's assertion is its naked attempt to have its admittedly non-discriminatory behavior prior to 09-06-17 and its supposedly non-discriminatory behavior after 10-04-21 mitigate its discriminatory behavior between those dates. This suit is about the illegal practices of which Stelly was a victim, not about the legal practices with which Stelly had no complaint.

As to Stelly's lack of evidence that any panel member recommended Stelly for any of his promotions, that claim is self-serving. Given that the proceedings are confidential, Stelly has no mechanism to rebut such a claim. Further, that Stelly's 13 earliest attempts at promotion to captain were when he was a junior lieutenant, that none were during either Reeves' nor Davis' administrations, and neither Reeves nor Davis was present during those 13 panel deliberations, there is no testimonial evidence about who did or did not support Stelly's promotion, rendering such a claim about those 13 panels mere hearsay. (Exhibit 37, Stelly 00251.) The most that Reeves and Davis can claim is that no one supported Stelly during his attempts for promotion to captain from 09-06-17 through 10-04-21, which is the very same period during which Stelly

claims that LSP employed racially discriminatory promotional practices.

Regarding the required competitive promotional exam, Defendant states that only the individuals in the top seven grade groups are considered for promotion. That has not always been the case. Prior to 06-01-18, only the applicants in the top five grade groups were considered for promotion. On 05-24-18, the LSP Commission voted to allow the applicants in the top seven grade groups to be considered for promotion effective 06-01-18. (Exhibit 42, Stelly 00205, footnote 13.)

Defendant misstates what Stelly is alleging regarding the position of captain to Operational Development and Gaming. Stelly is alleging that he was much more qualified than Burns or El-Amin for these positions.

Defendant acknowledges that Stelly 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. It does not acknowledge that Stelly has two Bachelor's degree and 9 hours of credit toward a PhD. Scoring high on the promotional exam is not descriptive enough. On all eighteen panels during this time period Stelly scored the highest score on the exam. (Ex \_\_\_\_Certificate of Eligibles for 18 panels Ex 34,36,38,40,42,46,44, 48,50,52,54,57, 59,61,63,66,68,72,)

That Stelly's captain told him he should be promoted is an understatement. Stelly worked for Archote 8 years, as his Executive Officer (XO). During the last 5 years on Stelly's PES evaluation, Archote wrote that he will become a great captain when he gets promoted. (Exhibit 43, Stelly 00165-00189, last 5 evaluations) The evaluations were signed off on by 3 different majors.

Defendant acknowledged that Stelly had more time in service and more time in grade than the promotees. However, Stelly had over 16 years time in grade compared to less than 3 years for El-Amin and less than 6 years for Burns. On both Interview Summary Forms signed by Davis the reason for promotion was “training, experience and performance.” Stelly was much more qualified than the two candidates.

LSP has conveniently omitted other objective factors in which Stelly excelled, eg lack of disciplinary history, accumulation of awards and commendations. While Stelly agrees that these factors objectively rank him as a strong contender for promotion, Stelly understands that this list does not include all determinative factors. Stelly understands that being a good communicator, exhibiting leadership, and being knowledgeable about the section’s mission are also important. To address these, Stelly notes that LSP must consider him a good communicator because it tasked him on numerous occasions to teach classes to its own cadets, its own troopers, and other law enforcement personnel throughout the state on lidar/radar, crash investigation, crash reconstruction, Intoxilyzer operations, standardized field sobriety testing, and most notably leadership. (Exhibit A, Stelly depo, p 254.) Likewise, Stelly notes that LSP must consider him to have good leadership because it tasked him to co-author its leadership training program – a program that it still uses, in a form mostly unchanged from Stelly’s original version – and to teach leadership per that program. (Exhibit A, Stelly depo pp 102, 254, 269-275.) Also, on several occasions, LSP tasked Stelly while he was Troop B executive officer to be one of the interviewers of persons applying to become a LSP cadet. (Exhibit D, Stelly expert depo, p 46-47.) Further, not only did Stelly’s captain comment in Stelly’s annual evaluations that he would do well as a captain, Stelly’s captain’s supervisors, 3 different LSP majors, approved such assessments. (Exhibit 43, Stelly 00165-00189; Exhibit A, Stelly depo, p

96-97, 218.) Lastly, Stelly notes that while he did spend most of his career at Troop B, his role at Troop B, especially as a lieutenant and later its executive officer, allowed him to perform many of the same functions that he would have performed had he been assigned to other sections. (Exhibit A, Stelly depo, pp 57-58, 62-66, 104-105, 203-204, 225-226; Exhibit I, Cammon depo, p 68.)

Defendant quotes Reeves about time in grade and promotional exam scores, “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.” He is obviously trying to belittle Stelly’s accomplishments.

However, in response to the deposition question “So do you agree that the promotional test is an important consideration for the promotional panel to consider in deciding who will be promoted?” Davis testified, “It’s one of the factors that’s important. There are multiple factors that are important.” (Exhibit E, Davis depo, p 24.) Davis also testified during his deposition, “The exams are specifically tailored to address legal issues, policies, and leadership issues and the applications thereof that one must be prepared to address at each specific level. (Exhibit 44, Stelly 00417-00419; Exhibit E, Davis depo, pp 21-24; Exhibit A, Stelly depo, p 218.) Further, LSP Commission Rule 7.7(a) says “Test for promotional positions shall be practical and job-related in their nature and shall test those areas which fairly measure the relative capacity and fitness of the candidates to discharge the duties of the positions to which they seek promotion.” (Exhibit 45, Stelly 00333.) Common sense also dictates that the higher one scores, the more knowledgeable one is in these areas and the better one can apply that knowledge after promoted. So, while exam score is agreeably not necessarily indicative of the best qualified candidate, it necessarily is indicative of one's knowledge and his ability to apply that knowledge in the areas

on which the exams are based. If this were not the case, then the scores would be meaningless. In support of that claim are the facts that each exam is statistically assigned a pass-fail point, the names of the eligible applicants (and sometime the actual scores) are provided to the panel members in decreasing score order, and only applicants in the top five or seven grade groups are considered for promotion. (Exhibit 42, Stelly 00205; Exhibit 46, Stelly 00329-00346; Exhibit E, Davis depo, pp 21-24.)

While LSP is admittedly not a time-in-grade organization, certainly the more time-in-grade one has (as a lieutenant), the more experience one has. Having a wide swath of experience is invaluable in informing one's decisions. Again, similar to having a top test score, having more time-in-grade is not necessarily indicative of the best qualified candidate for promotion, but it does serve as a strong motivating factor in choosing such a person, knowing that he has successfully negotiated more legal, procedural, technical, administrative, and personnel issues than a competitor with less time-in-grade, especially much less time-in-grade, like El-Amin.

Defendant claims that 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. Burns was assigned to Operational Development for seven years. Davis does not say that Burns' experience in Operational Development was a significant factor, but only a factor. (Exhibit E, Davis depo, pp 120-121.) Secondly, and most importantly, LSP leadership uniformly testified that no objective factor was more important than any other. In his deposition, Davis testified, "... no one factor outperforms the other, is more qualified than the other or determines the qualification more than the other." (Exhibit E, Davis depo, p 40.) In his deposition, Davis also testified, "One of the factors we look at also is leadership. And I think it's important to understand all 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. We look at all of that. And all of those determine, again, the suitability for that position.” (Exhibit E, Davis depo, p 125.) In his deposition, Reeves testified relative to the objective criteria that were provided by Internal Affairs, “Well, they were a factor, but they weren't the sole factor in a promotion. They were obviously taken into consideration, but no one of them was weighted more than the other, and they were a factor.” (Exhibit H, Reeves depo, pp 34-35.)

### **LEGAL STANDARD FOR MIXED MOTIVE CASE**

The Fifth Circuit pattern jury instructions point to the standard for a mixed motive Title VII case. In *Smith v. Xerox Corp.*, 602 F.3d 320 (5th Cir. 2010), abrogated in part by *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 133 S.Ct. 2517 (2013). In *Smith*, the Fifth Circuit stated: “At some point in the proceedings, . . . the District Court must decide whether a particular case involves mixed motives.” (quoting *Price Waterhouse v. Hopkins*, 490 U.S. 228, 247 n.12 (1989)). As explained by the en banc Ninth Circuit decision in *Desert Palace*, “[o]nce at the trial stage, the plaintiff is required to put forward evidence of discrimination ‘because of’ a protected characteristic. After hearing both parties’ evidence, the district court must decide what legal] conclusions the evidence could reasonably support and instruct the jury accordingly. . . . [T]he choice of jury instructions depends simply on a determination of whether the evidence supports a finding that just one—or more than one-factor actually motivated the challenged decision.” *Costa v. Desert Palace, Inc.*, 299 F.3d 838, 856 (9th Cir.2002) (en banc). Put another way, if the district court has before it substantial evidence supporting a conclusion that both a legitimate and

an illegitimate (i.e., more than one) motive may have played a role in the challenged employment action, the court may give a mixed- motive instruction.

Smith, 602 F.3d at 333.

### **USE OF STATISTICS IN A FAILURE TO PROMOTE CASE**

In *Anderson v. Douglas Lomason Co., Inc.*, 26 F.3d 1277, 1286-94 (5th Cir. 1994), the Court held that a court may infer that an employer engaged in racial discrimination when promoting workers if statistics, when comparing the number of non-whites and whites promoted, demonstrate a gross statistical disparity. *Lewis*, 750 F.2d at 1271.

In this case both Stelly, as an expert, and Broadway demonstrated gross statistical disparity. See Stelly's report that concludes that large racial disparities favoring black and non-white candidates over non-black and white candidates in LSP's promotions to captain from 09-06-17 through 10-04-21 would occur by chance less than 5% of the time. These large disparities in promotion of black versus non-black and non-white versus white lieutenants to captain showed that there was race discrimination in the LSP promotion system. (Ex 2, Amended Report of Statistical Analysis of the Use of Race in the Promotions by LSP, p. 16.) Exhibits, 2, 39, 40, 41, expert reports.

Also, "In establishing an inference of discrimination from statistical evidence, the `required comparison [is] to a *qualified* pool of employees *presumptively eligible* for promotion.'" *Lewis*, 750 F.2d at 1275 (quoting *Pouncy*, 668 F.2d at 803). In this case Stelly and Broadway used only lieutenants on the Certificate of Eligibles List. That is a qualified pool. The pool is large enough to make a decision on whether the results are statistically significant.

Broadway testified that race was clearly the major factor when it comes to promotion of all objective measures there is no there is no ambiguity here. In his opinion #1 where all panels

not just Stelly's panels the black candidates were being promoted hope for the compared to the white candidates being promoted resulted in a p-value of 0.0012 which is statistically significant and that large disparity would occur substantially less than 5% of the time. When pressed, Broadway indicated that that would occur about 0.1% by chance.

### **EVIDENCE THAT RACE IS A FACTOR IN THE PROMOTION SYSTEM**

Davis is Black. He testified that he made the final decision on all the panels he sat on. (Exhibit E, Davis Depo, p. 75) He became the Superintendent on October 30, 2020. On January 21, 2021 he appointed two Black captains to Lieutenant Colonel. Davis had all of his lieutenant colonels present on the promotion panels. They were Kendrick Van Buren and Chavez Cammon. When asked about whether there was a plan to increase racial diversity among the State Police Troopers, Van Buren responded that they had talks about diversity, but it wasn't just along racial lines. (Exhibit K, Van Buren Depo, p. 11-13, 20, 31-32).

Davis appeared before the Senate committee on oversight of Louisiana State Police. State senator Franklin Foyle was questioning Davis about whether the head of the state police should come from the outside or the inside of the state police. There was also a talk about diversity at that hearing. Davis admitted stating that the agency has been historically comprised of white males. He also said right after that that the agency has got to make change. (Exhibit E, Davis depo, p. 77-79) This is evidence that leave decision maker on the last eight panels that Stella applied for promotion to captain were decided by Davis who was committed to make change in the diversity of the state police.

Stelly was much more qualified for promotion to captain in operational development than was Burns. As stated earlier, Stelly did at Troop B many of the very same things that Burns did in Operational Development, eg budget requests and legislative proposals. (Exhibit



A, Stelly depo, pp 57-58, 220, 225-226.) As a trooper and a shift sergeant, Stelly worked security for the State Senate for several years, becoming experienced in the legislative process. (Exhibit A, Stelly depo, pp 38-42, 47.) As a shift sergeant and shift lieutenant, Stelly investigated or supervised the allegation of allegations of policy violations. (Exhibit A, Stelly depo, pp 62-66, 104-105, 203-204.) As a shift lieutenant, Stelly coordinated, led, and was responsible for two sergeants and 8 – 15 troopers in their daily mission. (Exhibit A, Stelly depo, pp 49-53.) This mission often required Stelly to coordinate with his counterparts in other LSP sections. Moreover, this mission often required Stelly to engage with his counterparts or their superiors from other law enforcement and civilian agencies. As those individuals were often not subject to LSP control, Stelly's interpersonal and relationship skills were of paramount importance, especially during night shift and on weekends when Stelly's commander was not working. (Exhibit A, Stelly depo, pp 49-54, 58-61.) As Troop B's Executive Officer, Stelly's interpersonal, relationship, and leadership skills really shined as discussed earlier and attested to by his commanders and his commanders' majors in their annual evaluations of his performance. (Exhibit 47, Stelly 00047-00189; Exhibit G, Saizan declaration; Exhibit F, Archote depo, pp 16-31, 35-36; Exhibit A, Stelly depo, pp 54-58.) Such skills were really of importance when Stelly had to speak for Archote. (Exhibit A, Stelly depo, 99-100; Exhibit F, Reeves depo, 10-11; Exhibit 48, Stelly 00155-00189.)

Notably, LSP has omitted any reference to Burns' recent extremely severe policy and statutory violations which occurred less than five years prior to his promotion. Per his 64-hour suspension disciplinary letter (Exhibit 49, LSP\_STELLY 00392-00396), Burns admitted to conducting law enforcement search inquiries on his ex-wife, his ex-wife's fiancé, and his ex-wife's former boyfriend over a span of three years for strictly personal, non-official reasons a total of 51 times, sending his ex-wife's boyfriend's criminal history information to his ex-wife,

admitting to his ex-wife that he was aware that such violations could result in his termination from LSP, and his conspiring with his ex-wife to hide from LSP his having committed these violations.

The severity of Burns' violations made news. (See <https://www.wbrz.com/news/state-police-captain-accused-of-breaking-the-law-put-in-charge-of-new-compliance-department/>, <https://www.wbrz.com/news/watchdogs-question-discipline-of-trooper-who-improperly-ran-names-through-databases/>, and <https://louisianavoices.com/2017/12/13/hipaa-lsp-dps-wbrz-with-a-little-myob-thrown-into-the-mix-and-you-have-a-salacious-confusing-interesting-lawsuit/>.)

The severity of these deliberate and intentional statutory and LSP policy violations and that they occurred only a couple years prior to his being promoted to captain gives pause to his fellow employees and the public that LSP does not take such violations seriously, especially in light of alternate candidates without such a disciplinary history, such as Stelly.

Stelly was also much more qualified than El-Amin to be promoted to captain in Gaming. The argument that Stelly has not previously worked in Gaming did not preclude his ability to lead that section. (Exhibit A, Stelly depo, pp 231-232.) As attested to by Carl Saizan, Stelly is very intelligent and a quick learner. (Exhibit G p. 3)

Because El-Amin is doing well as captain in Gaming is not relevant to whether Stelly was much more qualified than him for that role. Here, LSP is attempting an *ex post facto* justification of its decision. El-Amin's success at most corroborates that the panel that promoted him chose someone who could do the job well. El-Amin's success does not speak to whether Stelly could have performed much better than El-Amin.

Also, if El-Amin was doing so well in Gaming why would Davis transfer him out of that

position less than a year after he was promoted into the position. Davis claims that there was a void elsewhere for El-Amin to fill, but aren't there other captains that have not been in a position that they were "so qualified" for longer than less than a year that were more suitable to fill that void. Especially if El-Amin was doing so well. (Exhibit E, Davis depo, p. 143, 144).

Although Defendant claims to have offered Stelly an opportunity to move to Baton Rouge, it did not make him a lateral transfer to a specific position. He was not interested in just any lieutenant job in Baton Rouge. He was the Executive Officer of Troop B; that was a very prestigious position. Transferring to Baton Rouge as a lieutenant, likely not to an executive officer position, while not an actual demotion, would have been an effective demotion. He was seeking promotion, not demotion. The executive officer position is an honor. He is the *de facto* lieutenant who speaks for the commander in the commander's absence. (Exhibit F, Archote depo, pp 17-18; Exhibit H, Reeves depo, pp 10-11; Exhibit A, Stelly depo, pp 55, 252-253; Exhibit D, Stelly expert depo pp 181-187.)

Again, Stelly was much more qualified for these positions than either Burns or El-Amin. Neither Burns nor El-Amin co-authored any of the leadership material that LSP uses to teach its personnel leadership. LSP provided no records that Burns or El-Amin taught any leadership classes. The only written evidence that LSP offers to support its assessment of Burns' and El-Amin's leadership are their annual evaluations. However, Stelly also has such evaluations during these same periods, and Stelly co-authored LSP's original leadership material, which it still uses today, mostly unchanged from its original version, to teach its personnel about leadership. Stelly also taught these leadership classes. (Exhibit 50, LSP\_STELLY 001359-001413; Exhibit A, Stelly depo, pp 102, 254, 269-275.)

Reeves' characterization of Stelly's interviews as unremarkable stands in stark contrast

to how Stelly recalls Reeves described them. In particular, during their 10-16-18 meeting that was set at Stelly's request to discuss his being denied promotion to captain in favor of Chavez Cammon and Lamar Davis, Stelly recalls Reeves specifically praising Stelly's 10-03-18 interview as impressive and obviously well-prepared. (Exhibit 51.1, Stelly 00283-00284; Exhibit 51.2, 00421-00435; Exhibit A, Stelly depo, pp 105-110, 114-115, 151-153, 172; Exhibit D, Stelly expert depo, pp 49-50, 74-77, 177-181.) Additionally, in his declaration, then MAJ Carl Saizan described Stelly's 10-03-18 interview: "I observed Lt Stelly's interview for promotion to the Technology & Business Support position and was very impressed with his presentation. He was very articulate, knowledgeable about the position, and professional in his presentation. His answers were excellent and well-presented. Lt. Stelly did exceptionally well in the interview. I also observed Lamar Davis give his presentation for that position. From what I recall, I do not remember being as impressed with Lt. Davis' interview. With my knowledge of both candidates for the Technology & Business Support position, I believe that Lt. Stelly was much more qualified for that position than Lt. Davis or any other candidate on the list." (Exhibit G, p. 7,8)

Defendant argues that El-Amin with his less than three-year time in grade and Burns with his horrible disciplinary record, 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.

This is totally not true. Burns' and El-Amin's skill sets, including their prior experience in those sections, did not reasonably outweigh Stelly's higher exam scores, more formal education, longer tenure with LSP, considerably more time-in-grade and experience as a lieutenant, more training, more awards and commendations, leadership skills, written and oral communication skills, and relationship / interpersonal skills. Here, LSP is cherry-picking only a

few attributes of Stelly and then attempting to weigh those against all of those of Burns and El-Amin. That is a disingenuous comparison.

Burns' disciplinary issue was indeed a severe and fairly recent issue relative to his promotion date. (Exhibit 49, LSP\_STELLY 000392-000396; Exhibit 52, LSP\_STELLY 000545.) If that were the sole basis of Stelly's claim, then LSP's argument regarding the Sabzevari case might have merit. However, Burns' disciplinary record against that of Stelly's (only a letter of reprimand from more than 20 years prior; Exhibit 53, LSP\_STELLY 000388) when combined with all the other side-by-side comparisons clearly weigh very heavily on Stelly's side. Of course, none of those comparisons even touch on the gross racial disparities in promotion rates about which Stelly and Broadway reported and testified.

Defendant argues that "the mere existence of a diversity policy, without more, is insufficient to make out a prima facie case of reverse discrimination.

In this case, there is more. Davis testified "Again, based upon the discrimination policy, it is, according to the discrimination policy, illegal to base a promotion upon **just** race as a consideration." (Exhibit E, Davis depo, p 15, emphasis added.) And only moments later, Davis then testified "And, again, policy stipulates that race cannot be the **foundational** consideration for promotion. So there's multiple variables and multiple things to consider for – for promotion, and race cannot be the **foundation** reason to promote somebody." (Exhibit E, Davis depo, p 16, emphasis added.) This is an admission by the decision maker that he, in fact considered race as a factor.

Stelly had much more than just the existence of LSP's diversity policy to establish his case. He has the side-by-side comparisons of him versus Burns and El-Amin showing partiality. He has Archote's telling him in early 2019 before any interviews were even held that LSP will

choose a black candidate for Troop B's open Public Information Officer position; a black candidate was indeed chosen. (Exhibit 51, Stelly 00284; Exhibit A, Stelly depo, pp 177-179, 292-293.) After his deposition, when Archote and Stelly spoke in the hallway, Archote told Stelly that someone in LSP obviously told the chosen candidate to apply for the PIO position because Archote

However, much earlier than the above testimony, Davis testified "Again, based upon the discrimination policy, it is, according to the discrimination policy, illegal to base a promotion upon **just** race as a consideration." (Exhibit E, Davis depo, p 15, emphasis added.) And only moments later, Davis then testified "And, again, policy stipulates that race cannot be the **foundational** consideration for promotion. So there's multiple variables and multiple things to consider for – for promotion, and race cannot be the **foundation** reason to promote somebody." (Exhibit E, Davis depo, p 16, emphasis added.)

Stelly wholly agrees that a diversity policy, without more, is insufficient to make out a prima facie case of reverse discrimination. However, Stelly had much more than just the existence of LSP's diversity policy to establish his case. He has the side-by-side comparisons of him versus Burns and El-Amin showing partiality. He has Archote's telling him in early 2019 before any interviews were even held that LSP will choose a black candidate for Troop B's open Public Information Officer position; a black candidate was indeed chosen. (Exhibit 51, Stelly 00284; Exhibit A, Stelly depo, pp 177-179, 292-293.) After his deposition, when Archote and Stelly spoke in the hallway, Archote told Stelly that someone in LSP obviously told the chosen candidate to apply for the PIO position because Archote said that the chosen candidate's previous position was a very enviable one with guaranteed overtime and his otherwise applying did not make sense.

Stelly also has comments that then-CAPT Chavez Cammon, commander of Internal Affairs, told him that the objective factors enumerated in LSP PO 229 do not matter in the promotional panel's making its promotion decision. (Exhibit 35, Stelly 00282-00283; Exhibit A, Stelly depo, pp 129-131, 246-247.) Stelly has his conversation with Archote on 10-15-20 in which he told Stelly that LSP has no one in mind for the Technical Support Services Position for which he applied but conspicuously did not mention anything about the Troop L position for which Stelly also applied. Hiram Mason (black) received the Troop L position, and Aaron Marcelle (black) received the other position. (Exhibit 54, Stelly 00284-00285; Exhibit 55, SPC 000545, 000547; Exhibit A, Stelly depo 192-194.) Stelly also has Archote's comment to him days before the promotional panel was conducted about Cammon's telling Archote that Treone Larvadain, a black candidate, would be chosen for the next Internal Affairs commander; Larvadain was chosen. (Exhibit 56, Stelly 00286-00287; Exhibit A, Stelly depo, pp 204-208, 215-216.) Stelly also has Cammon's comment to him that despite the fact that Stelly was interviewing for the Internal Affairs commander, he might actually be in interviewing for another position even though Stelly had not applied for any other position. (Exhibit 56, Stelly 00287; Exhibit A, Stelly depo, pp 244-246.) Stelly has COL Lamar Davis' testimony at the Louisiana Legislature that "This agency has been predominantly white male. There's no secret about it. But we've got to make change." Further, Stelly has that despite its retaining an expert report about the lack of gross disparities of black and non-white promotee rates over that of their non-black and white counterparts, LSP has not appealed to that report even once throughout its entire Motion for Summary Judgement after Stelly and Broadway soundly refuted it in their own expert reports and testimony. Lastly, Stelly has his expert report and Broadway's expert report detailing the gross disparities of black and non-white promotee rates over that of their non-black and white counterparts.

WHEREFORE, Stelly has presented multiple genuine issues of fact. He will prove at trial that race was a motivating factor of Defendant for denying either or both of these promotions. Stelly requests the Court deny the motion.

Respectfully submitted,

/s/Victor R. Farrugia  
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Labor Law Specialist and  
*Employment Law Specialist*  
*Certified by the Louisiana*  
*Board of Legal Specialization*

CERTIFICATE OF SERVICE

Adams hereby certify that a copy of the above and foregoing has been electronically filed with the Clerk of Court using the CM/ECF system which will send notice of electronic FILING to all counsel of record this this 26th day of June 2024.

/s/ Victor R. Farrugia  
VICTOR R. FARRUGIA



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 differently in promotion practice of an  
2 employer is illegal discrimination, if a  
3 person's race plays a part in the differing  
4 treatment?

5 MR. MILES:

6 Same objection.

7 THE WITNESS:

8 Yes.

9 EXAMINATION BY MR. FARRUGIA:

10 Q Do you agree that race discrimination  
11 is wrong?

12 A Correct; yes.

13 Q Do you agree that race discrimination  
14 is illegal?

15 A Yes.

16 Q Do you agree that it's Louisiana  
17 State Police's duty under its own policies to  
18 maintain an environment free of race  
19 discrimination?

20 MR. MILES:

21 Same objection.

22 THE WITNESS:

23 Yes.

24 EXAMINATION BY MR. FARRUGIA:

25 Q Now, as the troop commander of

1 Troop B, you wrote performance evaluations on  
2 some of the -- some or all of the lieutenants  
3 under you; is that correct?

4 A All.

5 Q And you had about six or seven  
6 lieutenants under you?

7 A Yes.

8 Q Okay, and so the entire time that you  
9 were commander of Troop B, was Lieutenant  
10 Stelly a lieutenant under your command?

11 A Yes.

12 Q Okay, and what was his job as a  
13 lieutenant, when you first became troop  
14 commander of Troop B?

15 A He was a shift commander.

16 Q Okay, and what were his duties as  
17 shift commander?

18 A To insure the safety of his officers  
19 as troopers, to run a shift. Typically that  
20 shift runs, works 12-hour shifts, normally  
21 assigned ten to 15 troopers, two sergeants,  
22 and he's able to look after these troopers,  
23 and insure that they follow policy and do  
24 their best to insure public safety.

25 Q Okay. So as a shift commander,

1 Lieutenant Stelly had a leadership position  
2 over ten to 15 troopers and two sergeants; is  
3 that correct?

4 A Yes.

5 Q Okay, and did you change Lieutenant  
6 Stelly's position as shift commander while you  
7 were troop commander?

8 A Yes.

9 Q Okay, and when did you do that?

10 A Within a month or two of me taking  
11 command, so that would be in August or  
12 September of 2013; probably within August of  
13 2013.

14 Q Okay, and is that considered a  
15 promotion, from shift commander to executive  
16 officer?

17 A To most, yes.

18 Q Okay. Did you consider that a  
19 promotion?

20 A I considered it a -- it's more of an  
21 honor. I would say so, I guess. There's no  
22 monetary or type of financial gain from it.  
23 It's better hours primarily, and it's a  
24 different type of job. So yes, to many it is  
25 a promotion.

1 Q Okay.

2 A But not figuratively in the sense  
3 that sergeant, lieutenant, captain, or major,  
4 something like that, but yes, it is considered  
5 a better job, if you will, by most at the  
6 troop to get that position.

7 Q Okay, and would you consider being  
8 executive officer of a troop to be a  
9 leadership position?

10 A Yes.

11 Q And would you describe the duties  
12 that Lieutenant Stelly had as the XO of  
13 Troop B?

14 A He would, one of the main things, in  
15 my absence he would speak on my behalf. He  
16 would cover the troop, and he'd make  
17 decisions. He had about five or six direct  
18 employees that he supervised. He did the  
19 grounds of the troop, insured that everything  
20 was in working order, all the different  
21 logistics. He was in charge of -- each troop  
22 as XO is different but where, in Troop B he  
23 was in charge of a LACE program. He was in  
24 charge of many different administrative issues  
25 and matters at the troop.

1 Q Okay. Would you explain the LACE  
2 program?

3 A LACE program is an overtime detail  
4 that is paid by the district attorneys, if  
5 they choose. It's a partnership between state  
6 police and district attorneys, that troopers  
7 go out and on an overtime basis conduct  
8 traffic enforcement, particularly speeders,  
9 look out for speeders; hazardous violations in  
10 order to reduce traffic fatalities, and  
11 Lieutenant Stelly was in charge of the  
12 administrative matters and that, the gathering  
13 of overtime.

14 He had a secretary that helped him;  
15 however, he oversaw that program and all  
16 administrative matters -- capacities,  
17 policies, things like that. Review videos,  
18 that sort of thing, and took action if he saw  
19 anything out of line with that.

20 Q Okay. Now, you assigned him to the  
21 LACE program; is that correct?

22 A Yes.

23 Q Okay, and how did he do, in your  
24 eyes, with that program?

25 A Excellent.

1 Q How did Lieutenant Stelly perform in  
2 all of the duties that you assigned to him?

3 A Excellent.

4 MR. FARRUGIA:

5 Okay. Let me hand you what  
6 we'll mark as Exhibit 14. We're  
7 continuing the numbers from the other  
8 depositions.

9 EXAMINATION BY MR. FARRUGIA:

10 Q Okay. Now, is this Lieutenant  
11 Stelly's performance evaluation from 2014,  
12 that you participated in?

13 A Yes.

14 Q Okay. Is your signature on here?

15 A Yes.

16 Q Okay. That's it at the top?

17 A Yes.

18 Q Top signature? Okay, and in 2014 on  
19 Page 5, did you write this comment? "You have  
20 met and exceeded all work and behavior  
21 expectations that have been set for you. Your  
22 work ethic, knowledge, dependability, and  
23 loyalty are truly appreciated by me and  
24 everyone here at the troop. Thank you for  
25 being a leader on our team." Did you write

1 that?

2 A Yes, I did.

3 Q And is that some of your evaluation  
4 for Lieutenant Stelly in 2014?

5 A Yes.

6 MR. FARRUGIA:

7 Okay. Let me hand you what  
8 we'll mark as Exhibit 15.

9 EXAMINATION BY MR. MILES:

10 Q I'll ask you, is that your signature  
11 on the first page?

12 A Yes.

13 Q And is this your performance  
14 evaluation of Lieutenant Stelly, for the  
15 period of July 2016 through June of 2017?

16 A Yes.

17 Q Okay, and if you look at Page 5, at  
18 the top where it says Documentation/Comments,  
19 did you write those comments about Lieutenant  
20 Stelly for that year?

21 A Yes.

22 Q And could you read that for the  
23 record, please?

24 A "You have met and exceeded all work  
25 and behavior expectations that have been set



1 for you. Your work ethic, knowledge,  
2 dependability, and loyalty are truly  
3 appreciated by me and everyone here at the  
4 troop. Thank you for being a leader on our  
5 team and taking care of Troop B duties when  
6 I'm away. When given the opportunity to run a  
7 command, I know you will excel and be very  
8 successful."

9 Q So at that point in -- let's see.  
10 When did you sign this? Was this signed in  
11 2016 or 2017?

12 A I'm sorry?

13 Q Yes. When did you write this, and --

14 A Signed August 5th, 2016.

15 Q Okay, but then it says --

16 A I'm sorry. I'm sorry; that's the  
17 planning session. It was signed August 3rd,  
18 2017.

19 Q Okay. So at that point in August of  
20 2017, you anticipated that Lieutenant Stelly  
21 would be given an opportunity to run a  
22 command; correct?

23 A I would hope so, yes, sir.

24 Q Well, that's kind of what you wrote  
25 there; correct?

1 A I anticipated. I was hoping so.

2 MR. FARRUGIA:

3 Okay. Let me hand you what  
4 we'll mark as Exhibit 16.

5 EXAMINATION BY MR. FARRUGIA:

6 Q I'll ask you, is that your signature  
7 on Page 1?

8 A Yes.

9 Q Okay, and also on Page 2 when you  
10 signed this evaluation; correct?

11 A Correct.

12 Q Okay. Now, if you look at Page 5  
13 under your documentation and comments, and  
14 look at the documentation and comments on the  
15 last exhibit, Exhibit 15, this one here, and  
16 compare the documentation and comments. Did  
17 you have the same comments about Lieutenant  
18 Stelly's performance in 2018 that you did in  
19 2017?

20 A Yes.

21 Q Okay, and did you also in 2018  
22 indicate on his performance evaluation, "When  
23 given the opportunity to run a command, I know  
24 you will excel and be very successful"? Did  
25 you write that?

1 A Yes.

2 Q Okay. Now, in this same exhibit we  
3 have a performance evaluation that you signed  
4 in 2019, August of 2019, and if you look at  
5 the documentation and comments, did you have  
6 the same comments about Lieutenant Stelly's  
7 work performance in 2019 that you had in 2018?

8 A Yes.

9 Q Okay, and also in 2019 you wrote on  
10 the performance evaluation, "When given the  
11 opportunity to run a command, I know you will  
12 excel and be very successful." You wrote  
13 that; correct?

14 A Yes.

15 Q And that's what you believed at the  
16 time; correct?

17 A Yes.

18 Q Okay, and also in that exhibit is the  
19 evaluation from 2019 to 2020, on the next  
20 page. It's still in the same exhibit, just  
21 turn over into the next page. Yeah. So  
22 there's another evaluation that you signed, on  
23 Page 2, on July 16th, 2020. Do you see that  
24 page?

25 A Yes.

1 Q Okay, and then if you go back a few  
2 pages, there are your documentation and  
3 comments, which are the same comments that you  
4 had on Lieutenant Stelly's performance in  
5 2019; correct?

6 A Correct.

7 Q So in 2020, you also believe that  
8 when Stelly is given the opportunity to run a  
9 command, that you know he will excel and be  
10 very successful. Is that what you believed?

11 A Yes.

12 Q In 2020? Okay, and there's one more  
13 evaluation attached to this exhibit, and it's  
14 for the performance year July 2020 to  
15 June 2021, and this one was not signed by you  
16 on the second page; is that correct?

17 A It's not, no.

18 Q Okay, but you signed it on the first  
19 page, the planning session; correct?

20 A Correct.

21 Q Okay, and who signed as the major on  
22 the second page?

23 A Jim McQueen. That's what it looks  
24 like.

25 Q Okay, and do you know why you didn't

1 sign this one in 2021?

2 A I don't know why. It might be a copy  
3 floating around that I did sign, but for  
4 whatever reason this copy doesn't contain my  
5 signature.

6 Q Okay, but routinely you sign these  
7 every year in July?

8 A Yes.

9 Q And you were still troop commander at  
10 that time; correct?

11 A Yes.

12 Q Okay, and the documentation and  
13 comments on the last page of the exhibit, did  
14 you write those comments about Lieutenant  
15 Stelly's performance for the year 2020 to  
16 2021?

17 A Yes.

18 Q And at that time, in July of 2021,  
19 did you believe that when given the  
20 opportunity to run a command, that you knew  
21 that Lieutenant Stelly would excel and be very  
22 successful?

23 A Yes.

24 Q Now, on all of these evaluations, if  
25 you look at starting with Exhibit 14, they're

1 all approved by a major. After you signed it,  
2 a major signs it?

3 A Yes.

4 Q Okay, and who was the major that  
5 signed in 2014?

6 A Carl Saizan.

7 Q Okay, and that signature indicated  
8 that he approved the evaluation that was given  
9 to Lieutenant Stelly?

10 A Correct.

11 Q And who was the major that signed his  
12 evaluation in 2015, the next exhibit?

13 A Carl Saizan.

14 Q Okay, and in Exhibit 16, the major  
15 that signed it was Major -- what was his name,  
16 in 2018?

17 A Jim McQueen.

18 Q Jim McQueen, okay, and what about  
19 2019?

20 A Same.

21 Q Okay, and 2020?

22 A Same.

23 Q And 2021, was that the same?

24 A The same.

25 Q No, no. Look at the last page, yeah.

1           A       Yeah, the evaluation. I can't make  
2       it out, so...

3           Q       Okay. You're not sure what major  
4       that would have been?

5           A       No, I'm not sure.

6           Q       Okay. Let me hand you what we've  
7       previously marked as Exhibit Number 1, and  
8       it's two pages from Lieutenant Stelly's  
9       complaint, and it has the positions to which  
10      he applied to be promoted to captain, and I  
11      believe that starts in -- the first date is  
12      2017, and so for all of those applications  
13      that Lieutenant Stelly made for captain that  
14      are on those two pages there, you were his  
15      troop commander at the time; correct?

16          A       Correct.

17          Q       Okay, and so did you recommend  
18      Lieutenant Stelly for promotion to captain for  
19      all of those promotion opportunities?

20          MR. MILES:

21                    Wait, hold on. I'm going to  
22                    object again for a lack of  
23                    foundation, and it's not clear who  
24                    you're talking about recommending to  
25                    who.

1 EXAMINATION BY MR. FARRUGIA:

2 Q Subject to that, you can answer.

3 MR. MILES:

4 It's also not -- you haven't  
5 established who was on any panels to  
6 be recommending anybody.

7 MR. FARRUGIA:

8 Object to the sidebar.

9 EXAMINATION BY MR. FARRUGIA:

10 Q You can answer, if you can.

11 A Repeat the question, please?

12 (Court reporter reads back question.)

13 MR. MILES:

14 Same objection.

15 THE WITNESS:

16 I was not in the panel in order  
17 to make a formal recommendation;  
18 however, when asked by anyone at any  
19 time if I were to recommend Stelly to  
20 any captain position, I would say  
21 yes. Again, I was not in those  
22 panels and I was not -- I did not see  
23 the other candidates, but my personal  
24 feeling about Lieutenant Stelly,  
25 John, was that he would do a great



1           job in many of the positions that he  
2           applied for.

3       EXAMINATION BY MR. FARRUGIA:

4           Q       Okay, and if you could look at that  
5       list to jog your memory, do you recall anyone  
6       asking you in any of these panels whether you  
7       would recommend Lieutenant Stelly for a  
8       promotion?

9           A       I don't recall anyone asking me about  
10      these panels, but I can just tell you that  
11      when asked, you know, I was always a proponent  
12      for John, so I did whatever I could do in any  
13      setting to lift him up and get him exposure,  
14      to at least be considered for any of these  
15      positions.

16          Q       Okay, and you were contacted by panel  
17      members on occasion to ask about -- when they  
18      asked about Lieutenant Stelly; correct?

19          A       Yes.

20          Q       Now, isn't it true that during the  
21      entire eight years that Lieutenant Stelly  
22      served as your executive officer, not once did  
23      he do anything that undermined you or your  
24      leadership?

25          A       Correct.

1 Q Isn't it true that during his entire  
2 eight years, he always lived up to his promise  
3 to make Troop B in general and you in specific  
4 look good, as good as possible?

5 A Yes.

6 Q Okay. Now, isn't it true that you  
7 spoke with various members of the command  
8 staff, including Colonel Reeves and Lieutenant  
9 Colonel Cain on several occasions, to  
10 recommend Stelly for promotion to captain  
11 positions for which he applied?

12 A Yes.

13 Q Now, you know Chavez Cammon; correct?

14 A Yes.

15 Q Okay, and do you recall that he was  
16 commander of Internal Affairs?

17 A Yes.

18 Q Okay. Now, during that period when  
19 he was commander of Internal Affairs, isn't it  
20 true that on one occasion that Lieutenant  
21 Stelly entered your office at Troop B while  
22 you were already seated there with, I guess it  
23 was Captain Cammon at the time?

24 A Yes.

25 Q Okay. So do you recall that time

1 when Lieutenant Stelly entered into your  
2 office with Captain Cammon there, when you  
3 asked Lieutenant Stelly to close the door and  
4 had a meeting with the three of you?

5 A Vaguely.

6 Q Okay. Now, during that meeting an  
7 upcoming promotion to which Lieutenant Stelly  
8 had applied was discussed. Do you recall  
9 that?

10 A Yes.

11 Q Okay, and isn't it true that  
12 Lieutenant Stelly expressed confidence to you  
13 and Captain Cammon, because Lieutenant Stelly  
14 explained that he was at the top of most of  
15 the objective criteria enumerated in PO 229?

16 MR. MILES:

17 Could you give me that one  
18 again? I didn't follow it.

19 (Court reporter reads back question.)

20 THE WITNESS:

21 I don't remember exactly what  
22 was said, but the purpose of that  
23 meeting was, in my recollection, is  
24 to give John confidence and to give  
25 him uplift, that -- and to give him,

1           what's the word for it? For the next  
2           promotions to go in and do his best,  
3           particularly in interviews. But they  
4           did discuss, you know, the future of  
5           his promotion process, but I kind of  
6           tuned out in some of those, part of  
7           that discussion over there, so...

8           EXAMINATION BY MR. FARRUGIA:

9           Q       Okay. So you understand what the  
10          objective enumerated factors are in  
11          considering someone for promotion; correct?

12          A       Say that again, please?

13          Q       Are you familiar with PO 229, that  
14          lists the objective factors to consider for  
15          promotion?

16          A       I'd have to see it again.

17          Q       Okay. Let me hand you PO 229 and let  
18          you look at it, and I'd draw your attention to  
19          the second page, has the enumerated factors  
20          that I'm asking about.

21          A       Okay.

22          Q       So could you read out those objective  
23          enumerated factors in PO 229?

24          MR. MILES:

25                    Objection; the document speaks

1 for itself.

2 THE WITNESS:

3 Where would you like me to  
4 start?

5 MR. MILES:

6 Are we really going to go over  
7 three pages?

8 EXAMINATION BY MR. FARRUGIA:

9 Q Okay. The promotional panel's  
10 procedure is Number 5, and could you look at  
11 Subparagraph C of 5, and look at those  
12 factors?

13 A Okay, 5. Performance reports,  
14 educational background both in-service and  
15 outside agency, training records, awards and  
16 letters of recommendation and commendations,  
17 disciplinary actions, personal history file  
18 including military record, record of  
19 leave-taking, other relevant data requested by  
20 the promotional panel.

21 Q Okay. Now, do you agree that  
22 Lieutenant Stelly has high qualifications in  
23 most of those factors?

24 MR. MILES:

25 Object; lack of foundation.

1 THE WITNESS:

2 Yes.

3 EXAMINATION BY MR. FARRUGIA:

4 Q Okay, and now, at that meeting with  
5 you and Lieutenant Stelly and Captain Cammon,  
6 didn't Stelly express confidence in the  
7 upcoming promotion possibility to captain,  
8 because Lieutenant Stelly indicated that he  
9 scored high on those objective criteria?  
10 Didn't Lieutenant Stelly indicate that?

11 A Yes.

12 Q Okay.

13 A From what I can remember. I don't  
14 remember them discussing anything in  
15 particular. I mean, John's abilities and  
16 accomplishments just spoke for themselves. I  
17 don't know how in detail they got. I don't  
18 remember, but it's obvious. I mean, I think  
19 captain Cammon was already familiar with  
20 John's education and background.

21 Q Okay. Now, speaking of John's  
22 education, what was your understanding of what  
23 John's education was?

24 A Former teacher at UNO, which I'll say  
25 this, we make fun of him about; just kidding.

1 Master's degree in computer science, I  
2 believe; might have had a couple hours towards  
3 his doctorate. Bachelor's degree in  
4 mathematics, if I'm not mistaken, or vice  
5 versa. Numerous, all the different  
6 reconstruction classes at the troop. Well --  
7 well accomplished and very intelligent. His  
8 record speaks for itself, it's...

9 Q Okay, and in being his commander for  
10 that many years, did his educational  
11 experience help him in doing his job as your  
12 XO?

13 A Yes.

14 Q And is it your opinion that his  
15 educational accomplishments helped him to be a  
16 better leader?

17 A Yes.

18 Q Now, still in that meeting, isn't it  
19 true that Captain Cammon, after Lieutenant  
20 Stelly indicated that he felt confident  
21 because of the factors in PO 229 he did well  
22 on, isn't it true that Captain Cammon then  
23 told Stelly that the objective criteria that  
24 you just read in PO 229 did not matter in  
25 selecting a candidate?

1 MR. MILES:

2 Objection to form; hearsay. Go  
3 ahead.

4 THE WITNESS:

5 I don't recall that, those exact  
6 words, no.

7 EXAMINATION BY MR. FARRUGIA:

8 Q Okay. Do you recall anything to that  
9 effect?

10 A What I recall was, it was already  
11 understood that John had all these  
12 accomplishments. What I remember is that  
13 Chavez trying to coach John about other  
14 factors in his interview, and other things  
15 that John could work on. This was, John's  
16 accomplishments was there.

17 It was well known, and I think Chavez  
18 felt like John needed more in terms of, I  
19 guess I felt like intangibles, you know, but  
20 he definitely -- they honed on his interview,  
21 I think was the recent, most recent interview  
22 that according to Chavez that John did poorly  
23 on.

24 Q Okay, and you don't recall Captain  
25 Cammon indicating that the objective criteria



1 racially biased?

2 A I mean, I guess so, I mean.

3 Q Okay.

4 A Again, I go back to, it's more of the  
5 unqualified person, and John's -- and my  
6 opinion that John had the viewpoint of, John  
7 was very fair in who he selected. It didn't  
8 matter if you were black, white, or whatever.  
9 John's viewpoint, he'd befriend you. He was  
10 extremely fair.

11 John had, many times had a system in  
12 his head, probably a spreadsheet in his head,  
13 that if you go through and, you know, if you  
14 passed, you passed. He was your friend if you  
15 didn't. I'm kind of making light of that, but  
16 John didn't -- yeah, so that's it. Nothing  
17 further.

18 Q Now, when John did complain that the  
19 promotional system was corrupt, did you  
20 respond to that in any way?

21 A I know we've had many -- again, we've  
22 had many conversations, so I don't know in  
23 particular. What is my opinion of our system,  
24 if that's your question? And what I expressed  
25 to John, I don't think our system is corrupt.

1 I don't. I think corrupt is such an extreme  
2 word. You know, John and I, I could speak of  
3 what we've done. We've minimized the politics  
4 in any and everything that we did.

5 Almost, you know, in everything,  
6 every choice that we made, we've always done  
7 it with -- with integrity, with his help. He  
8 steered me, I learned a lot from John, and  
9 John learned a lot from me. We made  
10 decisions, and I only really was concerned  
11 with things that I could control within my  
12 troop, and that was my mantra. I couldn't  
13 be -- I couldn't be consumed by things outside  
14 our troop, and we kept everything in-house.

15 And I can only speak of when he would  
16 feel that way, I just knew that what was going  
17 on in Troop B, it wasn't corrupt. We made the  
18 decisions together in fairness, and with a lot  
19 of different things, categories in mind of how  
20 it would fit the troop and the culture and all  
21 this other stuff, and that's how we made our  
22 decisions on. So to say that our system is  
23 corrupt, I would -- unfortunately I disagree  
24 with him, that it's corrupt.

25 Q And did he on occasion -- I already

1 asked that. Never mind.

2 Now, when you assigned John to do  
3 many of your tasks for headquarters, he would  
4 do an outstanding job on the task that you  
5 assigned him; correct?

6 A Absolutely.

7 Q And when that task was forwarded to  
8 headquarters, you actually forwarded that and  
9 left John's name on the work, so that he could  
10 get credit for that work?

11 A Whenever I could, 99 percent of the  
12 time, yes.

13 Q Okay, and that, is that different  
14 from most troops, the way they send in troop  
15 material from troops? Is it usually in the  
16 name of just the commander?

17 A Yeah. I mean, that's my philosophy,  
18 because I try to uplift the people that work  
19 for me, and I try to give -- that's one thing  
20 that's really decreased morale, if a captain  
21 or a supervisor is taking credit for what his  
22 subordinate has done, so I would always  
23 forward it up by saying, "Please see the below  
24 from Lieutenant Stelly. He addresses all  
25 matters, did an excellent job. Please see the

1 attached."

2 I mean, that's my leadership, one of  
3 my leadership philosophy things, if you will.  
4 I can't speak for other commanders, but that  
5 was what I tried to do to showcase what John  
6 did, because John wasn't at headquarters and  
7 didn't -- you know, I believe part of, a big  
8 part of why John wasn't selected -- and I try  
9 to think about that. I don't have all the  
10 answers, but a big part of it, you know, was  
11 because he wasn't -- he wasn't -- you know, to  
12 showcase his talents, and I don't think people  
13 got to really know him, and that was  
14 unfortunate for me. I wanted people to know  
15 him, you know.

16 Q Okay. Now, in all of your dealings  
17 with Lieutenant Stelly, have you known him to  
18 be truthful?

19 A Yes.

20 Q Did Lieutenant Stelly ever tell you  
21 that he wasn't going to be involved with  
22 anything such as ticket fixing? Did he tell  
23 you that?

24 A I think you kind of just knew that  
25 about John. John, you know, there is no -- I

1 mean, ticket fixing went away a long time ago.  
2 There's nothing wrong, or I should say  
3 oftentimes, almost everyone getting a ticket  
4 nowadays, and it's been that way when I became  
5 the commander, that things only can maybe get  
6 reduced. They never go away.

7           You can't get -- you know, the courts  
8 need their money, you know, and it's an  
9 official record. We don't ever make things go  
10 away. We had a very good accountability  
11 system, and where I'm going with this, we  
12 never pull tickets, and to say that John was  
13 involved in that, that was one of the trusting  
14 things I knew about John, that he wasn't going  
15 behind my back pulling tickets or anything  
16 like that.

17           You know, you hear rumors of the  
18 old-school way of doing things, that you can  
19 pull tickets and have it go away and all that  
20 stuff. We didn't do that, and I'm proud of  
21 that, you know.

22           Q       Okay. So could you trust anything  
23 that John said as being truth?

24           A       Yes, of course. I mean, I don't  
25 think as John is -- John is one of the most

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.**

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**CIVIL ACTION NO. 2:23-cv-00772**

**JUDGE GREG G. GUIDRY**

**MAGISTRATE JUDGE**  
**JANIS VAN MEERVELD**

28 U.S.C. §1746 DECLARATION OF CARL F. SAIZAN

I, Carl F. Saizan, provide the following Declaration, which is based upon my personal knowledge of certain matters relevant to the above-captioned matter, and state as follows:

1. I worked at the Louisiana State Police (LSP) for over 30 years.
2. I have known the Plaintiff John Stelly for more than 25 years. John Stelly and I were initially co-workers at LSP Troop B. I then became Stelly’s immediate supervisor as the Troop Commander of Troop B from 2009 to 2013. I was later one of his non-immediate supervisors, as I was promoted to Major over Region 1 Patrol which encompassed Troops A, B, L, and N. I retired from the State Police on July 30, 2021, as a Major in charge of the Bureau of Investigations, Special Investigation Division.
3. Lt. Stelly was a Shift Lieutenant in Troop B when I commanded that troop. Lt. Stelly is very knowledgeable, and articulate, and he is a quick learner. Over the years of knowing Lt. Stelly, I have known him to be very honest and straightforward with his opinions. His character and integrity are beyond reproach.
4. Lt. Stelly was not the Executive Officer of Troop B when I commanded it; however,

during my initial years as Region 1 Patrol Major, he did serve in that position. That position is a quasi-leadership position coordinating with all shift lieutenants regarding troop administrative and operational needs. In that position, the Executive Officer is responsible for overseeing the facility, fleet, administrative procedures, civilian staff, evidence, and legal matters in consultation with the Department of Public Safety Legal Affairs and is the acting Troop Commander in the absence of the Troop Commander.

5. When the position of Captain became available in 2018 for a newly-created position of Technology & Business Support, I encouraged Lt. Stelly to apply for that position because of his extensive expertise in the area of information technology. However, he was not promoted.
6. Instead, that promotion to Captain was given to Lamar Davis. On the same day, October 3, 2018, I was present in the room when the promotion panels interviewed multiple candidates for three Captain positions; they were for the positions of Technology & Business Support, Bureau of Investigation - Investigative Support Services, and Crime Lab. I was on the promotion panel for the promotion to the Bureau of Investigation - Investigative Support Services (BOI/ISS) position.
7. I observed Lt. Stelly's interview for promotion to the Technology & Business Support position and was very impressed with his presentation. He was very articulate, knowledgeable about the position, and professional in his presentation. His answers were excellent and well-presented. Lt. Stelly did exceptionally well in this interview. I also observed Lamar Davis give his presentation for that position. From what I can recall, I do not remember being as impressed with Lt. Davis' interview.


8. With my knowledge of both candidates for the Technology & Business Support position, I believe that Lt. Stelly was much more qualified for that position than Lt. Davis or any other candidate on the list.
9. I was in the room for all the promotions that day because I was on the promotion panel for the Captain in BOI/ISS promotion. Col. Reeves, LTC Noel, LTC Adam White, and I were on the panel. I believed that Robert Hodges was the best qualified of the candidates and that he should be promoted to Captain. Among the objective factors I considered were Lt. Hodges' 23 years of service in LSP, 8 years as a Lieutenant, PES rating of Exceptional, and number of commendations. I also considered the subjective factors of his leadership skills and his interview presentation. I believed he was the most qualified for the position of Captain - BOI/ISS position.
10. During the discussion of the panel about who was to be promoted, LTC White disagreed with my selecting Lt. Hodges and wanted to promote an African American candidate to the position. Col. Reeves initially agreed with him. LTC Noel supported me, and eventually Col. Reeves conceded and promoted Lt. Hodges to Captain. I was initially taken aback that they wanted to promote someone to Captain who was not the best qualified for that position at the time.
11. In my opinion Lt. Robert Hodges was the best-qualified candidate for the position of Captain BOI/ISS and he was ultimately promoted.
12. On January 28, 2021, I called Stelly on his cell phone (date verified by Lt. Stelly). We engaged in small talk for a while. Stelly told me he was currently in Baton Rouge, staying at the LSP Academy because he was teaching a vehicle crash reconstruction class. Our conversation eventually turned to the topic of LSP



promotions, specifically his many attempts to be promoted to LSP Captain. I told Stelly that I had a conversation with LTC Ken VanBuren about the number of times Stelly was up for promotion, and he was appalled by the fact that Stelly had been passed over for promotion to Captain more than 20 times. LTC VanBuren seemed troubled and concerned that someone could be passed over that many times.

13. Lt. Stelly then corrected me that the number of times that he had been passed over for LSP Captain was more than 35. I was shocked. Stelly then told me that it upset him tremendously that he had been passed over so many times. I told Stelly that I observed that despite all those times that he had been passed over, his work product never suffered. I also told Stelly that his absolute fairness and truthfulness in making decisions were well known. We then discussed upcoming Captain positions in which he had an interest in applying for promotion.

14. I am competent to testify as to the matters set forth in this Declaration. I declare under the penalty of perjury that the information contained in this Declaration is true and correct.

  
CARL SAIZAN

6-21-24  
Date

EXHIBIT K

KENDRICK L. VAN BUREN

June 4, 2024

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

1           A       I started out as a uniformed patrol  
2 trooper back in 1990. After the patrolling I  
3 went to Narcotics Division, and I was there  
4 for about eight years. I went to our Indian  
5 Gaming Unit for a year during that time, and  
6 worked out of our Criminal Intelligence Unit,  
7 also our Insurance Fraud Division, and  
8 ultimately became a commander in our Gaming  
9 Enforcement Division.

10           Q       So in 1990 you started as a trooper,  
11 and when did you get promoted to lieutenant?

12           A       2006.

13           Q       And when did you get promoted to  
14 captain?

15           A       2018.

16           Q       Now, the commander position of Gaming  
17 Enforcement, was that a lieutenant colonel  
18 position?

19           A       No, sir, that was a captain's  
20 position.

21           Q       Captain?

22           A       Yes, sir.

23           Q       So you retired as a captain?

24           A       Lieutenant colonel.

25           Q       Lieutenant colonel?

1 A Yes, sir.

2 Q So when did you get promoted to  
3 lieutenant?

4 A January of 2021.

5 Q And were you promoted from captain or  
6 from major?

7 A Captain.

8 Q So it's not necessary to be a major  
9 to be promoted to lieutenant colonel?

10 A That's correct; a captain and above.

11 Q Okay, and is that by the promotional  
12 policies, or is that by appointment?

13 A Appointment.

14 Q Appointment?

15 A Yes, sir.

16 Q So you were appointed by the  
17 governor; is that correct?

18 A I was appointed by the colonel.

19 Q Oh, by the colonel?

20 A Yes, sir.

21 Q Okay. So at that time, that was  
22 Colonel Davis?

23 A Yes, sir.

24 Q So do you know of any other captains  
25 that were appointed by Colonel Davis to become

1 a lieutenant colonel?

2 A Yes, sir. I just drew a blank.

3 Q Okay. Well, could you describe this  
4 person, so we can figure out who it is?

5 A Let's see. Jody Hasselbeck was  
6 promoted, appointed lieutenant colonel. Chris  
7 Eskew was appointed lieutenant colonel from  
8 the captain's position. Chavez Cammon was  
9 appointed lieutenant colonel from the  
10 captain's position, and obviously myself.

11 Q And they were all appointed by  
12 Colonel Davis; is that correct?

13 A Yes, sir.

14 Q And do you know approximately which  
15 year? Were these appointed before or after  
16 you?

17 A Chavez Cammon and I were appointed  
18 the same day, so that would have been January  
19 the 4th of 2021. I don't remember the dates  
20 of the others.

21 MR. MILES:

22 Just to clarify, Victor, what  
23 timeframe are you talking about for  
24 these promotions from captain to  
25 lieutenant colonel?

1 MR. FARRUGIA:

2 I understand they're  
3 appointments, not promotions.

4 MR. MILES:

5 Yeah.

6 MR. FARRUGIA:

7 Appointments? What timeframe?  
8 Well, I just asked him if he knew of  
9 any others appointed by Colonel  
10 Davis.

11 EXAMINATION BY MR. FARRUGIA:

12 Q So Colonel Davis was in for three or  
13 four years; correct?

14 A Three years.

15 Q Three years?

16 A A little over three years.

17 Q Okay. So those are the four that you  
18 recall?

19 A Yes, sir.

20 Q Now, for the record, your race is  
21 African-American?

22 A Yes, sir.

23 Q And Mr. Cammon's race is African-  
24 American; correct?

25 A Yes, sir.

1 Q And what's the race of Jody  
2 Hasselbeck?

3 A He's a white male.

4 Q Okay, and Chris Eskew?

5 A White male.

6 Q Okay.

7 MR. MILES:

8 Victor, if you don't mind  
9 speaking up some. Emily's having  
10 trouble hearing on the phone.

11 MR. FARRUGIA:

12 Okay. Well, you might want to  
13 turn that up, or can you move it any  
14 closer? Maybe not.

15 MR. MILES:

16 With the cords, that's as close  
17 as it gets.

18 MR. FARRUGIA:

19 Turn up the volume, maybe? Can  
20 you turn that up a little?

21 MR. MILES:

22 I think the volume is what we  
23 hear, so I don't think turning up the  
24 volume is going to help.

25 MR. FARRUGIA:

1 Q So do you recall if there were any  
2 more on the panel, other than the four that  
3 you've identified?

4 A Yeah, there were others in the room.  
5 Generally -- well, when we have promotions  
6 there's always representatives from Internal  
7 Affairs who are there as well, and I don't  
8 remember who those people were.

9 Q Okay. Now, if you look at the second  
10 page of the first exhibit, there are eight  
11 panels on this page, and these eight panels  
12 were after Colonel Davis became the commander?

13 A Okay.

14 Q Do you recognize that, that these  
15 came after he became the commander? I believe  
16 he became commander in October of 2020. Does  
17 that sound correct?

18 A Yes. Yes, sir.

19 Q Okay. Now, you were on the Promotion  
20 Panels 13 through 18; is that correct?

21 A That's correct, yes, sir.

22 Q Now, so 13 through 18 was January of  
23 2021 through August of 2021. What was your  
24 position during that period?

25 A Lieutenant Colonel over Bureau of



1 Investigations.

2 Q Okay, and as Lieutenant Colonel over  
3 Bureau of Investigations, looking at Exhibit  
4 2, Paragraph 4, what position were you  
5 representing when you were on the panel for  
6 Police Logistical Services?

7 A The way that Colonel Davis structured  
8 the promotional panel after taking charge is  
9 that he had all of his lieutenant colonels  
10 present during the promotional panels. So I  
11 was representing the Bureau, as all of us  
12 represented our respective commands.

13 Q Okay. Well, this was -- I see. It  
14 was January 7th, 2021, which was three days  
15 after you were appointed as lieutenant colonel  
16 by Colonel Davis; correct?

17 A Yes, sir.

18 Q So on that panel, you and also  
19 Lieutenant Colonel Cammon were both on that  
20 panel; correct?

21 A Yes, sir.

22 Q In fact, you were both on all the  
23 panels from 13 through 18; correct?

24 A Yes, sir.

25 Q Now, was Lieutenant Colonel

1 Hasselbeck on the panel for Police Logistical  
2 Services on January 7th, 2021?

3 A No, sir.

4 Q He was not? Do you know why?

5 A Yeah, yeah. If my memory serves me  
6 correctly I think he was a lieutenant at the  
7 time, so -- seemed like he was a lieutenant at  
8 the time, so he would not have been part of  
9 this process.

10 Q Okay. So Colonel Davis appointed  
11 Lieutenant Hasselbeck from lieutenant to  
12 lieutenant colonel?

13 A No, sir. He was promoted to captain  
14 at Crisis Response, but I don't remember the  
15 timeframe. I don't remember the date on that.

16 Q Okay. So Colonel Davis's policy was  
17 to have all his lieutenant colonels on the  
18 promotional panels; right?

19 A Yes, sir.

20 Q So according to your testimony,  
21 Lieutenant Colonel Hasselbeck was not on any  
22 of these panels, is that correct, of 13  
23 through 18?

24 A He was not on -- I don't recall him  
25 being on these. I don't think he got promoted

1 know, I'm going to call it concrete  
2 numbers such as that 75/25. I really  
3 don't know how you reach that,  
4 honestly I don't. So to your point,  
5 sir, I don't know how to respond to  
6 that question.

7 EXAMINATION BY MR. FARRUGIA:

8 Q So in your experience as a panel  
9 member, what percentage weight did you give to  
10 the interview versus the other promotion  
11 criteria?

12 A I have never thought of it in those  
13 terms.

14 Q Okay.

15 MR. MILES:

16 Just for the record, Victor, do  
17 you have a document or something that  
18 you're referencing when you say that  
19 Colonel Davis said this 75/25 piece?

20 MR. FARRUGIA:

21 I believe you've been provided  
22 Lieutenant Stelly's journal or diary.  
23 It's Bates numbers Stelly 282 to 289.  
24 I'm sure you'll find it in there.

25 MR. MILES:

1                   Yeah. I definitely have his  
2                   journal, and just give me a second.  
3                   I'm going to look to see where this  
4                   reference is at.

5           MR. FARRUGIA:

6                   Counsel, I don't think I have to  
7                   do this for you, so I think you're  
8                   holding up the deposition, and you're  
9                   welcome to do that on your own. You  
10                  asked me where it was, and I told  
11                  you, so you want me to hold up the  
12                  deposition for you?

13          MR. MILES:

14                  I'm asking for the courtesy of  
15                  about 30 seconds.

16          MR. FARRUGIA:

17                  Page 288. Page 288. Do you see  
18                  it?

19          MR. MILES:

20                  I see it, and yeah, let the  
21                  record reflect this is from the  
22                  writings of Mr. Stelly.

23          EXAMINATION BY MR. FARRUGIA:

24           Q        Now, while you held the rank of  
25           lieutenant colonel, was there a plan to

1 increase the racial diversity among Louisiana  
2 State Police troopers?

3 A We had discussions about diversity,  
4 but it certainly wasn't anchored to just race.  
5 So yes, we did have discussions, but when we  
6 talk about diversity, we're talking about not  
7 only along racial lines, gender lines,  
8 academic background, experiences, et cetera,  
9 et cetera. So when you join the two, when you  
10 talk about, you know, diversity and you limit  
11 it to a specific group of people, to me that  
12 kind of feels as though we're saying that  
13 there's a unfair advantage leaning one way.

14 But no, it was diversity across the  
15 board, so I just want to make sure I  
16 understand where you're going with it before I  
17 answer that question yes or no, because we did  
18 have discussions about diversity, but it was  
19 not specifically anchored to just race.

20 Q Okay. My question was not whether it  
21 was -- the diversity program was limited just  
22 to race.

23 A Okay.

24 Q My question is, was there a plan to  
25 increase the racial diversity of the Louisiana

1 State Police when you were a lieutenant  
2 colonel?

3 MR. MILES:

4 I'm going to object; asked and  
5 answered. He answered that question  
6 already. You can answer it again, if  
7 you -- you're welcome to answer that  
8 question again.

9 THE WITNESS:

10 And I will. No, there was no  
11 plan. There was no plan. We had  
12 discussions about diversity, but  
13 there was no plan to increase the  
14 number of African-Americans in the  
15 organization. It was -- but we did  
16 have discussions about diversity.

17 MR. FARRUGIA:

18 Okay. Let me hand you what  
19 we'll mark as Exhibit 4.

20 EXAMINATION BY MR. FARRUGIA:

21 Q I'll ask you, is this LSP changes and  
22 initiatives by Colonel Davis?

23 A It has, sir, his name. Where did I  
24 see it? It looked like I saw his name  
25 somewhere on here.