

# The Boston Globe

## Judge says firefighter tests biased and unfair Suit against Lynn may have wide effect

By Shelley Murphy, Globe Staff | August 9, 2006

A federal judge ruled yesterday that the state discriminated against blacks and Hispanics seeking firefighter jobs by relying on 2002 and 2004 civil service exams that were unfair to members of minority groups.

US District Judge Patti B. Saris found that the state has continued to rank applicants based on how well they score on written exams that test cognitive ability, even though such tests were found discriminatory in the early 1970s and led to decades of court-ordered affirmative action policies in Lynn, Boston, and other cities throughout the state.

The state has had 30 years to "fine-tune a better approach" but has failed to create a more equitable exam, despite being ordered to do so as part of a 1974 federal consent decree, Saris wrote.

"These cognitive examinations do not predict how quickly a firefighter can climb stairs with equipment or raise a ladder," Saris wrote in a 68-page decision in favor of four black firefighter applicants who sued the state and the city of Lynn, alleging the exam was discriminatory.

The judge has given the lawyers for the four men -- Jacob and Noah Bradley, who are brothers, Keith Ridley, and Jared Thomas -- 30 days to propose a remedy. The state and Lynn then have 30 days to respond.

"We expect it will have an impact on Boston and communities throughout Massachusetts, because the court found the test has a discriminatory impact and was not properly validated, and that applies everywhere," said lawyer Shannon Liss-Riordan, who represents the four men.

The class-action suit was brought on behalf of all minority firefighters who took the 2002 and 2004 firefighter exams and were trying to get hired in Boston, Lynn, and other cities and towns.

Liss-Riordan said she and her cocounsel, Harold Lichten, will probably ask the court to require municipalities to hire some of those minority applicants "who did not have an equal opportunity to compete for those positions based on a discriminatory exam."

Nadine Cohen of the Lawyers Committee for Civil Rights Under Law, which intervened in the lawsuit on behalf of the NAACP and the Boston Society of the Vulcans, said, "It is our hope that changing the examination process will result in a more diverse workforce in the fire departments in Boston and throughout the Commonwealth." The society, which supports firefighters of color, intervened in the lawsuit.

Jacob Bradley, 26, is an occupational therapist whose score of 94 on both the 2002 and 2004 exams was not high enough to get hired as a Lynn firefighter. "I'm happy to see that the court

ruled in our favor and agrees there needs to be a change in the hiring practices in the state of Massachusetts," he said.

Terence Burke, a spokesman for Attorney General Thomas F. Reilly's office, which defended the state against the suit, said officials are reviewing the decision and would not comment at this time.

The state administered a new civil service exam in June, which included additional components, but not a strength test. The results have yet to be released.

Mayor Edward "Chip" Clancy of Lynn said yesterday that his city has followed state Civil Service guidelines for hiring applicants and will continue to do so if the exam is changed. "If someone determines that a test should be given in another fashion or manner, so be it," he said.

Karen Miller, president of the Boston Society of Vulcans, said she hopes the judge's ruling will lead to more minority firefighters in Boston. "We're not looking for any advantages or extra points; we just want it to be fair," said Miller, who became the Boston Fire Department's first black female firefighter in 1985 after scoring 98 on the civil service exam.

Miller said the current exam only tests how well an applicant takes an exam, adding that she would like to see the state add a strength test and oral interviews.

In March 2003, a federal appeals court ruled that the Boston Fire Department had achieved racial balance among its firefighters and was no longer required to follow the 1974 consent decree, which required the hiring of one minority firefighter for every white one. Lynn was released from the consent decree in 1986.

Only seven of the 105 firefighters hired in Boston as a result of the 2004 exam were minorities, according to the judge's ruling. Only four of the 106 hired by Lynn since 1986 were minorities.

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