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

THOMAS FREEMAN, JR.  
2908 North 24th Street  
Philadelphia, PA 19132,

MICHAEL E. JORDAN  
3128 Page Street  
Philadelphia, PA 19121,

RODNEY LADSON  
822 N. Holly Street  
Philadelphia, PA 19124,  
individually and on behalf of  
all others similarly situated,

and

THE GUARDIAN CIVIC LEAGUE, INC.  
1516 W. Girard Avenue  
Philadelphia, PA 19130

Plaintiffs,

v.

CITY OF PHILADELPHIA  
c/o Ralph J. Teti, Esquire  
Chief Deputy, Special Litigation:  
Law Department  
1500 Municipal Services Bldg.  
Philadelphia, PA 19102,

and

ORVILLE W. JONES, in his  
official capacity as the duly  
appointed PERSONNEL DIRECTOR  
For the CITY OF PHILADELPHIA  
680 Municipal Services Bldg.  
Philadelphia, PA 19102,

Defendants.

CIVIL ACTION

NO.

90-2356

## COMPLAINT

### I. INTRODUCTION

1. This is a civil rights action instituted by the plaintiffs in their own behalf and on behalf of all others similarly situated and brought under Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. §§2000e-1, et seq. (hereinafter "Title VII") and the Civil Rights Act of 1866, 42 U.S.C. §1981 and the Civil Rights Act of 1871, 42 U.S.C. §1983. The plaintiffs seek injunctive and declaratory relief, back pay, damages and attorney's fees to redress the defendants' use of an unlawfully discriminatory written entrance examination for the civil service position of Police Officer Recruit, as a test which has an adverse impact based on race and which does not validly predict performance of the applicants as police officers.

### II. JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§2201, 2202, 1331(a), 1343, and 42 U.S.C. §2000e-5(f). Damages, attorney's fees, back pay as well as injunctive and declaratory relief are sought pursuant to 42 U.S.C. §§1981, 2000e-5, and 1988; and 28 U.S.C. §§2201, 2202, 1331(a) and 1343.

3. As to their Title VII claims, plaintiffs have invoked the procedure set forth in §706(a) and have requested preliminary

injunctive relief in accordance with the provisions of §706(f)(2).

4. The unlawful practices of the defendants, their agents, servants, employees, attorneys and assigns, as set forth particularly hereinbelow, were committed by them within the Commonwealth of Pennsylvania and the United States Eastern Judicial District of Pennsylvania, to wit Philadelphia, Pennsylvania.

### III. PARTIES

5. Plaintiff Thomas Freeman, Jr., race Afro-American, is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 2908 North 24th Street, Philadelphia, Pennsylvania 19132.

6. Plaintiff Michael E. Jordan, race Afro-American, is a citizen and resident of the Commonwealth of Pennsylvania, residing therein at 3128 Page Street, Philadelphia, Pennsylvania 19121.

7. Plaintiff Rodney Ladson, race Afro-American, is a citizen and resident of the Commonwealth of Pennsylvania, residing therein at 822 N. Holly Street, Philadelphia, Pennsylvania 19124.

8. Plaintiff Guardian Civic League, Inc. is a Pennsylvania not for profit corporation whose members include Afro-American police officers and whose purpose includes increasing the

representation of Afro-Americans in the Philadelphia Police Department. Its principle place of business is located at 1516 W. Girard Avenue, Philadelphia, Pennsylvania 19130.

9. Defendant City of Philadelphia, is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and maintains its principal offices at c/o Ralph J. Teti, Esquire, Chief Deputy City Solicitor, Law Department, 1500 Municipal Services Building, Philadelphia, Pennsylvania 19102.

10. Defendant Orville W. Jones is the duly appointed Personnel Director of the City of Philadelphia and maintains his principal office at 680 Municipal Services Building, Philadelphia, Pennsylvania 19102. Under the City Home Rule Charter, Article VII, and the regulations thereunder, Mr. Jones is the official policy maker for the City to determine what tests shall be used in the selection of civil service employees.

11. Defendants, and all departments thereof, including the Philadelphia Police Department constitute a single "employer" within the meaning of Title VII, §701(b).

#### IV. FACTS

12. On or about December 16, 1989 defendants administered a written civil service entrance examination for the position of Police Officer Recruit. The written examination is the primary initial screening device employed by the defendants for the

position of police officer recruit. Failing that examination is an absolute disqualification for further screening.

13. Plaintiffs applied for the positions of Police Officer Recruit and took the examination administered on December 16, 1989.

14. On or about January 12, 1990 defendants certified a civil service eligibility list for selection of candidates for the position of Police Officer.

15. On or about January 12, 1990, plaintiffs Freeman and Ladson were notified that they failed the above referenced written examination.

16. Plaintiff Jordan is ranked 3481 out of 3487 persons on the above referenced civil service eligibility list.

17. Having certified an eligibility list defendants have selected candidates from that list for further screening based on their rank order scores and began a new class based on persons from that list at the Police Academy in March, 1990.

18. A total of 4149 persons took the written examination on December 16, 1989, 1,654 whites (39.4%); 2123 Afro-Americans (51.2%); 239 Hispanics (5.8%); and 133 others (3.2%).

19. Plaintiffs' counsel have been notified that 1,653 Afro-Americans passed the written examination (77.86%) and 470 failed (22.14%).

20. Plaintiffs' counsel have been notified that 1,552 white

applicants passed the written examination (93.8%) and 102 failed (6.2%).

21. Plaintiffs' counsel has been notified that 197 Hispanic applicants passed the written examination (82.3%) and 85 other applicants (63.9%). The eligibility list based on the examination consists of 1,454 whites (42.3%); 1,581 Afro-Americans (45.4%); 191 Hispanics (5.5%); and 237 others or unknown (6.8%).

22. The difference in the pass rates for Afro-American persons and white persons is statistically significant. The use of the examination scores for rank order selection increases the racially discriminatory impact of the examination. For example, although white persons are 42% and black persons 45% of the overall list, white persons are 60% of the first 1000 and Afro-Americans 31%.

23. The written examination discriminates against Afro-American applicants and such examination does not validly predict how applicants will perform in the positions of Police Officer Recruit or Police Officer.

#### V. CLASS ACTION ALLEGATIONS

24. Plaintiffs Freeman and Ladson represent the 470 Afro-American test takers who failed the examination.

25. Plaintiff Jordan represents the unspecified number of Afro-American test takers who passed the examination but with

scores which place them so low on the eligibility list that they may not be selected for further processing.

26. The individuals identified and defined above are so numerous that joinder of all such persons as plaintiffs is impracticable.

27. Plaintiffs have interests in common in that the written examination administered by the defendants on December 16, 1989 has an adverse impact on Afro-American candidates, and has not been adequately validated to predict performance on the job.

28. Plaintiffs will adequately represent the interests of the above described classes, and have retained counsel experienced in such litigation.

#### CAUSES OF ACTION

1. The actions of defendants set forth herein have discriminated against plaintiffs and the class on account of their race in the hiring of police officer recruits and police officers by subjecting them to a test which has the impact of treating Afro-American applicants differently from white applicants, in violation of the Civil Rights Act of 1964, 42 U.S.C. 2000e-5.

2. The actions of defendants set forth herein were taken intentionally and with the knowledge that the use of an eligibility list based on the December 16, 1989 examination discriminates against Afro-American applicants, in violation of

the Civil Rights Act of 1964, 42 U.S.C. 2000e-5, 42 U.S.C. §1981 and 42 U.S.C. §1983.

3. The actions of defendants set forth herein were taken under color of law and constituted the official policy of the City of Philadelphia as determined by the authorized officials of the City. Such actions deprived plaintiffs of their rights, privileges and immunities under the constitution and the laws of the United States in violation of 42 U.S.C. §1983.

RELIEF

Plaintiffs request this court to grant the following relief:

1. declare that defendants have violated the law in certifying an eligibility list based on the December 16, 1989 examination;

2. permanently enjoin hiring for police officer recruits or police officer positions based on the January 22, 1990 eligibility list or grant the plaintiffs and class such compensatory hiring as will adequately compensate for the discrimination created by the December 1989 exam;


3. permanently enjoin defendants from using any written examination for police officer recruits or police officers which has a discriminatory impact upon Afro-Americans unless and until it is determined in a court of law prior to its use to validly predict how applicants will perform as police officers;

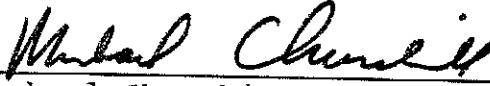


4. award damages to compensate plaintiffs for the injuries sustained, including but not limited to back pay and damages for pain and suffering from being subjected to a discriminatory test and for being excluded from employment as Police Officer Recruits, and police officers;

5. award reasonable attorneys fees and costs;

6. award such other relief as may be appropriate, including such interim or preliminary relief as plaintiffs shall request and this court find appropriate.

  
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April 5, 1990

Attorneys for Plaintiffs

