

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Civil Action No. CV-75-S-666-S</b>
	)	
<b>JEFFERSON COUNTY, ALABAMA, et al.,</b>	)	
<b>Defendants.</b>	)	
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<b>JOHN W. MARTIN, et al.,</b>	)	
<b>Plaintiffs,</b>	)	
	)	
<b>vs.</b>	)	<b>Civil Action No. CV-74-S-17-S</b>
	)	
<b>CITY OF BIRMINGHAM, ALABAMA, et al.,</b>	)	
<b>Defendants.</b>	)	

**ORDER TERMINATING CONSENT DECREE**

Upon consideration of the parties’ “Joint Motion for Termination of the Consent Decree [of Jefferson County, Alabama], With Supporting Memorandum” (doc. no. 2173), the monthly reports submitted by Jefferson County from July 2018 through December 2020, inclusive,<sup>1</sup> the May 4, 2020 “Human Resources Strategic Direction Report” of the Jefferson County Commission’s Human Resources Director and accompanying exhibits (doc. nos. 2166, 2166-1, and 2166-2), and following

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<sup>1</sup> See doc. no. 2108 (July 2018); doc. no. 2112 (August 2018); doc. no. 2115 (September 2018); doc. no. 2117 (October 2018); doc. no. 2119 (November 2018); doc. no. 2120 (December 2018); doc. no. 2122 (January 2019); doc. no. 2127 (February 2019); doc. no. 2131 (March 2019); doc. no. 2132 (April 2019); doc. no. 2135 (May 2019); doc. no. 2136 (June 2019); doc. no. 2143 (July 2019); doc. no. 2147 (August 2019); doc. no. 2150 (September 2019); doc. no. 2153 (October 2019); doc. no. 2155 (November 2019); doc. no. 2157 (December 2019); doc. no. 2159 (January 2020); doc. no. 2160 (February 2020); doc. no. 2162 (March 2020); doc. no. 2165 (April 2020); doc. no. 2167 (May 2020); doc. no. 2168 (June 2020); doc. no. 2171 (July 2020); doc. no. 2172 (August 2020); doc. no. 2174 (September 2020); doc. no. 2175 (October 2020); doc. no. 2180 (November 2020); and doc. no. 2184 (December 2020).

consultation with counsel for all parties, this court finds that Jefferson County has substantially achieved the purposes of its consent decree, and demonstrated its ability and commitment to function in compliance with federal law, absent judicial supervision.

Accordingly, it is ORDERED, ADJUDGED, and DECREED that the Joint Motion is GRANTED, and all provisions of the Consent Decree originally entered in these consolidated cases on December 29, 1982 (doc. no. 1832), together with the modifications incorporated by this court on November 12, 2013 (doc. no. 1842),<sup>2</sup> are

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<sup>2</sup> As explained in, among other places, the pleading entered by this court on November 12, 2013 as doc. no. 1842 (entitled “Jefferson County Consent Decree (as modified November 12, 2013, *nunc pro tunc* October 16, 2013)”), representatives of the plaintiffs, the Jefferson County Commission, and the Sheriff of Jefferson County, Alabama, executed the original “Consent Decree” on December 28 and 29, 1982. In doing so, the members of the County Commission and Sheriff of Jefferson County

expressed their desire to “avoid the burdens and expense of any further litigation in these consolidated actions”; pledged their commitment to ensuring that “any disadvantages to blacks and women that may have resulted from any past discrimination against them are remedied so that equal employment opportunities will be provided to all”; and, affirmed their acceptance of the terms of the agreement “as final and binding among the parties signatory hereto as to the issues resolved herein.” The consent decree was ratified and approved by Judge Sam C. Pointer, Jr., and entered on December 29, 1982.

Doc. no. 1842, at 2 (footnotes omitted). That decree was entered many years prior to this court’s adoption of the “Case Management/Electronic Case Files (‘CM/ECF’)” system, which allows pleadings to be filed and accessed electronically. Hence, for ease of reference to the parties’ pleadings and this court’s orders, the undersigned judicial officer directed that a Xerox copy of the 1982 decree be filed on October 15, 2013 as doc. no. 1832. The parties stipulate that the present motion does not implicate any provisions of the Consent Decree that referenced the obligations of the Sheriff of Jefferson County, who was released from federal judicial supervision on March 23, 2017 by doc. no. 2044. *See* doc. no. 2173 (Joint Motion), at 1 & n.1.

terminated, but upon the following conditions:

A. The provisions of paragraphs 1, 4, 33, and 50–53 of the decree, as amended below (*i.e.*, “the Non-Terminated Paragraphs”), shall remain in effect and be binding upon Jefferson County for a period of approximately eighteen months from the date of the entry of this Order — *i.e.*, until June 30, 2022:

**Paragraph 1.** The defendant Jefferson County, its officials, agents, employees, and any persons who participate in the hiring, firing, promotion or discharge of employees or applicants for employment are enjoined and restrained from engaging in any act or practice which has the purpose or effect of unlawfully discriminating against any employee of, or applicant or prospective applicant for employment with, Jefferson County because of such individual’s race, color, or sex. The defendant has agreed that all hiring, promotion, upgrading, training, job assignments, discharge or other disciplinary measures, compensation, or other terms and conditions or privileges of employment shall be maintained and conducted in a manner which does not unlawfully discriminate on the basis of race, color, or sex. Further, the County shall not retaliate against, or in any way take adverse action against, any person because that person opposes or has opposed alleged discriminatory policies or practices in Jefferson County, or because of that person’s participation in or cooperation with the investigation and trial of this action, or in any proceeding therein.

\* \* \* \*

**Paragraph 4.** In the event plaintiffs seek to enforce any provision of this Decree, they shall provide notice of their intentions to: County Attorney, Jefferson County, 716 Richard Arrington Blvd. North, Room 280, Birmingham, Alabama 35203. Such notice shall state, with reasonable particularity, the nature of the alleged violation and the relief sought. The parties shall have a period of thirty (30) days within which to resolve the matter informally. If the parties fail to resolve the matter

plaintiffs may, upon expiration of the thirty-day period, apply to the Court for an appropriate enforcement order.

\* \* \* \*

**Paragraph 33.** *Affirmative Action Officer.* The County shall appoint an Affirmative Action Officer who shall have the following responsibilities:

(a) Advise black and female employees of the terms of this decree;

(b) Post his or her office hours and location and copies of this Decree in conspicuous places within each department or operational unit of the County;

(c) Receive and investigate oral or written complaints of race and sex discrimination and conciliate such complaints when appropriate, and notwithstanding any other provisions of law, establish a written procedure which shall govern such complaints;

(d) Meet periodically with department heads to assess their progress in meeting the objectives of this Decree;

(e) Maintain a complete record of all actions taken in pursuit of the duties prescribed herein, including all correspondence directed to or from the County with respect to any complaints or investigations undertaken pursuant to this Consent Decree and any investigatory files.

(f) If, within any six-month reporting period prescribed by paragraphs 37 and 39 below, the County determines that it is failing to meet any of the objectives contained in Part II, subpart A of this Decree, the County shall require the Affirmative Action Officer to review the future selection decisions of the appointing authority in the job(s) and Department(s) in which such objectives were not met in order to ensure compliance with this Decree. As

part of this review, the Affirmative Action Officer shall review the appointing authority's written justification for failure to select certified black or female applicants in the jobs for which the objectives of the Decree were not met, and shall submit his or her written comments together with the appointing authority's written justification to the County Attorney. Appointments may be made in the job(s) and Department(s) under review while such review is pending before the Affirmative Action Officer or the County Attorney, provided, however, that blacks or women who are found to have been improperly denied employment or consideration for employment during the period covered by the review shall be eligible for re-certification and employment in a future vacancy in the jobs to which they were originally certified, with all rights, benefits and compensation that they would otherwise be entitled to under the provisions of paragraphs 1 and 2 of this Decree.

(g) The Affirmative Action Officer shall report at least semiannually to the County Commissioners and County Manager on his or her findings with respect to any investigations undertaken pursuant to his above described responsibilities.

(h) The Affirmative Action Officer referred to herein shall be appointed by the County within thirty (30) days after final approval of this Decree. The County shall inform the plaintiffs of any changes in the identity of the Affirmative Action Officer.

\* \* \* \*

**Paragraph 50.** To the extent that records referred to herein are not retained by the Personnel Board of Jefferson County, Alabama, the County shall retain during the period of this Decree necessary records concerning the implementation of this Decree. These records shall be made available to the plaintiffs for inspection and copying upon written request.

**Paragraph 51.** The records retained by the County shall include the following:

(a) A list of all organizations and schools which are contacted for recruitment purposes, showing the date that any notice of job opportunity was mailed to them, the title of the job, the number of positions within that job to be filled from that notice, and the date through which applications would be received for the job. A summary or compilation of all other recruitment efforts aimed at minorities and women shall also be maintained, together with the date and nature of the efforts and the names and job title of the County employees involved.

(b) All written applications and related records for all persons seeking employment with the County, including applications for transfer or promotion within or among departments, for a period of at least five (5) years, which shall include identification by the County of the applicant by race and sex. Such record shall also contain a statement signed by the appropriate County official, setting forth the reasons why any applicant was found not to be qualified for the position(s) applied for.

(c) With respect to any applicant who is certified for hire or promotion and who is not selected for the vacancy for which that applicant is certified, the County shall record in writing, signed by the appropriate County official, the reasons for the applicant's not being selected for that vacancy. Also, the County shall record and maintain any other written records or comments on an applicant for certification in accordance with paragraph 32(e) above.

(d) All written communications between the County and applicants for employment, transfer, and promotion.

(e) All written communications between the County and employees concerning discipline and discharge, as well as all

written reports concerning these matters.

**Paragraph 52.** On or before April 30, 1983 and thereafter semi-annually, the County shall ensure that reports are made to the plaintiffs in machine-readable form specified by plaintiffs, and contain the following information:

(a) A summary showing the total number of current employees by race and sex in each job classification for each department of the County in both the classified and unclassified service.

(b) A list of all probationary appointments for permanent full-time positions, by job classification and department, during the six-month reporting period indicating the race and sex of the persons hired or promoted.

**Paragraph 53.** On or before April 30, 1983 and thereafter annually, the County shall report to the plaintiffs the following information:

(a) A list of all persons, by job classification, department, race, and sex, to whom positions have been offered with an indication thereon of whether or not the position was accepted.

(b) A list of all promotions to permanent full-time positions in the classified service, by job classification and department, during the twelve-month reporting period indicating the race, sex, date of initial hire in the classified service and date of the promotion.

(c) A breakdown of the applicant flow for employment with the County which indicates by race and sex the number of applicants for each department and job classification in the classified and unclassified service, and the number of applicants hired, rejected, and pending for each job classification and

department. Applicant hires shall be separately identified as to Comprehensive Employment Training Act (“CETA”) positions.

(d) A summary report of the recruiting activities conducted by the County and the results of those activities.

(e) A report of the County’s implementation of the individual relief provisions of this Decree. This report shall include a statement of the monetary payments, if any, that have been made to individuals entitled to such relief. This report shall further identify each individual who has been offered a job with remedial seniority under this Decree, and whether the job offer was accepted or rejected. For any individual who was disqualified from an offer of employment under Part III of this decree, a specific statement of the reasons for disqualification shall be included in this report.

(f) [This paragraph is intentionally omitted.]

(g) Within thirty (30) days of establishment or revision, a copy of the written policy concerning background investigations required by paragraph 29.

(h) It shall be the responsibility of the County to make best efforts to ensure the accuracy of all reports and to evaluate such reports for errors and inconsistencies periodically, but on a no less than semi-annual basis. The County shall be responsible for providing to plaintiffs the final disposition of all employment decisions, providing updated reports where necessary for those decisions pending at the time of the issuance of the reports.

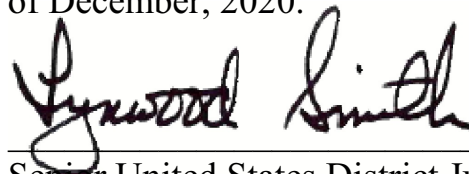
**B.** This court retains jurisdiction over the requirements of the Non-Terminated Paragraphs for the specific *and limited* purpose of considering a motion filed by any party *at least thirty (30) days before* June 30, 2022, that is based upon



the requirements of those paragraphs, and that is *supported by good cause*. In the absence of such a motion, or good cause not being shown, the requirements of Jefferson County under the Non-Terminated Paragraphs shall automatically end on June 30, 2022.

C. Counsel for the Martin-Bryant parties may apply, not later than March 31, 2021, for an award of attorneys' fees, expenses, and costs, *provided that* counsel for the Martin-Bryant parties submit to Jefferson County's Attorneys, at least thirty days prior to filing such a motion, an estimate of the amounts to be requested for fees, expenses and costs, thereby providing the parties an opportunity to work toward an amicable resolution regarding (among other matters that might be discussed) the amount of the attorneys' fees, expenses, and costs requested, as well as the terms of payment.<sup>3</sup>

**DONE and ORDERED** this 21st day of December, 2020.



Senior United States District Judge

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<sup>3</sup> See doc. no. 2173 (Joint Motion for Termination of the Consent Decree), at 32 n.9.