

APPENDIX 3

Fred VanKirk, Secretary/Highways Commissioner, West Virginia Department of Transportation, Department of Highways, Letter, May 28, 2002



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

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Charleston, West Virginia 25305-0430 • 304/558-3505

Bob Wise
Governor

Fred VanKirk, P. E.
Secretary/Commissioner

May 28, 2002

Jerry Bird
Assistant Commissioner

Mr. Marc Pentino, Civil Rights Analyst
United States Commission on Civil Rights
Suite 500
624 Ninth Street NW
Washington, D.C. 20425

Dear Mr. Pentino:

This is in reply to your correspondence dated May 13, 2002 regarding the West Virginia Advisory Committee Report.

I appreciate the opportunity to make a response to the statements that have been received by the Commission regarding the West Virginia Division of Highways. Because the information in the Report primarily quotes Walter Elmore or newspaper articles, it would not be appropriate for me to make corrections or changes to the actual wording. However I would like to note the following and ask that you consider incorporating this information into the Report:

- The newspaper article and the testimony of Mr. Elmore which are quoted both preceded a finding of **No Probable Cause** on Mr. Elmore's complaint by the West Virginia Human Rights Commission. Specifically, the Commission's ruling stated "Complainant's name never appeared on the Division of Personnel's roster which was provided to the Department of Highways, and therefore, Complainant could not be considered for a position with the Department of Highways." The ruling went on to note that "after receiving assistance in correctly filling out the application, Complainant was ultimately hired by the Respondent."

E.E.O. AFFIRMATIVE ACTION EMPLOYER

- The Division of Highways became aware of Mr. Elmore's concerns when he filed with the Human Rights Commission, investigated the reason he was unsuccessful in securing employment, discovered the problem (his employment applications submitted to the West Virginia Division of Personnel were deficient), and assisted him in properly completing the application. We employed him irrespective of his Human Rights Complaint and did not seek from him an agreement to drop his complaint in exchange for employment.
- We believe Mr. Elmore's conclusion that he was being treated unfairly resulted at least in part from his failure to realize there was not and is not a direct connection between welfare programs in which he participated and the civil service hiring process. In other words, the program on which he worked was designed to obtain services for the state in return for his receipt of public assistance, and to provide him with job skills that might lead to employment. There was no provision of any contract, agreement, or other written material that provided for participants in these programs to be hired by participating state employers in any manner other than the normal civil service hiring process.

In summary, the situation involving Walter Elmore does in fact detail the difficulty of an African American attempting to obtain employment within the classified service of state government. The same difficulties have been and are being experienced by hundreds of other job seekers. The civil service process is bureaucratic and difficult for the average job applicant to understand. However, when Mr. Elmore's concerns reached the attention of agency officials who were able to detect the problem with his application efforts, the necessary assistance was provided and he obtained employment.

Mr. Marc Pentino
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Thank you for the courtesy you have shown in permitting the Division to provide information on the concerns Mr. Elmore expressed in the course of making his complaint to the Human Rights Commission. While I understand my comments are rather lengthy, I hope you will see fit to include some portion in your report. Should you have any questions or require clarification, please contact our Human Resources Director, Jeff Black, at 304-558-3111.

Very truly yours,



Fred VanKirk, P.E.
Secretary/Highways Commissioner

FV:Bj