

1985 WL 56636
United States District Court, N.D. Florida.

GRIFFIN, ET AL.
v.
WAINWRIGHT, ETC., ET AL.

No. TCA 79-1016.
|
Oct. 2, 1985.

Attorneys and Law Firms

Harry L. Witte and Jerry G. Traynham (Patterson and Traynham), Tallahassee, Fla., for plaintiffs.

Mitchell D. Frank, Department of Legal Affairs, and Bruce A. Minnick, Assistant Attorney General of Florida, for defendants.

Opinion

STAFFORD, Chief Judge: -

*1 In its Order entered August 25, 1983, this Court reaffirmed its earlier ruling of July 30, 1982, regarding the illegality of the use by the Defendants of the Correctional Officer I written examination and directed the parties to meet in a good faith effort to settle the form of the relief. In status conferences held November 8, 1983, and September 11, 1985, the Court inquired as to the initial steps recommended by the parties for Stage II individual relief procedures. The Court is now satisfied that the following procedures are appropriate.

IT IS NOW ORDERED:

1. The present subclass for purpose of determination of individual relief from the effects of the adverse impact of the Correctional Officer I examination consists of all black persons who, between March 24, 1972 and the present, took and failed the Correctional Officer I written examination. The Defendants have contended that there is

no subclass because there is no subclass representative who properly can prosecute this adverse impact claim. Although the Court has ruled otherwise, it is of the opinion that this determination involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from this order may materially advance the ultimate termination of this litigation. The parties have agreed, and the Court determines, that the process of giving notice to the subclass and filing individual claims shall go forward even if an appeal is taken, on the basis of this court's certificate, pursuant to 28 U.S.C. Section 1292(b). However, unless otherwise ordered by this Court or by the Court of Appeals, no determination of individual claims shall be made during the pendency of the appeal.

2. The procedure for determination of individual relief may include classwide mathematical models or formulas, individual hearings or a combination of these and other procedures. A decision as to the most appropriate procedure to implement in this litigation shall be deferred until the number of individual claims and their distribution by time and by geography are known. It is now appropriate to give notice to the subclass and to permit individual claims to be filed. At the conclusion of the period established for filing individual claims, counsel for the parties are directed to report to the Court concerning recommendations for additional procedures to be followed.

3. Notice shall be given by mail, by posting, and by publication.

4. Notice by mail shall be given to all subclass members whose names and last known addresses can be determined from records of the Defendants and from the available records of any other agency of the State of Florida or of the United States. The parties and their counsel are directed to cooperate in the effort to identify subclass members from these records. The Defendants and their counsel are directed to use their good offices to insure that all such records are reasonably accessible to counsel for Plaintiffs, with the intent to minimize or eliminate the need for formal discovery in this process. The Defendants shall be responsible for compiling and maintaining a master list of all subclass members whose names and last known addresses are determined by the means described in this paragraph. In addition, the Defendants shall compile and maintain a "race unknown" list of all persons who, by the means described in this paragraph, can be determined to have taken and failed the Correctional

Officer I written examination, and whose names and addresses can so be determined, but whose race is unknown. Notice by regular mail, with a copy of the claim form, shall be provided to all persons named on the master list and on the "race unknown" list.

*2 5. In the event any notice sent by mail is returned undelivered by the United States Postal Service, an attempt shall be made to determine a more recent or additional address or addresses for the person to whom such notice is directed, using those records described in paragraph "4" and, where appropriate, telephone, city, and other available directories. To the extent such additional addresses are determined, additional notices and claim forms shall be mailed.

6. A form of the notice by mail and of the claim form are attached to this order.

7. The Defendants shall compile a list of all newspapers, periodicals, and other publications used by them in the recruitment of applicants for employment. Plaintiffs may add to this list the names of other publications. Any disagreement as to publications to be listed shall be presented to the Court for resolution.

8. A copy of the notice by publication is attached to this stipulation. This notice shall be placed as an advertisement in the regular news section of each listed publication. In daily newspapers, the advertisement shall be run no fewer than four times, including two Mondays and two Thursdays. In weekly publications, the advertisement shall be run no fewer than two times. In monthly publications, the advertisement shall be run at least once. The size of the advertisement in full-sized newspapers shall be no less than one-quarter of a page. In publications of tabloid or other size, the advertisement shall be not less than one-half page in size. A copy of the advertisement shall also be given to each employee of the Department of Corrections, which may be accomplished by publication, full page, on the outside of either the front or the back cover of the Correctional Compass.

9. The Defendants shall compile a list of all public or private agencies, organizations, and associations to whom notice of Department of Corrections job vacancies are sent or which are otherwise used by the Department in the employee recruitment process. Plaintiffs may add the names of other agencies, organizations, or associations to this list. Any disagreement as to inclusion on this list shall be presented to the Court for resolution. Copies of the notice by publication, suitable for posting, and of claim

forms, shall be sent by the Defendants to each such organization listed with a request that the notices be posted or otherwise made public and that claim forms be given to persons requesting them. Copies of the notice shall also be posted on every bulletin board or other posting place used by the Department of Corrections to disseminate information to employees and/or to applicants for employment. Copies of the claim form shall be placed in all personnel offices of the Department of Corrections.

10. Plaintiffs may prepare a press release concerning the claims procedure and may distribute it to the press. Prior to release, the contents shall be reviewed by the Defendants.

11. The schedule for the giving of notice and filing of claims is:

*3 a. The Defendant shall prepare, serve and file with the Court (i) the initial master list of subclass members and list of examination failees whose race is unknown, compiled in the manner described in paragraph "4", (ii) the list of newspapers, periodicals, and other publications, described in paragraph "7", and (iii) the list of agencies, organizations, and associations, described in paragraph "9", no later than December 6, 1985. Plaintiffs may serve and file lists of additions to the Defendants' respective lists no later than January 10, 1986. If the Defendants object to any of Plaintiffs' additions to items "ii" and "iii", they shall serve and file their objections no later than January 24, 1986.

b. Notices shall be mailed to all persons on the amended master list and "race unknown" list no later than February 14, 1986.

c. Publication of the notice, as described in paragraphs "7" and "8", and delivery of notices and forms, as described in paragraph "9", shall occur during the months of February and March, 1986. However, notices and forms shall be distributed to all personnel offices of the Department of Corrections no later than January 31, 1986.

d. The process of attempting to locate additional addresses with respect to those subclass members whose notices are returned undelivered by the U.S. Postal Service, described in paragraph "5", shall be a continuing one. Defendants are directed to make available sufficient paralegal and clerical staff to perform these tasks during the entire notice period.

e. The last day upon which a claimant may file a claim

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shall be June 2, 1986. Incomplete claim forms filed on or before that date shall be treated as though they were complete, for the purpose of determining whether the filing deadline has been met, if they provide enough information so that the identity of the claimant may be determined.

f. Upon showing cause, any party may apply to the Court for an extension or modification of this schedule.

12. The cost of giving notice shall be borne by the Defendants.

UNITED STATES DISTRICT COURT, NORTHERN
DISTRICT OF FLORIDA

GRIFFIN, ET AL. VS. WAINWRIGHT, ET AL. CASE
NO. TCA 79-1016

Date

CLAIM FORM

To the best of my knowledge and belief I took and failed the written examination for a Correctional Officer I or Road Prison Officer job with the Florida Department of Corrections. I am a Black person.

Approximate date of examination

Place of examination _____

Your Name _____

Address: Street _____ City
_____ State

Phone: _____ (Home) _____ (Work)

Social Security Number _____

I wish to file a claim in this case. I understand I may be required to testify about my claim.

Signature

FOLLOWING ADDRESS NO LATER THAN JUNE 2,
1986. YOU MAY MAIL IT OR DELIVER IT IN
PERSON. IF YOU MAIL YOUR CLAIM, YOU MUST
ALLOW SUFFICIENT TIME FOR MAIL DELIVERY
TO THE COURT CLERK NO LATER THAN JUNE 2,
1986.

IMPORTANT

THIS CLAIM MUST BE RECEIVED AT THE

MAIL CLAIM FORM TO: Marvin S. Waits, Clerk U.S. District Court, Northern
District 110 E. Park Avenue, Room 122 Tallahassee,

Florida 32301

1. *LEGAL RIGHTS AND BENEFITS TO WHICH YOU
MAY BE ENTITLED.*

*4 Black persons who took and failed the written examination for employment as Correctional Officers I or Road Prison Officers by the Florida Department of Corrections between March 24, 1972, and the present, are entitled to make a claim for important rights and benefits. These rights or benefits may include backpay, a preferential hiring right (a right to now be given a job as a Correctional Officer), and other rights or benefits to attempt to place you in the same position in which you might have been if you had passed the written examination and been hired as a Correctional Officer.

2. *THE COURT'S RULING OF RACE
DISCRIMINATION IN HIRING BY THE FLORIDA
DEPARTMENT OF CORRECTIONS.*

The reason you may be entitled to these rights and benefits is because the United States District Court for the Northern District of Florida has recently ruled that the use of the written examination for employment of Correctional Officers was unlawful because it had a discriminatory effect on black applicants for employment. This ruling occurred in the case of Griffin v. Wainwright, TCA 79-1016. A copy of the Court's ruling is on file in the federal courthouse in Tallahassee. Copies of this order may also be examined at any personnel office of the Florida Department of Corrections (Central) Office, Regional Offices, and Prisons).

This case was brought as a "class action" and you may be a member of the class of black persons who benefit from the Court's ruling.

3. *WHO MAY FILE A CLAIM.*

Any black person who took and failed the written examination for employment as a Correctional Officer I or Road Prison Officer with the Florida Department of Corrections at any time from March 24, 1972, to the present may file a claim.

4. *THE DEADLINE FOR FILING A CLAIM.*

The deadline and last day upon which you may file a claim is June 2, 1986. If you wish to file a claim you must do so on or before that date.

5. *CLAIM FORMS AND MORE INFORMATION CAN BE
OBTAINED FROM THE ATTORNEY FOR PLAINTIFFS
AND THE CLASS.*

A claim form is enclosed. A claim form may also be obtained at any personnel office of the Florida Department of Corrections or from the attorneys who represent the Plaintiffs and the Class. Their address and telephone number are
Harry L. Witte

Jerry G. Traynham

1215 Thomasville Road

Tallahassee, Florida 32303

(904) 224-9184

Case No. TCA-79-1016

The attorneys for Plaintiff and for the Class will represent you without cost to you and will answer questions you may have. You may choose your own attorney to represent you if you wish.

6. *HOW AND WHERE TO FILE A CLAIM.*

To file a claim, fill out the claim form completely and *sign* it.

Your claim must then be filed by mail or in person with the Clerk of the Court at the following address:
Marvin S. Waits

*5 Clerk of the Court

United States District Court

Northern District of Florida

110 E. Park Avenue, Room 122

Tallahassee, Florida 32301

[FORM OF NOTICE BY MAIL]

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

PENERS L. GRIFFIN, et al., etc., Plaintiffs,

vs.

LOUIE L. WAINWRIGHT, etc., et al. Defendants.

NOTICE

TO: ALL BLACK PERSONS WHO TOOK AND FAILED THE WRITTEN EXAMINATION FOR EMPLOYMENT AS A CORRECTIONAL OFFICER I OR ROAD PRISON OFFICER (PRISON GUARD) WITH THE STATE OF FLORIDA DEPARTMENT OF CORRECTIONS (FORMERLY DIVISION OF CORRECTIONS AND DEPARTMENT OF OFFENDER REHABILITATION)

DUE TO RACE DISCRIMINATION IN HIRING, BY USE OF THE WRITTEN EXAMINATION BY THE FLORIDA DEPARTMENT OF CORRECTIONS, YOU MAY NOW BE ENTITLED TO IMPORTANT LEGAL RIGHTS AND BENEFITS, SUCH AS BACKPAY OR EMPLOYMENT AS A CORRECTIONAL OFFICER, OR BOTH.

Your claim *must be received by the Clerk of the Court at this address on or before June 2, 1986*, to be considered. You must allow sufficient time for mail delivery to the court clerk no later than June 2, 1986.

7. *WHAT HAPPENS AFTER YOU FILE YOUR CLAIM.*

After all claims have been filed, determinations will be made as to relief to be given to claimants. If you file a claim form you will receive additional notice as to the procedure which will be followed.

8. *WHAT HAPPENS IF YOU DO NOT FILE A CLAIM.*

If you fail to file a claim by June 2, 1986, you will not be permitted to file a claim later.

EMPLOYMENT AS A CORRECTIONAL OFFICER,
OR BOTH.

9. IF YOU NEED FURTHER INFORMATION.

If you need further information, a copy of a claim form, help in filling out your claim form, or have any questions, you may call attorneys Harry L. Witte or Jerry Traynham, at (904) 224-9184. Call between 9:00 a.m. and 5:00 p.m., Mondays through Fridays. If they are not in the office, ask for someone else who can help you in the "Griffin case".

/s/ _____ WILLIAM STAFFORD
Chief Judge

[FORM OF NOTICE BY PUBLICATION]

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DISTRICT OF FLORIDA

GRIFFIN, ET AL. VS. WAINWRIGHT, ET AL. CASE
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Clerk of the Court

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Judge

All Citations

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