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MAR 25 1997

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CITY OF FORNEY, TEXAS,)
)
Defendant.)
_____)

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 24 1997
NANCY DOHERTY, CLERK
BY _____ Deputy

CIVIL ACTION NO.

3:96-CV-3146-G

ENTERED ON DOCKET

MAR 25 1997 PURSUANT
TO F.R.C.P. RULES
58 AND 79a

CONSENT DECREE

This action was brought by the United States against the City of Forney, Texas (Defendant or City) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended (Title VII), following receipt by the Department of Justice from the Equal Employment Opportunity Commission (EEOC) of a charge of discrimination filed by Lonnie D. Clemon.

In its Complaint, the United States alleges that the Defendant discriminated against Lonnie D. Clemon on the basis of his race, black, in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a), by failing or refusing to employ him in the position of Public Works Maintenance Worker I in the City's Department of Public Works and by failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment of Mr. Clemon.

The parties agree that in December, 1992, Lonnie D. Clemon applied to the City of Forney for employment as a Public Works Maintenance Worker I, a position for which the City was seeking

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applicants. The parties further agree that Lonnie D. Clemon met the minimum qualifications for the position for which he applied, but he was not so employed by Defendant.

Defendant denies that it unlawfully discriminated against Lonnie D. Clemon on the basis of race and contends that it ultimately hired a more qualified candidate.

The parties, desiring that this action be settled by appropriate Consent Decree, agree to the jurisdiction of this Court over the parties and the subject matter of this action, and hereby waive, for the purposes of this Consent Decree only, hearings and findings of fact and conclusions of law on all issues, and further agree to the entry of this Consent Decree as final and binding among themselves as to the issues raised in the Complaint filed in this case.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Insofar as any of the provisions of this Decree or any actions taken pursuant to such provisions may be inconsistent with any state law or regulation, the provisions of this Decree shall prevail in accordance with the Constitutional supremacy of federal law, except where federal law is to the contrary.
2. In the event this Decree is challenged, the Defendant and the United States shall fully defend the lawfulness of this Decree. If any such collateral challenge arises in state court, Defendant shall immediately notify counsel for the United States and Defendant shall promptly seek to remove such action to this Court and specifically to the judge assigned to this case.

3. With respect to the obligation of the United States to enforce or to monitor compliance with the Decree, the Federal Rules of Civil Procedure relating to discovery shall apply to the parties without further order of the Court.

4. The City of Forney agrees that it will not engage in any act or practice that has the purpose or effect of unlawfully discriminating against any employee or applicant for employment because of such individual's race and asserts that it has not engaged in discriminatory conduct in the past.

5. The City of Forney agrees not to engage in any act or practice that has the purpose or effect of unlawfully retaliating against any person because that person has opposed allegedly discriminatory policies or practices; filed a charge, either formal or informal, with the City or any of its departments; filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) or the Texas Human Rights Commission (THRC); or participated in or cooperated with the initiation, investigation, litigation or administration of this case or this Consent Decree, and asserts that it has not engaged in retaliation in the past.

6. Defendant shall offer Lonnie D. Clemon a monetary award of \$12,000.00.

7. Mr. Clemon has informed the undersigned counsel for the United States that he is presently employed and does not desire employment with the Defendant. Therefore, the parties agree that

the relief to be offered Mr. Clemon shall not include job offer relief.

8. In order to accept the relief to be offered by Defendant under this Decree, Mr. Clemon must execute a Release form, an example of which is attached as Appendix B.

9. Defendant agrees to notify Mr. Clemon of the terms of this Consent Decree within ten (10) days of its entry by hand-delivering, or by mailing to him by certified mail, return receipt requested, a copy of the letter set forth in Appendix A, a copy of this Consent Decree, and the Release form attached as Appendix B, addressed to:

Lonnie D. Clemon
P.O. Box 492
Forney, Texas 75126

10. If Mr. Clemon accepts Defendant's offer of monetary relief, Defendant shall pay the monetary award to Mr. Clemon within ten (10) days of its receipt of the executed Release form.

11. Within ten (10) days of the date they are sent or received, Defendant shall provide the Department of Justice copies of:

(1) the notice letter to Mr. Clemon; (2) Mr. Clemon's response to the notice letter; and (3) the instrument used to convey the monetary award to Mr. Clemon.

12. The parties shall attempt to resolve informally any disputes that may occur under this Consent Decree. If the parties are unable to reach agreement within thirty (30) days after a matter has been brought to the attention of one of the parties by

another party, the issue may be submitted by either party to the Court for resolution.

13. This Court shall retain jurisdiction of this action for the purpose of entering any orders or judgments which may be necessary to implement the relief provided herein. After six months, this matter shall be dismissed unless the United States moves, for good cause shown upon notice to the Defendant, for its continuation in order to carry out the purpose or provisions of this Decree. Should the United States file a motion to extend the Decree, this Decree shall remain in effect until final resolution of the motion.

14. Although the Court will retain jurisdiction of this action for at least six months to adjudicate any issues relating to the enforcement of this Decree, the Court may direct the Clerk's Office to close this court file for statistical purposes. Any such order shall be for administrative purposes only and shall not affect the terms or conditions of this Decree.


15. The United States and the Defendant shall bear their own costs in this action, including any attorney's fees, except that the parties shall retain the right to seek costs for any matter which, in the future, may arise from this Consent Decree and require resolution by the Court.

It is so ORDERED, this 24 day of March, 1997.


UNITED STATES DISTRICT JUDGE


AGREED AND CONSENTED TO:

For the Defendant:


MARIGNY A. LANIER
MARIS & LANIER, P.C.
10440 N. Central Expressway
Suite 1400, Lock Box 702
Dallas, Texas 75231
(214) 360-1096
(214) 361-2288 (Fax)

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CITY OF FORNEY

For the Plaintiff:


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PAUL E. COGGINS, JR.
United States Attorney for the
Northern District of Texas

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(214) 767-0951

ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

A P P E N D I X A

NOTICE LETTER

Mr. Lonnie D. Clemon
P.O. Box 492
Forney, Texas 75126

Dear Mr. Clemon:

A Consent Decree has been entered settling a complaint of employment discrimination filed by the United States against the City of Forney.

Under the terms of the Consent Decree entered in the case of United States v. City of Forney, Civil No. 3:96-CV-3146-G (N.D. Tex.), a copy of which is enclosed, you are being offered a monetary award in the amount of \$12,000.00.

The monetary award is offered to you on the following condition: in order to accept the relief offered, the City requires that you release it from all employment discrimination claims you may presently have against it arising out of the above referenced case and EEOC Charge No. 310-94-0338.

In order to receive the monetary award you must complete the enclosed Release form and return it to:

City of Forney
c/o Marigny A. Lanier
MARIS & LANIER, P.C.
10440 N. Central Expressway
Suite 1400
Lock Box 702
Dallas, Texas 75231

The Release form must be signed and returned within thirty (30) days of your receipt of this letter. It may be returned by mail or in person. In either case, the Release form must be signed in the presence of a Notary Public and thereafter notarized before you return it.

IF YOU FAIL TO SIGN AND SUBMIT THE RELEASE FORM WITHIN THIRTY (30) DAYS FROM YOUR RECEIPT OF THIS NOTICE LETTER, YOU WILL FORFEIT YOUR RIGHTS TO ANY MONETARY AWARD OR OTHER RELIEF UNDER THIS CONSENT DECREE, UNLESS YOU CAN SHOW GOOD CAUSE FOR YOUR FAILURE TO DO SO WITHIN A REASONABLE TIME THEREAFTER.

Payment to you of the monetary award will be made within ten (10) days after receipt by the undersigned of your signed Release form.

If you have any questions concerning this settlement, you may contact Michael Kirkpatrick, attorney for the United States Department of Justice, at (202) 616-9615.

Sincerely,

Marigny A. Lanier
Attorney for Defendant

Enclosures

A P P E N D I X B

RELEASE

United States v. City of Forney, Texas
Civil Action No. 3:96-CV-3146-G (N.D. Tex.)

STATE OF TEXAS

COUNTY OF _____

For and in consideration of the acceptance of the relief offered me pursuant to the provisions of the Consent Decree in United States v. City of Forney, Texas, Civil Action No. 3:96-CV-3146-G (N.D. Tex.); I, Lonnie D. Clemon, hereby release and forever discharge the defendant City of Forney, Texas, its past, current and future officers, employees and agents, of and from all legal and equitable claims arising out of that action and EEOC Charge No. 310-94-0338.

I understand that the relief to be provided to me by Defendant City of Forney in consideration for this Release does not constitute an admission by any of the parties released of the validity of any claim raised by me or on my behalf.

This Release constitutes the entire agreement between Defendant and myself, without exception or exclusion.

I acknowledge that a copy of the Consent Decree in this action has been made available to me.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Signed this _____ day of _____, 1997.

Lonnie D. Clemon

Subscribed and Sworn to before me this _____ day of _____, 1997.

NOTARY PUBLIC

My commission expires: _____.