

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MOSES DICKERSON, MILLARD STARLING,
and EDDIE WILLIAMS, on their own behalf
and on behalf others similarly situated,

Plaintiffs

v.

UNITED STATES STEEL CORPORATION,

and

INTERNATIONAL, UNITED STEELWORK-
ERS OF AMERICA (AFL-CIO),

and

LOCAL 4889, UNITED STEELWORKERS
OF AMERICA (AFL-CIO),

and

LOCAL 5092, UNITED STEELWORKERS
OF AMERICA (AFL-CIO),

and

LOCAL 5030, UNITED STEELWORKERS
OF AMERICA (AFL-CIO),

and

LOCAL 5116, UNITED STEELWORKERS
OF AMERICA (AFL-CIO),

and

LOCAL 2670, UNITED STEELWORKERS
OF AMERICA (AFL-CIO)

and

CIVIL ACTION NO.

73-1292

LOCAL 7246, UNITED STEELWORKERS :
OF AMERICA (AFL-CIO),

and :

LOCAL 507, UNITED STEELWORKERS OF :
AMERICA (AFL-CIO),

and :

LOCAL 510, UNITED STEELWORKERS OF :
AMERICA (AFL-CIO),

and :

LOCAL 7309, UNITED STEELWORKERS OF :
AMERICA (AFL-CIO),

and :

LOCAL 7420, UNITED STEELWORKERS OF :
AMERICA (AFL-CIO),

Defendants : CIVIL RIGHTS

COMPLAINT - CLASS ACTION

1. Plaintiffs bring this suit on behalf of themselves and all others similarly situated seeking a preliminary and permanent injunction requiring defendants to cease discriminating against them because of their race and color, and for other equitable, compensatory relief remedying the effects of defendants' unlawful employment practices.

2. This is also a proceeding for a declaratory judgment as to plaintiffs' rights and for a permanent injunction restraining defendants from maintaining

a policy, practice, custom or usage of discriminating against plaintiffs and other black persons in the class because of race and color with respect to compensation, terms, conditions and privileges of employment in ways which deprive plaintiffs and other persons in the class of equal opportunity for employment and otherwise adversely affect their status as employees because of race and color.

I.

JURISDICTION

3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343(4); 42 U.S.C. Section 2000e-5(f) and 28 U.S.C. Sections 2201 and 2202. This is a suit in equity authorized and instituted pursuant to Title VII of the Act of Congress known as "The Civil Rights Act of 1964", 42 U.S.C. Section 2000e et seq. The jurisdiction of the Court is invoked to secure protection of and to redress deprivation of rights secured by (a) 42 U.S.C. Section 2000e et seq., providing for injunctive and other relief against racial discrimination in employment, and (b) 42 U.S.C. Section 1981, providing for equal rights for all persons in every state and territory within the United States.

II.

PARTIES

4. Plaintiff Moses Dickerson is a black citizen of the United States and resides in Trenton, New Jersey. Plaintiff Dickerson was hired in 1969 by

defendant United States Steel, and is currently employed as a laborer by the Company.

5. Plaintiff Millard Starling is a black citizen of the United States and resides in Morrisville, Pennsylvania. Plaintiff Starling was employed by the defendant Company for thirty (30) years until he was forced to retire in 1970.

6. Plaintiff Eddie Williams is a black citizen of the United States and resides in Birmingham, Alabama. Plaintiff Williams, a native of Alabama, was induced by the defendant Company to move to Pennsylvania to work at its plant in Fairless Hills, Pennsylvania, in 1969. Plaintiff Williams was employed in an unskilled position for approximately two (2) years by the defendant Company, when in protest of the discriminatory treatment he was receiving, he left the Company's employ to return to Birmingham, Alabama.

7. Defendant United States Steel Corporation (hereinafter "Company") is a corporation doing business in the Commonwealth of Pennsylvania. The Company owns, operates, and maintains facilities in Fairless Hills, Pennsylvania. The illegal acts set out in the following paragraphs have taken place, and are taking place at the Fairless Hills, Pennsylvania location. Defendant Company is an employer within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-(b), and is engaged in an industry affecting commerce.

8. Defendant International, United Steelworkers of America (AFL-CIO)

(hereinafter "International") is a labor organization within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-(d) and is engaged in an industry affecting commerce. It exists, in whole or in part, for the purpose of dealing with the Company concerning grievances, labor disputes, wages, rates of pay, hours, and other terms or conditions of employment of the employees of the Company at its Fairless Hills location.

9. Defendants Local Unions Number 4889, 5092, 5030, 5116, 2670, 7246, 507, and 510 of the International United Steelworkers of America (AFL-CIO) (hereinafter "Locals") are labor organizations within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e-(d) and are engaged in an industry affecting commerce. They exist, in whole or in part, for the purpose of dealing with the Company concerning grievances, labor disputes, wages, rates of pay, hours, and other terms or conditions of employment of the employees of the Company at its Fairless Hills location. All defendant Locals are labor unions representing employees for the purposes of collective bargaining at the Company's plant in Fairless Hills, Pennsylvania.

III.

CLASS ACTION ALLEGATIONS

10. In addition to their individual claims, plaintiffs bring this action as a class action pursuant to Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure on behalf of all black persons [who have been employed, are

employed, might be or might have been employed by defendant Company, and who have been, are, or might be represented by defendant labor organizations, who have been, continue to be, or might be adversely affected by the discriminatory practices alleged in this Complaint.

11. The class consists of more than five hundred (500) presently employed black persons and an unknown number of rejected job applicants and potential employees. The class is therefore so numerous that joinder of all members is impracticable.

12. There are questions of fact and law which are common to the class, and which predominate over any questions affecting only individual plaintiffs, i. e., whether or not the Company and the unions engage in discriminatory practices which include, but are not limited to, those practices described in paragraphs 35, 36, and 37, infra.

13. The claims of plaintiffs are typical of the claims of the class and plaintiffs will fairly and adequately protect the interests of the class. A common relief is sought. Plaintiffs can and do undertake to represent the class, and have retained counsel with experience in this type of litigation.

14. The defendant Company and Locals have acted or refused to act on grounds generally applicable to the class as a whole.

IV.

CONDITIONS PRECEDENT

15. Plaintiff Dickenson filed timely charges of discrimination with the Equal Employment Opportunity Commission against the defendants and has received notice of his right to sue in federal district court, copies of which are attached hereto as Exhibits "A" and "B", respectively.

16. Plaintiff Starling filed timely charges of discrimination with the Equal Employment Opportunity Commission against the defendants and has received notice of his right to sue in federal district court, copies of which are attached hereto as Exhibits "C" and "D" respectively.

17. Plaintiff Williams filed timely charges of discrimination with the Equal Employment Opportunity Commission against the defendants and has received notice of his right to sue in federal district court, copies of which are attached hereto as Exhibits "E" and "F" respectively.

18. Plaintiffs have satisfied all other procedural requirements and have filed this Complaint within ninety (90) days of having received their notices of right to sue in federal district court.

V.

STATEMENT OF CLAIMS

Moses B. Dickerson

19. Plaintiff Dickerson successfully completed a course for Welder

Combination in September, 1968 given by the Department of Vocational Education in Birmingham, Alabama. Upon completion of this course, plaintiff Dickerson was certified as a qualified welder and was gainfully employed as a welder before he became employed by defendant Company.

20. During the fall of 1969, defendant Company caused an advertisement to be placed in papers of general circulation in the Birmingham, Alabama area stating that the Company was in need of skilled persons to be employed in its Fairless Hills, Pennsylvania plant.

21. Plaintiff Dickerson, in response to this advertisement, was interviewed in Birmingham by Bruce Glenn, the then chief supervisor of the Personnel Department of the Company's Fairless Hills plant.

22. Mr. Glenn hired plaintiff Dickerson and advised him that he would be employed in the skilled position of Welder. Plaintiff was also advised that he would receive assistance in finding housing in or around Fairless Hills, Pennsylvania, and that the Company would assist him in relocating his family to this area.

23. Relying on the assurances of the defendant Company's agent, plaintiff Dickerson arrived at the Fairless Hills plant in November, 1969. Plant personnel assigned plaintiff to the unskilled position of laborer over his objections. He was told that there were no other positions available. Plaintiff Dickerson was assigned to this lesser-paying job classification because of his race.

24. Since the date of initial employment in November, 1969, plaintiff Dickerson has repeatedly requested a transfer to either the skilled position of Welder or to a higher paying job classification within his present department. He has been refused transfers and promotional opportunity because of his race.

25. Plaintiff Dickerson is presently employed as a laborer at the rate of \$2.76 per hour and in the course of his employment has not received any pay increases as have similarly situated white employees.

26. In addition, defendant Company did not provide plaintiff Dickerson with any of the benefits which had been promised by defendant Company's agent.

Millard Starling

27. Plaintiff Starling was employed by defendant Company in August, 1940, as a janitor. In 1945, he became a personnel assistant in the Pittsburgh plant. In 1953, he was transferred to the Fairless Hills Personnel Department where he served until October 30, 1970, when he was forced to retire because of the discriminatory treatment he received. Plaintiff Starling retired under the provisions of the Company's Early Retirement Program because he had completed thirty (30) years of service with the Company.

28. In 1965, plaintiff Starling requested a promotion to the position of

"Day Turn Supervisor." A white man, with no previous related experience, and who had less seniority than plaintiff Starling, was awarded the job. Plaintiff Starling was denied this promotion because of his race.

29. In January, 1970, defendant Company awarded raises in pay to all management employees, except for plaintiff Starling, who at the time was the only black person in a management position. Plaintiff Starling was denied this pay increase because of his race.

30. In the course of plaintiff Starling's employment in the Personnel Office, he was frequently required to work overtime. Although defendant Company had a policy of paying an employee for overtime work, the Company refused to pay plaintiff Starling for his overtime work because of his race.

Eddie G. Williams

31. Plaintiff Williams also was interviewed by Bruce Glenn in November 1969, and was offered the same employment opportunities as plaintiff Dickerson.

32. Despite the fact that plaintiff Williams is a skilled experienced welder, and had been promised an appropriate job in Fairless Hills, upon his arrival he was sent to the open hearth area, a job for unskilled workers. This assignment was made on the basis of Williams' race.

33. Defendant Company also refused to provide plaintiff Williams with the assistance he had been promised in Birmingham.

34. Plaintiff Williams remained at Fairless Hills in a laborer's position for two years, after which he returned to Birmingham.

35. Plaintiffs and the class they represent have been denied equal opportunity for employment by virtue of United States Steels' practices of discrimination as set forth below:

a. Engaging in employment practices which favor white applicants and discriminate against blacks by preferential hiring, referral, transfer and assignment procedures and by hiring, referring, transferring and assigning whites for employment without regard to qualifications while placing stringent requirements on black persons who apply for hiring, referral, transfer or assignment to the same or similar jobs.

b. Administering and grading tests for assignment to jobs in a manner so as to give preferential treatment to white applicants and to exclude black applicants similarly qualified.

c. Assigning blacks to less desirable positions in the laborer and janitorial categories, including the hot and dirty jobs in the coke oven and blast furnace departments and labor type jobs in the yard department, while assigning more desirable jobs to white persons with similar or lower qualifications.

d. Failing to provide opportunities for advancement to blacks on the same basis as opportunities for advancement are provided to white persons.

e. Failing to provide for advancement opportunities to supervisory positions and management positions to black persons equal to those opportunities provided for white persons.

f. Returning black employees from layoff on a discriminatory basis.

g. Utilizing paper and pencil tests which deny and tend to deny blacks equal opportunity for hire and promotion and which are not job related, and are not necessary to the safe and efficient conduct of the employer's business.

h. Failing and refusing to hire or promote black persons to supervisory and managerial positions on a non-discriminatory basis.

i. Maintaining job classifications and department from which black persons are excluded, while maintaining other departments and classifications to which blacks are assigned because of their race.

j. Discriminating in the manner in which employees are rated as to performance on the job.

k. Maintaining and enforcing a seniority and transfer system which has the effect of denying blacks equal opportunity for promotion and

other benefits with respect to which seniority is a factor in conferring or awarding such benefit.

36. Defendant labor organizations contrary to the provisions of Title VII, have caused or attempted to cause defendant Company to discriminate against plaintiffs and the class they represent by negotiating and entering into collective bargaining agreements which have the intent and effect of denying plaintiffs and the class they represent equal opportunity for employment. In particular, the transfer and seniority provisions of said collective bargaining agreements have the intent and effect of perpetuating assignment and classification practices based upon race.

37. Defendant labor organizations, contrary to the provisions of Title VII, have failed to fairly represent plaintiffs and the class they represent by:

- a. Failing to fairly and adequately process grievances on behalf of black employees.
- b. Negotiating and entering into collective bargaining agreements which have the intent and effect of denying blacks equal opportunity for promotion.
- c. Failing to effectively represent black persons by passively permitting the employer to discriminate against black persons because of their race and color.

d. Failing to act affirmatively to cause the employer to refrain from discriminating against black employees because of their race and color.

38. The employment practices of defendant Company more fully described above deny plaintiffs and the class they represent their rights under Title VII of the Civil Rights Act of 1964 and the same rights to make and enforce employment contracts as are enjoyed by white citizens of the United States, in violation of the Civil Rights Act of 1866, 42 U.S.C. Section 1981.

39. The practices of defendant labor organizations more fully described above deny plaintiffs and the class they represent their rights under Title VII of the Civil Rights Act of 1964 and the same rights to make and enforce employment contracts as are enjoyed by white citizens of the United States, in violation of the Civil Rights Act of 1866, 42 U.S.C. Section 1981.

WHEREFORE, plaintiffs respectfully pray this Court to advance this case on the docket, order a speedy hearing at the earliest practicable date, cause this case to be in every way expedited and upon such hearing to:

1. Grant plaintiffs and the class they represent an injunction requiring defendants, their agents, employees, successors and those acting in concert with them or at their direction to:

a. Cease and desist from discriminating against plaintiffs and the class they represent with respect to employment because of race and color.

b. Cease and desist from discriminating against plaintiffs and the class they represent with respect to return from layoff, and require that plaintiffs and the class they represent be returned from layoff on a non-discriminatory basis;

c. Immediately assign plaintiffs and all other members of the class to the positions they would have attained but for the discrimination practiced against them;

d. Modify existing employment, assignment, seniority, promotion, layoff, transfer, and training practices so that they do not discriminate on the basis of race and color;

e. Immediately adjust the wage rate of plaintiffs and the class they represent to that level which they would be enjoying but for the discrimination practiced against them; and

f. Compensate and make whole plaintiffs and the class they represent for all earnings, wages and other benefits they would have received but for the discrimination practiced against them.

2. Require defendant to pay a reasonable attorneys' fee and other costs and disbursements of this litigation.

3. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

SPECTER & SPIEGELMAN

Date: 11 June 1973

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