

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SAMMY KIDD,

Plaintiff,

vs.

CIV 04-1355 MCA/ACT

CITY OF ALBUQUERQUE, NEW MEXICO,
MARTIN CHAVEZ, Mayor, JAMES LEWIS,
Chief Administrative Officer, VALERIE
VIGIL, Director of Family and
Community Services,

Defendants,

DEFENDANT VALORIE VIGIL'S SUPPLEMENTAL ANSWERS TO
PLAINTIFF'S INTERROGATORIES TO VALERIE (sic) VIGIL

Defendant Valorie Vigil, through Assistant City Attorney Paula I. Forney
supplements her answers to plaintiff's interrogatories to Valerie (sic) Vigil as follows:

INTERROGATORY NO. 1: Please state the initial date of hiring Sammy Kidd
and list each community center, park, or other location at which he worked since he
was hired and each job or position he held at each such location, including for each
job or position and each work location his rate of pay, the number of hours he worked
per week, the dates of his employment, a description of his work and duties, and the
names of his immediate supervisors.

RESPONSE:

Refer to personnel and department files attached to request for production no.

1.

SUPPLEMENTAL RESPONSE: Plaintiff initially applied on March 23, 1994. Job assignments included: May 30, 1994 Park and Recreation Leader at \$4.35 per hour, 79 hours per pay period, South San Jose Community Center – Joe Turrietta; September 8, 1994 Recreation Specialist \$4.35 - \$5.60 per hour, 79 hours per pay period, Playground Program; September 29, 1995 Recreation Specialist \$4.40 - \$5.60 per hour, 79 hours per pay period, Arts and Craft and Sports Bel-Air Recreation Center – Connie Taylor; March 12, 1996 Site Supervisor at \$6.15 per hour, 79 hours per pay period, South San Jose Community Center – Connie Taylor; September 26, 1998 Recreation Leader at \$6.33 per hour, 79 hours per pay period, Northside Community Center – Rita Sanchez Webster; February 28, 2000, Recreation Specialist \$6.33 per hour, 79 hours per pay period, Barelas community Center – George Yamburo; December 28, 2001 Recreation Leader at \$7.00 per hour, 79 hours per pay period, Jack Candelaria Community Center – Ray Wright.

INTERROGATORY NO. 2: Please identify each and every unclassified “temporary” employee in the Parks and Recreation and Family and Community Services Departments since January 1, 1995, who worked in the Department for more than three years as a “temporary” employee. For each such person please also state the person’s position and job title, and dates of hire and termination or reclassification.

RESPONSE:

This defendant has no knowledge of the Parks and Recreation Department, and therefore, cannot answer with regard to that department. This defendant further objects to this interrogatory as vague, over broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. This defendant states that she is not in possession of responsive information which belongs to defendant city. Defendant city does not maintain such records for ten years in any reasonably accessible form. To respond to this interrogatory would require a hand search of each individual employee’s file to attempt to obtain the requested information. Family and Community Services Department which employed plaintiff, employs approximately 400 “unclassified temporary” employees per year. This defendant also cannot produce responsive documents which contain privileged and confidential information which would require review and possible redaction of each page of a possible 4000 employee files.

SUPPLEMENTAL RESPONSE: Original files may be reviewed by contacting Terry Armstrong, paralegal to Paula I. Forney, Assistant City Attorney, at (505) 768-4568 to arrange for a mutually agreeable time and date for review and copying.

INTERROGATORY NO. 3: For each person who worked as an unclassified “temporary” employee for more than three years with the Parks and Recreation or Family and Community Services Departments at any time since January 1, 1995, including but not limited to Sammy Kidd, please identify the person, list each “break in service” giving the dates of the start and end of each “break in service,” and state the reason(s) given to the employee for ordering or requiring the “break in service.”

RESPONSE:

This defendant has no knowledge of the Parks and Recreation Department, and therefore, cannot answer with regard to that department. This defendant further objects to this interrogatory as vague, over broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. This defendant further states that she is not in possession of responsive information which belongs to defendant city. Further, defendant city does not maintain such records for ten years in any reasonably accessible form. To respond to this interrogatory would require a hand search of each individual employee’s file to attempt to obtain the requested information. Family and Community Services Department, which employs plaintiff, employs approximately 400 “unclassified temporary” employees per year. This defendant also cannot produce responsive documents which contain privileged and confidential information which would require review and possible redaction of each page of a possible 4000 employee files.

SUPPLEMENTAL RESPONSE: Original files may be reviewed by contacting Terry Armstrong, paralegal to Paula I. Forney, Assistant City Attorney, at (505) 768-4568 to arrange for a mutually agreeable time and date for review and copying.

INTERROGATORY NO. 8: Please fully describe your knowledge and understanding, based on your own knowledge, records maintained by your Department, and information obtained from other employees and former employees, about the quantity and quality of the work performed by Sammy Kidd both during regular working hours and after hours and on weekends, including but not limited to his work as a boxing trainer, as a recreation coordinator, as a supervisor or assistant supervisor, or in any other role or position at any time since January 1, 1995. Please identify the source and include any and all information available to you concerning his work duties and responsibilities, hours worked, and his competence at the work he performed.

RESPONSE:

This defendant does not have personal knowledge of plaintiff's work performance. Information this defendant has received from plaintiff's supervisors was that plaintiff's attitude and work performance were not positive. Refer to Interrogatory no. 1 for plaintiff's supervisors.

SUPPLEMENTAL RESPONSE: Plaintiff worked 79 hours per pay period. See job duties attached to interrogatory no. 1 for plaintiff's duties and responsibilities. Defendant does not remember what exactly was said about plaintiff, only that it was not positive.

INTERROGATORY NO. 9: Please state whether after his first two years in an unclassified, “temporary” position, Sammy Kidd was qualified for a permanent, full-time, or classified position either as a recreation coordinator or in any other city position of employment, and, if so, please list and describe the positions for which he was qualified and state why he was not reclassified into a permanent or classified position either after two years of service as a “temporary” employee or at any time thereafter; if he was not so qualified, please state why he was retained as a City employee and describe any and all efforts, if any, to train and assist him to become a classified employee.

RESPONSE:

Plaintiff never bid on any “permanent, full-time or classified positions” either as a recreation coordinator or in any other city position of employment. It was the plaintiff’s responsibility to pursue on his own accord permanent employment if that was what he desired.

SUPPLEMENTAL RESPONSE: Each job position and description within the City of Albuquerque has specific requirements. Defendant is unable to state which of the hundreds of jobs within the City of Albuquerque plaintiff was qualified for.

INTERROGATORY NO. 10: Please identify each and every memorandum, correspondence, e-mail(s), reports, audits, or other communication(s) between, among, to, or from yourself, any of your predecessors, or anyone in your Department or in the Parks and Recreation Department concerning the retention of employees in unclassified or “temporary” positions.

RESPONSE:

This defendant is not in possession of any of the requested documentation. There were only verbal communications.

SUPPLEMENTAL RESPONSE: Original files may be reviewed by contacting Terry Armstrong, paralegal to Paula I. Forney, Assistant City Attorney, at (505) 768-4568 to arrange for a mutually agreeable time and date for review and copying.

INTERROGATORY NO. 11: Please identify any employees who performed work that was the same or similar to the work performed by Sammy Kidd since January 1, 1995. For each such past or present employee, please state whether that person was employed as a “temporary” or permanent, part-time or full-time, and classified or unclassified employee, and give reasons for each such employees’ status as a classified or unclassified employee.

RESPONSE:

This defendant objects to this interrogatory as vague, because it does not define “same or similar work.” Without waiving this objection, see attached documents. This information has only been electronically maintained since 1996.

SUPPLEMENTAL RESPONSE: Original files may be reviewed by contacting Terry Armstrong, paralegal to Paula I. Forney, Assistant City Attorney, at (505) 768-4568 to arrange for a mutually agreeable time and date for review and copying.

INTERROGATORY NO. 12: Please identify each applicant or candidate for the position held by Sammy Kidd after the termination of Kidd's employment and identify each person who was selected to replace (in whole or in part) Sammy Kidd, providing each such applicants prior position, job title, experience, and other qualifications. For each such applicant or candidate please state whether that person was classified, unclassified, or a non-employee at the time of application.

RESPONSE:

There was no one person selected to replace Plaintiff. Staff were moved from one location or another to supplement positions which were left vacant to insure the recreation leader II job duties were performed. Staff were recruited and hired on a commensurate basis in order to maintain state required levels.

SUPPLEMENTAL RESPONSE: There were no applicants or candidates for the position held by plaintiff.

INTERROGATORY NO. 13: Please state the wages and benefits earned by Sammy Kidd since January 1, 1995, through the date of his termination and compare his earned wages and benefits with the wages and benefits he would have earned if he had been reclassified as a regular, permanent, classified employee after his first two years of employment as a “temporary” employee.

RESPONSE:

Defendant objects to this Interrogatory as vague and requiring speculation into matters which this defendant cannot determine, including what position plaintiff would or could have had, the future raises and salary increases of such speculative position, future availability of overtime, possible future promotions and related items. Plaintiff’s personnel file has, however, been produced in response to this interrogatory and the file specifies the wages and benefits earned by plaintiff since 1995.

SUPPLEMENTAL RESPONSE: Same objection.

INTERROGATORY NO. 14: Please state whether you received a copy of the letter sent by Plaintiffs counsel to James Lewis, Chief Administrative Officer, and whether you considered counsel's request either to reclassify Mr. Kidd as a permanent employee or to set the matter for a hearing in accordance with the Merit System Ordinance. If so, please state fully what you considered doing and when and with whom you discussed the matter; if not, please state why not.

RESPONSE:

This defendant is unaware as to what letter plaintiff is referring and therefore cannot respond to this interrogatory. Had a letter been forwarded requesting reclassification or a hearing, the response would have been that, because plaintiff was a temporary employee, he could not be "reclassified" and was not subject to the Merit System Ordinance with regard to a hearing.

SUPPLEMENTAL RESPONSE: Since plaintiff has clarified which letter, this defendant did receive a copy of the letter sent to James Lewis regarding plaintiff. This defendant spoke with her staff, legal department, human resources department and City of Albuquerque administration. Plaintiff could not be reclassified, plaintiff needed to bid (or apply) for other positions within the City of Albuquerque and be hired in a classified position. As plaintiff was a "temporary" employee, he was not entitled to a hearing under the City's Merit System Ordinance.

INTERROGATORY NO. 15: Please state whether you acted on your own or on the advice or instructions of others when you terminated Sammy Kidd's employment. Please identify the advice or instructions you received from others and identify the person(s) giving such advice or instructions. Finally, please state whether you and/or those who gave you advice or instructions concerning terminating Sammy Kidd considered it mandatory to terminate "temporary" employees who had served for more than two continuous years and, if so, state why the employment was not terminated earlier and why it was not considered possible to reclassify Plaintiff into a permanent, classified position.

RESPONSE:

The decision to terminate plaintiff was made after lengthy discussions with this defendant's staff, City of Albuquerque administration, legal and human resources personnel. The decision was ultimately based on the fact that many "temporary" employees had been with the City past their two year mark. Again, plaintiff could not be "reclassified." Plaintiff failed to bid on any open positions to obtain a permanent position.

SUPPLEMENTAL RESPONSE: There were numerous individuals involved in the lengthy discussions and this defendant is unable to recall each and every person involved. Defendant is able to remember the following personnel as being present during some of the lengthy discussions: Paula Ramsey; Jim Williams; Bill Silva; Arnold Sena; Randy Autio.

INTERROGATORY NO. 17: Please identify all “temporary” Family and Community Services Department employees, with the exception of lifeguards, summer employees, or other actual “seasonal” employees, who were terminated, laid off, suspended, required to take a “break in service,” hired, rehired or reclassified since January 1,2003. For each such employee please state the action taken, the date of the action taken, and the reasons given for the action taken.

RESPONSE:

The department does not maintain a listing with the information sought and has no means of identifying such employees. See attached list of temporary/seasonal employees, with dates of employment. All temporary and seasonal employees who had been employed more than 2 years were terminated effective August, 2004.

SUPPLEMENTAL RESPONSE: Same response.

INTERROGATORY NO. 18: Please state when and how you became aware that there was any problem or concern about the long-term employment of “temporary” employees by the City of Albuquerque. Please include full and complete information about what information you sought, with whom you spoke or communicated, and what you learned or discovered.

RESPONSE:

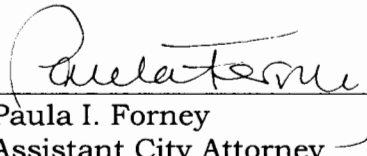
This defendant became aware of the “problem” when she became Director of Family and Community Services and determined that steps to curtail spending were required. Temporary and seasonal worker costs were identified as a source of budgetary savings.

SUPPLEMENTAL RESPONSE: This defendant spoke with her staff, legal department, human resources department and City of Albuquerque administration. This defendant requested information as to how to deal with the long-term employment of “temporary” employees from: Paula Ramsey; Jim Williams; Bill Silva; Arnold Sena; Randy Autio.

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Respectfully submitted,

CITY OF ALBUQUERQUE
Robert M. White
City Attorney

A handwritten signature in cursive script, reading "Paula I. Forney", is written over a horizontal line. The signature is enclosed in a large, thin, hand-drawn bracket on the right side.

Paula I. Forney
Assistant City Attorney
Attorney for Defendants
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(505) 768-4500