

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 75-3096-CIV-SEITZ

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF MIAMI, *et al.*

Defendants.

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**ORDER GRANTING UNOPPOSED MOTION FOR TERMINATION OF MAY 1999  
ORDER**

THIS MATTER is before the Court on the parties' Unopposed Joint Motion to Terminate May 1999 Order [DE 838]. This case originated in 1975, when the United States Attorney General brought this action, alleging that the City of Miami discriminated against Black, Hispanic, and female individuals with respect to hiring, promotions, and employment conditions. In 1977, the parties entered into a consent decree, which was superseded by the May 1999 Order. The May 1999 Order maintained the Court's jurisdiction and supervision over certain Police Department positions. The May 1999 Order has subsequently been terminated as to all positions, except the position of police Lieutenant. The parties now seek to terminate this last portion of the May 1999 Order still in effect, ending more than 40 years of Court supervision of the Police Department's hiring, promotion, and employment conditions.

In *United States v. City of Miami*, 2 F.3d 1497, 1508 (11th Cir. 1993), the Eleventh Circuit stated that it is appropriate to terminate a consent decree when the "decree is no longer necessary either to prevent discrimination in the future or to remedy the effects of past discrimination." Further, the May 1999 Order states "[t]his Order shall expire as to each of the

positions under the Order's purview when the Court is satisfied that the City has in place a selection procedure for that position that either has no adverse impact on the basis of race, national origin, or gender, or can be demonstrated to be job-related and consistent with business necessity, and that there are no alternative selection procedures with less adverse impact which would serve the City's needs."

The parties have submitted two declarations to show that the City of Miami has met these requirements. The Declaration of Eyran Kraus, the Testing and Validation Supervisor in the City of Miami's Department of Human Resources, sets out how the 2017 Lieutenant's Exam was developed and administered and sets out relevant statistics regarding the demographics of the eligibility list resulting from the administration of the 2017 Lieutenant's Exam. Kraus noted that there has been significant gains in the representation of Blacks and females in the rank of Lieutenant from 2009 to 2018, at least, in part because of the significant changes made to the Police Lieutenant promotional process. The Declaration of Brian O'Sullivan, Vice President of Consulting for Industrial/Organizational Solutions, Inc., also sets out how the 2017 Lieutenant's Exam was developed and administered and sets out relevant statistics regarding the demographics related to the exam administration and results. O'Sullivan notes that the statistics indicate that the 2017 Lieutenant's Exam and the promotions that followed had no adverse impact on Blacks or females.<sup>1</sup>

Additionally, the parties agree that the rank of Lieutenant is highly diverse, substantially reflects the eligible feeder pool, and is more diverse than just nine years ago. As a result, the


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<sup>1</sup>Hispanics now hold the majority of the Lieutenant positions. See O'Sullivan Declaration, ¶22.

parties maintain that the May 1999 Order is no longer necessary to remedy the effects of past discrimination. The parties also agree that the Lieutenant selection process is now well-established for future selection cycles and, therefore, the May 1999 Order is no longer necessary to prevent discrimination in the future. Given that the statistics set out in the Kraus and O'Sullivan Declarations support the parties' conclusions, it is hereby

ORDERED THAT the parties' Unopposed Joint Motion to Terminate May 1999 Order [DE 838] is GRANTED. The May 1999 Order is terminated.

DONE AND ORDERED in Miami, Florida, this <sup>7<sup>th</sup></sup>~~10~~ day of August, 2018.

  
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PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc: All counsel of record