



CITY OF NEW ORLEANS

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DIRECTOR OF PERSONNEL

Friday, April 25, 2025

Mr. Stavros Panagouloupoulos
401 Whitney Ave, Suite 406
Gretna, LA 70056

Re: **Gary Ptak VS.
Recreation Department
Docket Number: 9601**

Dear Mr. Panagouloupoulos:

Attached is the decision of the City Civil Service Commission in the above-referenced appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 4/25/2025 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Larry Barabino
Elizabeth A Weigand
Jay Ginsberg
Garv Ptak

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**GARY PTAK,
Appellant**

Docket No. 9601

v.

**DEPARTMENT OF RECREATION,
Appointing Authority**

DECISION

Appellant, Gary Ptak, brings this race discrimination appeal pursuant to Article X, § 8(B) of the Louisiana Constitution and this Commission's Rule II, § 4.6 seeking relief from his February 27, 2024, probationary period failure as a Recreation Site Facilitator. (Exhibit HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on November 1, 2024. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the Hearing Examiner's report dated February 7, 2025, and controlling Louisiana law.

For the reasons set forth below, Mr. Ptak's appeal is DENIED.

I. FACTUAL BACKGROUND

The Department of Recreation (NORD) hired Mr. Ptak as a Site Facilitator in June 2023. (Tr. at 129). Mt. Ptak's job duties included coordinating and organizing programs and activities at Larry Gilbert Stadium, located at 3355 Joliet Street. (Tr. at 17-18). Jermaine Hall made the decision to hire Mt. Ptak to offer year-round baseball training at Larry Gilbert for New Orleans area youth and teams. (Tr. at 22).

Mr. Ptak, a Caucasian male, testified that his understanding was that he was hired to build a baseball program and develop baseball programming throughout the City, not just at Larry Gilbert. (Tr. at 87). Mr. Ptak testified that NORD sabotaged his efforts to form a booster club at Larry Gilbert. (Tr. at 105). Mr. Ptak's superior informed him that NORD did not want "another Carrollton Boosters or Lakeview situation at Larry Gilbert," which Mr. Ptak understood to mean a booster club lacking racial diversity. (Tr. at 114, Ex Appellant-5). Mr. Ptak believed the failure of NORD to support a booster club at Larry Gilbert was based on "something about me that they did not want to be involved with the booster club and about the diverse group of participants we had." (Tr. at 111). Mr. Ptak also testified that NORD failed to publicize the baseball program at Larry Gilbert, but did publicize the Urban Youth Academy, "entirely a black program." (Tr. at 93, 102). Mr. Ptak further complained that NORD did not provide adequate maintenance of the fields at Larry Gilbert. (Tr. at 93-94).

Mr. Ptak suggested during his hearing that NORD's failure to provide the support he requested was based on race. (Tr. at 103, 111). Mr. Ptak testified that his direct supervisor was African-American, and his second level supervisor was also African-American. (Tr. at 89). Mr. Ptak also testified that he was one of two Caucasian employees at NORD, and no other coaches were Caucasian. (Tr. at 89-90). On cross-examination, Mr. Ptak admitted that the Recreation Site Facilitator at Lakeview is Caucasian. (Tr. at 162-63).

Jermaine Hall, the Athletic Director for NORD, testified that Mr. Ptak could not form a booster club at Larry Gilbert because it is a stadium, not a playground. (Tr. at 191). Mr. Hall also testified that the baseball diamonds at Larry Gilbert were in disrepair, and NORD expected Mr. Ptak to use the stadium. (Tr. at 203). Mr. Hall testified that he informed Mr. Ptak that he did not

want another Carrollton Boosters or Lakeview situation because he was not interested in an intramural program. (Tr. at 198).

Mr. Hall testified that he found Mr. Ptak's emails combative and confrontational, and Mr. Ptak ignored his instruction not to weaponize the parents against the organization after a high school's rental of Larry Gilbert stadium interfered with programming. (Tr. at 214). Mr. Hall also testified that Mr. Ptak exaggerated the participation numbers. (Tr. at 214-15). Mr. Hall requested the termination of Mr. Ptak's employment by memo to Mr. Barabino on February 26, 2024. (Ex. NORD-1).

The Director of NORD, Larry Barabino, testified that he decided to terminate Mr. Ptak's employment because of the challenges reported to him by the athletic staff, Mr. Ptak's failure to turn in registration documents, and Mr. Ptak's performance. (Tr. at 42). In addition, Mr. Barabino testified that a cease and desist letter from Little League Baseball concerning Mr. Ptak (Ex. NORD-4) and Mr. Ptak's use of NORD facilities for another baseball team also contributed to the decision to terminate his employment. (Tr. at 43, 47).

II. ANALYSIS

A. Standard for Race Discrimination Appeal

Ptak has failed to carry his burden of proof to show race discrimination under Civil Service Rule II, § 4.6. In disciplinary actions where the classified employee alleges discrimination, the burden of proof on appeal, **as to the factual basis for the discrimination**, is on the employee. La. Const. art. X, § 8(B); *East v. Office of Inspector Gen.*, 2011-0572 (La. App. 4 Cir. 2/29/12), 87 So. 3d 925, 927 (quoting *Goins v. Dep't of Police*, 570 So.2d 93, 94 (La. App. 4th Cir.1990)). *See also* Civil Service Rule II, §§ 4.4, 4.8.

1. ***McDonnell Douglass* burden-shifting**

a. ***Prima facie* case of discrimination**

In order to show a *prima facie* case of discrimination under the *McDonnell Douglass* framework, Mr. Ptak must show that (1) he is a member of a protected class; (2) he was qualified for his position; (3) he suffered an adverse employment decision; and (4) similarly situated African-American employees were treated more favorably. *Richardson v. New Orleans Police Dep't*, 2024-0556 (La. App. 4 Cir. 3/31/25)¹; *Guidry v. Glazer's Distributors of Louisiana, Inc.*, 2010-218 (La. App. 3 Cir. 11/3/10), 49 So. 3d 586, 590–91. Mr. Ptak has shown that he is a member of a protected class as a Caucasian and that he suffered an adverse employment action, termination of his employment. Mr. Ptak has failed to show that similarly situated African-American employees were treated more favorably. *Thornton v. Univ. of Texas Sw. Med. Ctr. Sch. of Med.*, No. 24-10594, 2025 WL 619166, at *4 (5th Cir. Feb. 26, 2025) (affirming dismissal of race discrimination claim based on failure to identify comparator). The standard for “similarly situated” is high:

Employees with different supervisors, who work for different divisions of a company or who were the subject of adverse employment actions too remote in time from that taken against the plaintiff generally will not be deemed similarly situated. Likewise, employees who have different work responsibilities or who are subjected to adverse employment action for dissimilar violations are not similarly situated. This is because we require that an employee who proffers a fellow employee as a comparator demonstrate that the employment actions at issue were taken “under nearly identical circumstances.” The employment actions being compared will be deemed to have been taken under nearly identical circumstances when the employees being compared held the same job or responsibilities, shared the same supervisor or had their employment status determined by the same person, and have essentially comparable violation histories. And, critically, the plaintiff's conduct that drew the adverse employment decision must have been “nearly identical” to that of the proffered comparator who allegedly drew dissimilar employment decisions. If the “difference between the plaintiff's conduct and that of those alleged to be

¹ This decision is not yet final.

similarly situated *accounts for* the difference in treatment received from the employer,” the employees are not similarly situated for the purposes of an employment discrimination analysis.

Lee v. Kansas City S. Ry. Co., 574 F.3d 253, 259–60 (5th Cir. 2009). Mr. Ptak failed to offer any African-American comparators who engaged in similar conduct, such as exaggerating participation numbers or trademark infringement. Also, contrary to Mr. Ptak’s original assertion, NORD continues to employ a Caucasian Site Facilitator. Therefore, Mr. Ptak has failed to state a *prima facie* case of discrimination.

a. NOPD’s legitimate non-discriminatory reason for the probationary period failure

Assuming, *arguendo*, that Mr. Ptak has made a *prima facie* case, the burden shifts to NORD to offer a legitimate non-discriminatory reason for the difference in treatment. *Majors v. Dillard Univ.*, 2022-0789 (La. App. 4 Cir. 5/8/23), 368 So. 3d 116, 121. Mr. Barabino testified that he decided to terminate Mr. Ptak’s employment based on the complaints of staff, NORD’s receipt of a cease and desist letter from Little League, Mr. Ptak’s failure to turn in registration documents for the number of claimed participants, and Mr. Ptak’s use of Larry Gilbert stadium for an outside baseball program. (Tr. at 42-43).

b. Whether NOPD’s legitimate non-discriminatory reason was pretextual or unworthy of credence

Mr. Ptak is unable to show that the NORD’s legitimate non-discriminatory reason is pretextual. In *McDonnell Douglass* burden-shifting, if the employer meets its burden of articulating a legitimate non-discriminatory reason for the adverse employment action, the employee then must show that the reason is a pretext for discrimination. *Robinson v. Bd. of Supervisors for Univ. of Louisiana Sys.*, 2016-2145 (La. 6/29/17), 225 So. 3d 424, 431. “This may be accomplished either directly, by showing that a discriminatory reason more than likely

motivated the employer, or indirectly, by showing that the asserted reason is unworthy of credence.” *Id.*

Mr. Ptak has failed to show that the reasons offered by NORD for the termination of his employment during his probationary period were pretextual.

Even under the more lenient *McDonnell Douglas* standard, Mr. Ptak has failed to meet his burden of proof to show the facts constituting the discrimination. La. Const. art. X, § 8(b).

Therefore, Mr. Ptak’s appeal based on race discrimination is DENIED.

WRITER:



Andrew Monteverde (Apr 21, 2025 10:50 CDT)

ANDREW MONTEVERDE, COMMISSIONER

CONCUR:



Brittney Richardson (Apr 25, 2025 00:44 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON



Mark C. Surprenant (Apr 21, 2025 10:58 CDT)

MARK SURPRENANT, COMMISSIONER