



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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DIRECTOR OF PERSONNEL

Monday, March 3, 2025

Mr. Zachary Shepherd
2540 Severn Ave., Suite 400
Metairie, LA 70002

Re: **Jonathan Broom VS.**
Department of Fire
Docket Number: 9627

Dear Mr. Shepherd:

Attached is the action of the Civil Service Commission at the Commission's meeting on Monday, 2/3/2025.

Yours very truly,

A handwritten signature in blue ink that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Roman Nelson
Max V. Camp
Jonathan Broom
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**JONATHAN BROOM,
Appellant**

Docket No. 9627

v.

**DEPARTMENT OF FIRE,
Appointing Authority**

ORDER

The Department of Fire (NOFD) moved for summary disposition of Firefighter Broom's appeal pursuant to Civil Service Rule II, section 4.5, on the basis that the Commission lacks jurisdiction over a racial discrimination appeal based on consideration of arrests. The Commission heard oral argument on this motion at its special meeting on February 3, 2025.

On June 21, 2024, NOFD terminated the employment of Probationary Firefighter Broom. Mr. Broom appealed this termination, alleging racial discrimination. Mr. Broom then amended the appeal to provide the information required by Civil Service Rule II, section 4.7. The parties agree that Mr. Broom has met the requirements to state a racial discrimination appeal.

Mr. Broom amended his appeal for the second time on October 30, 2024, to allege that the termination of his employment based on his arrest constituted racial discrimination under EEOC Guidance and state law. NOFD asserts the Commission lacks jurisdiction over an appeal based on arrests. The Commission has jurisdiction over racial discrimination appeals, and this disparate impact theory is a type of racial discrimination. *Griggs v. Duke Power Co.*, 401 U.S. 424, 91 S. Ct. 849, 28 L. Ed. 2d 158 (1971). The Louisiana Fifth Circuit Court of Appeal has rejected a similar argument in a disparate impact case alleging gender discrimination:

The cause of action in this case is for gender discrimination under Louisiana law, regardless of the theory upon which it is grounded. "Disparate impact" is one legal

theory upon which any plaintiff may rely to recover damages for the fact that the actions of the defendant impacted the protected class (gender, age, race, religion), such as to constitute discrimination. Although facts are necessary to show disparate impact, it is not the cause of action. Thus, we find that the no cause of action was properly denied. Nevertheless, under either disparate treatment or disparate impact, the Plaintiffs failed to prove gender discrimination.

Lee v. Constar, Inc., 05-633 (La. App. 5 Cir. 2/14/06), 921 So. 2d 1240, 1246, *writ denied*, 2006-0880 (La. 6/2/06), 929 So. 2d 126. The EEOC Guidance and state law referenced by Mr. Broom concern hiring decisions, not termination decisions. Pursuit of this legal theory based on the underlying facts is tenuous at best.

NOFD's motion for summary disposition based on the Commission's lack of jurisdiction is DENIED. Mr. Broom may proceed to hearing, including pursuit of a disparate impact theory of discrimination.



Brittney Richardson (Mar 2, 2025 06:28 CST)

BRITTNEY RICHARDSON, CHAIRPERSON



JOHN KORN, VICE-CHAIRPERSON



Mark C. Surprenant (Feb 24, 2025 14:57 CST)

MARK SURPRENANT, COMMISSIONER