

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK H. MORRIS,

Plaintiff,

Case No.

Hon:

v

JAMES F. GRADY II, in his
individual and official capacities,

Defendant.

James K. Fett (P39461)
Fett & Fields, P.C.
407 N. Main St., 2nd Floor
Ann Arbor, MI 48104
734-954-0100
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Attorneys for Plaintiff

PLAINTIFF'S COMPLAINT AND JURY DEMAND

Plaintiff, through counsel, states the following claims against Defendant:

NATURE OF CLAIM

1. This is a 42 U.S.C. § 1983 action brought for promotional race discrimination and retaliation in violation of the 14th Amendment Equal Protection Clause and 42 U.S.C. § 1981; Defendant denied Plaintiff, an Inspector, promotion to Captain and instead double-promoted an unqualified Black male Lieutenant.

JURISDICTION AND PARTIES

2. Plaintiff invokes the jurisdiction of this Court pursuant to 28 U.S.C. §1331.

3. Defendant Col. James F. Grady, II, is the Director of the Michigan State Police and resides in the Eastern District of Michigan.

4. Defendant believes the Michigan State Police (“MSP”) Diversity, Equity and Inclusion (“DEI”) program is a license to violate state and federal law and a vehicle for reparations.

5. The amount in controversy exceeds \$75,000.00, exclusive of interest, costs and attorneys’ fees.

6. Plaintiff Patrick H. Morris is a White male Inspector in the MSP, and a resident of Shiawassee County, Michigan.

7. Defendant is sued in his individual capacity for money damages and in his official capacity for an order requiring him to promote Plaintiff to the rank of Captain in the MSP Commercial Vehicle Enforcement Division (“CVED”).

FACTS

Plaintiff’s Exemplary Record

8. For the past twenty-nine years, Plaintiff has been an Officer, Supervisor, District Commander, and Assistant Division Commander, all exclusively within the CVED.

9. He currently holds the rank of Inspector.

10. For the past 11 years, he has directly overseen state-wide field operations and a staff of eight lieutenants, twenty-five sergeants, ten investigators and 106 officers.

11. As an Assistant Division Commander Inspector, his duties include:

- a. Developing district specific goals and objectives to address identified traffic safety issues, including the deployment of resources;
- b. Making decisions regarding division budgeting, the administration of subprograms, and state and federal grants; and
- c. Ensuring federal and state grant objectives are accomplished within each district.

12. Plaintiff's credentials are set forth in his resume attached as **Exhibit A**.

13. Plaintiff also has a spotless disciplinary record and has received accolades for his sterling performance.

Plaintiff Serves as Acting Division Commander

14. On March 1, 2024, Plaintiff became the acting Captain and Division Commander of CVED.

15. He served in this role in exemplary fashion for nearly eight months.

16. Not filling a position for nearly eight months is extremely unusual, and throughout this time, Plaintiff consistently inquired as to when the MSP would fill the permanent Division Commander position.

17. Plaintiff's inquiries were ignored.

18. On information and belief, Defendant was holding the CVED captain position open for a Black candidate, a Black male lieutenant.

Successful Candidate's Spotty Record

19. The Black male lieutenant is vastly unqualified for the position of Division Commander of the CVED Department.

20. He has no experience in commercial enforcement.

21. He has a disciplinary record, including discipline for homophobic rants while leading a meeting for members at his post, lying about it to Internal Affairs, and intimidating lower ranking officers.

22. Indeed, the lieutenant was not even qualified for the District Inspector position in his own District, a position he was recently denied.

23. The disparity in qualifications between Plaintiff and the lieutenant is “so apparent as to virtually jump off the page and slap you in the face.” See *Ash v. Tyson Foods, Inc.*, 546 U.S. 454, 456 (2006).

Race over Merit

24. Defendant’s unique view of DEI was on full display in the promotional process at issue.

25. In November of 2024, Defendant finally held interviews for the CVED Division Commander Captain position.

26. Plaintiff and the Black male lieutenant were interviewed for the position.

27. The interview panel consisted of Defendant, Lt. Col. Aimee Brimacombe, and Lt. Col. Dave Sosinski.

28. Unfortunately, Plaintiff's interview was a farce.

29. Defendant arrived fifteen minutes late, was inattentive, and took few, if any, notes.

30. One of Defendant's few questions inquired as to Plaintiff's thoughts on DEI.

31. Unfortunately for Plaintiff, he does not share Defendant's radical view of DEI.

32. Plaintiff indicated that he believes in "diversity," but that it must occur organically, and all employment decisions must be based on merit.

33. Defendant does not tolerate views of diversity which differ from his own and has made this clear to members of the MSP.

34. On November 6, 2024, the MSP informed Plaintiff that the Black male lieutenant was selected for the position.

35. The promotion meant that the lieutenant bypassed the Inspector rank (Plaintiff's rank) to become Division Commander (Captain) of a division he knew nothing about.

36. Plaintiff was, by all accounts, the most qualified candidate in all of the MSP for the position.

37. Defendant denied Plaintiff this promotion because of his race.

38. The Black male lieutenant has no substantive knowledge of commercial vehicle enforcement and as a result, Plaintiff must mentor him to perform the CVED Captain position.

COUNT I
RACE DISCRIMINATION
42 U.S.C. §1983

39. Plaintiff incorporates by reference the preceding paragraphs.

40. Plaintiff is a white male.

41. At all times Plaintiff was a high performing employee.

42. Defendant denied Plaintiff a promotion based on his race in violation of the Equal Protection Clause of the 14th Amendment.

43. Defendant's denial of equal protection to Plaintiff violates 42 U.S.C. §1983.

44. As a proximate result of Defendant's unlawful conduct against Plaintiff as described above, Plaintiff has suffers injuries and damages, including but not limited to, loss of earnings and earning capacity; loss of career opportunity; humiliation, outrage, embarrassment, mental and emotional distress and the physical manifestations of those injuries.

WHEREFORE Plaintiff requests that this Court enter judgment against Defendant in his official or personal capacities, as appropriate, for:

- a. Economic damages (personal capacity);
- b. Non-economic damages to compensate for the mental and emotional distress, outrage, and humiliation he has suffered, and continues to suffer, as a result of Defendant's illegal actions (personal capacity);
- c. Costs, interest and reasonable attorney fees as provided by 42 U.S.C. § 1988 (both);
- d. Punitive damages against Defendant in his personal capacity;
- e. Promotion to the rank of Captain and an injunction against Defendant's illegal racial practices (official capacity);
- f. A declaration that Defendant's official capacity conduct as described above violates the state and federal constitutions and statutes; and
- g. Such other equitable relief as the Court deems just.

COUNT II
RETALIATION 42 U.S.C. §1981 & § 1983

45. Plaintiff incorporates by reference each of the preceding paragraphs.
46. Plaintiff engaged in protected activity under 42 USC Sections 1983 and 1981 by opposing Defendant's unique view and application of the MSP's DEI program.

47. Defendant denied Plaintiff promotion to Captain because he opposed Defendant's view and application of DEI.

48. Defendant's denial of promotion on this basis violates 42 USC § 1983 and 1981.

49. As a proximate result of Defendant's illegal conduct, Plaintiff suffers emotional distress, especially outrage, lost opportunities, loss of reputation, embarrassment and the physical manifestations of these injuries, as well as economic damages.

WHEREFORE Plaintiff requests that this Court enter judgment against Defendant in his official or personal capacities, as appropriate, for:

- a. Economic damages (personal capacity);
- b. Non-economic damages to compensate for the mental and emotional distress, outrage, and humiliation he has suffered, and continues to suffer, as a result of Defendant's illegal actions (personal capacity);
- c. Costs, interest and reasonable attorney fees as provided by 42 U.S.C. §1988 (both);
- d. Punitive damages against Defendant in his personal capacity;
- e. Promotion to the rank of Captain and an injunction against Defendant's illegal racial practices (official capacity);
- f. A declaration that Defendant's official capacity conduct as described above violates the state and federal constitutions and statutes; and
- g. Such other equitable relief as the Court deems just.

Respectfully submitted,

/s/ James K. Fett

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734-954-0100
jim@fettlaw.com
Attorneys for Plaintiff

Dated: January 28, 2025

JURY DEMAND

Plaintiff, through counsel Fett & Fields, P.C., demands trial by jury in the above-captioned matter.

Respectfully submitted,

/s/ James K. Fett

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Dated: January 28, 2025

EXHIBIT A

PATRICK H. MORRIS

Objective

I want to use my training, education, and accumulated experience to the fullest extent possible.

CONTACT

Patrick Morris
Assistant Division Commander Commercial
Vehicle Enforcement Division
Michigan State Police

PROFESSIONAL PROFILE

For the past twenty-eight years I have been a member of the Michigan State Police Commercial Vehicle Enforcement Division (CVED). I currently hold the title of Assistant Division Commander and oversee the state-wide deployment of more than 160 enforcement members engaged in a wide range of commercial vehicle enforcement.

I serve as departmental representative to the public, industry, county, and local law enforcement agencies regarding commercial vehicle enforcement issues. At times, I am called upon to arbitrate disputes between commercial vehicle enforcement officers and the transportation industry regarding federal and state laws and regulations. I Promote management decisions, policies, and programs through effective communication methods with industry personnel and draft correspondence and responses to departmental personnel, the public, transportation industry officials, and outside agencies.

I administer all multi-state and national programs for CVED. These programs include Operation Brake Check, Operation Road Check, Operation Safe Driver and multi-state operations with Ohio, Kentucky, and Indiana. I draft press releases for such events and conduct radio, phone, and television interviews.

As the Assistant Division Commander, I develop district specific goals and objectives to address identified traffic safety issues, including the deployment of resources. I make decisions regarding district budgeting, the administration of subprograms, and state and federal grants. In addition, I ensure federal and state grant objectives are accomplished within each district. There are a total of eight districts state-wide.

I am skilled with grant writing and overview and responsible for the enforcement portion of the Commercial Vehicle Safety Plan (CVSP) submitted to the Federal Motor Carrier Safety Administration (FMCSA) annually. CVED is the lead agency in Michigan for commercial vehicle enforcement and responsible for the grant submission. In addition, I am responsible for Michigan's Annual Size and Weight plan submitted to the Federal Highway Administration (FHWA). These submissions ensure funding in the amount of 28 million dollars is not disrupted.

As the Assistant Division Commander, I also oversee our hazardous material (HM) enforcement, and ten investigators engaged in compliance reviews across the State of Michigan. Michigan's borders and roadways are used extensively for the transportation of a variety of HM products including potentially high-risk highway route-controlled radioactive materials.

EXECUTIVE CORE QUALIFICATIONS

LEADING CHANGE

As the Assistant Division Commander, I oversee the state-wide deployment of more than 160 enforcement members engaged in a wide range of commercial vehicle enforcement. At times, I am called upon to arbitrate disputes between commercial vehicle enforcement officers and the transportation industry regarding federal and state laws and regulations.

In 2021, I arranged for a meeting with legislators from the Michigan House of Representatives and numerous commercial trucking companies in northern Michigan. Several legislators had received complaints about enforcement action taken by enforcement members. I worked directly with the legislators and industry to facilitate the meeting. The intent of the meeting was to educate the industry about our job, learn more about their job and concerns involving commerce, provide industry specific training, and spend meaningful time conversing as a group.

The meeting was the first to have law enforcement, legislators, and the trucking industry together at one venue. The meeting was very successful and has resulted in more collaboration between the Michigan State Police, Michigan legislators, and the industry. I have been asked by all parties to facilitate an annual meeting.

In 2013, I developed a Regional Policing Plan (RPP) for CVED enforcement members. A key element of the plan was to deploy more uniformed supervisors (sergeant rank) to road patrol, thereby increasing visibility and providing more interaction with the officers. I listed the pros and cons in the plan and outlined an implementation scheduled along with expectations. The plan was not cost neutral since additional patrol units had to be purchased and equipped for each supervisor.

The RPP is still in use and has expanded over the past decade. The plan has had a profound impact on the deployment of personnel, increased morale, patrol visibility and enforcement operations. Supervisors interact with their personnel daily and are engaged with current trends or issues involving enforcement members.

I expanded the program in 2015 with the implementation of the Assigned Vehicle Program (AVP). The AVP allows members meeting the program criteria to take their assigned patrol unit home. The member starts and ends their day from their residence verses at a police post location. The program has had a significant impact on delivery of services.

The AVP is viewed favorably with many benefits to both the department and employee. Most personnel assigned to the AVP view it as an "earned benefit," which seems to enhance morale.

The AVP has enhanced coverage in most areas and has led to greater visibility in Michigan's communities. Properly placed, the AVP can blanket a region and eliminate duplication of effort.

The AVP has alleviated overcrowding issues at many post sites. This is especially evident at large post locations. These posts have seen a dramatic increase in personnel assignments and often lack adequate space to provide lockers, workstations, and parking.

Overall, vehicles and equipment appear to be better cared for by those assigned to the AVP. It is evident, during work site inspections, that these vehicles are maintained with more pride and purpose.

Patrol vehicles traveling through our local communities have a direct impact on all types of traffic. In addition, these vehicles parked in our local neighborhoods enhance the department's connection with the community.

LEADING PEOPLE

As the Assistant Division Commander, I have a responsibility and desire to lead and develop all members under my command. The welfare and morale of all personnel are extremely important to me. My ability to listen and understand what personnel need has benefited me throughout my career.

In 2014, I established a Focus Group to look at topics brought to command by our members. I selected the group based on supervisor feedback and location of assignment. I did ask supervision to select a diverse group of volunteers to spearhead this project. My goal was to have a group that represented all districts, and took all age groups, gender, and years of service into consideration. The group was formed and was a solid representation of our members. The group is still in place today and assignments are rotated on a bi-annual basis. The group has proven to be extremely beneficial and has led to a more inclusive environment where thoughts, ideas and request can be heard. Several ideas from the group have been implemented to include new equipment, training programs, and policy development.

In 2019, I requested each district select an officer to attend monthly supervision meetings. The purpose was to include other ranks in our meetings and to promote transparency. This has proven to be a very successful approach and is now a standard practice. Personnel can view and participate in supervision meetings and share their opinion on a variety of topics. It is also an effective way to attract and develop future supervisors. This approach has also increased morale in the workplace. Members talk to each other and as they become more familiar with supervision and witness how much work and thought goes into major decisions. It also leads to better buy-in by members when changes are made.

RESULTS DRIVEN

As the Assistant Division Commander, I am responsible for the annual inspection of all work sites, vehicles, and personnel under my command. The inspection process is to ensure compliance with orders, policies, and procedures. I also audit the expenditures of command personnel to ensure procurement of goods, contracts and purchase agreements follow guidelines.

In 2015, I developed a training program for all newly promoted supervisors. All supervisors within their first-year assist with a work site inspection. Supervisors are educated on all sections of the process and assigned categories to evaluate, rate and report on. Since the inception of the program, work sites have improved significantly. The average compliance rate has increased from 70 percent to 95 percent. Several work sites have achieved 100 percent in recent years.

In 2024, I worked with members to develop and deploy a digital messaging campaign aimed at gaining commercial vehicle driver compliance.

BUILDING COALITIONS

I encourage working relationships with other agencies and within the department. These relationships establish effective communication and build a climate of trust. As the Assistant Division Commander, I rely on these relationships to strengthen enforcement operations and improve the overall mission of the Michigan State Police (MSP). Since 2007, I have worked closely with the Michigan Department of Transportation (MDOT) to develop safe enforcement sites. As a result, safe enforcement sites have been completed throughout the state. In 2008, MDOT, in collaboration with the MSP, I established a commercial vehicle enforcement steering committee (CVST). The Infrastructure Subcommittee (CVST-IS) was formed to develop and implement the strategies necessary to be in accordance with the goals and expected outcomes of the CVST. The Infrastructure Subcommittee is responsible for promoting activities which protect highway infrastructure through targeted enforcement and optimized investment of limited resources. I currently co-chair the committee with my MDOT counterparts.

In 2020, I co-founded the Michigan State Police (MSP) Employee Veterans Resource Group (EVRG). The Purpose of the MSP Military Veteran Employee Resource Group is to connect members of the MSP that have served or are still serving in the Armed Forces of the United States. I am currently the co-chairperson for the EVRG and help facilitate quarterly meetings, public

outreach and events, quarterly newsletter, and annual reports. MSP has 470 veterans within the department, and we are involved in a variety of internal and external veteran related programs.

The EVRG has five primary goals. Develop a veterans day recognition program, create and EVRG newsletter, develop and ongoing partnership with Military Veterans Affairs Agency (MVAA), assist with the recruitment of veterans, and develop a veteran leadership mentoring program.

I have also represented MSP at the national level and serve on several committees aimed at improving commercial vehicle safety. I work with the American Association of Motor Vehicle Administrators (AAMVA) and serve on the Motor Carrier Working Group. The group is comprised of ten members and tasked with identifying potential opportunities for AAMVA to expand its services and provide support to its members who work on motor carrier related issues. While following AAMVA's mission, vision, and goals; the Working Group's final report will include what gaps, if any, exist in jurisdictional motor carrier support and that warrant the AAMVA community's focus, that are not already within the scope of other government and non-profit organizations. The group is diverse and made up of members from other Virginia Department of Motor Vehicles, Michigan State Police, Ontario Ministry of Transportation, Montana Department of Transportation, Texas Department of Transportation, Idaho Department of Transportation, and Vermont Department of Transportation.

I currently serve as the national President for the Motor Vehicle Criminal Interdiction Association (MVCI). As MVCI President, I oversee a staff of eight board members and work directly with the El Paso Intelligence Agency. MVCI provides training to thousands of local, state, and federal employees annually and has been doing so for 33 years. I have served with organization for ten years and five as the President. Specifically, I work to develop a curriculum that is constantly evolving to address emerging trends, specific training needs, and professional development.

BUSINESS ACUMEN

I am skilled in the procurement process and oversee the development of all weigh station builds. I work closely with the Department of Management and Budget, MDOT, MSP Facility Management and contractors to ensure the buildings are managed from start to completion. I am currently overseeing two large weigh station builds totaling \$12 million dollars.

In 2020, I developed a review process for prioritizing weigh station enhancements. I executed an annual program budget that exceeded \$12 million dollars aimed at improving weigh station facilities. I was able to do so by using carry-forward funds from previous years. I worked through budget and finance to develop language that would allow carry forward funds to be assigned as a work project. This protected the funds and allowed them to be rolled forward for up to three years. Prior to the allocation of carry-forward funds, no new weigh station facilities had been built in the State of Michigan since 1978.

I led a team to determine which facilities to improve and which ones to replace. This was based on multiple factors such as age of facility, recent improvements, location, traffic volumes, traffic crash data, number of overweight vehicles detected, and available technology (fiber optic or cable lines).

I developed a strategic plan and categorized each weigh station as a short-, medium- or long-term project. As a result of these efforts, four facilities have received needed cosmetic and technology updates. A new facility was completed at our westbound I-96 Fowlerville location. A grand opening was hosted in June of 2023. Several more large-scale projects are planned for 2023-2024.

In 2024, I worked with our financial staff to reorganize how we deploy funds and cost allocate across sources.

COMMUNITY OUTREACH

In 2018, I started volunteering for Wreaths Across America. National Wreaths Across America Day is the culmination of a yearlong mission to remember the fallen, honor those who serve and teach the next generation the value of freedom. This mission is in part carried out each December with

the placement of sponsored veterans' wreaths on the headstones of those who have served our country. The observance is designated annually on a Saturday in December by Congress.

My individual involvement has grown to include the Michigan State Police. In 2022, MSP dedicated 20 patrol units and more than 35 MSP employees and family members to the cause. We are involved with opening ceremonies at both the Great Lakes and Fort Custer National Cemeteries. I work in collaboration with both national facilities to gain early access for MSP and help facilitate the event. In addition, CVED personnel work with Matrix Trucking, a Michigan based carrier with the transport and unloading of wreaths for the event.

HIGHLIGHTS

- Several years of leadership experience at the executive management level
- Proven ability to deal with complex situations.
- Strong understanding of technology
- Strong leadership skills
- Excellent Communication Skills
- Experience with policy development and project coordination.

EDUCATION AND SPECIALIZED TRAINING

- Michigan State University, School of Staff and Command (Criminal Justice)
- Michigan Procurement Manager Program
- Michigan Executive Development Seminar (Federal Bureau of Investigation)
- Leadership in Police Organizations (International Association of Chiefs of Police)
- Commercial Vehicle Contraband Interdiction for Supervisors (Federal Motor Carrier Safety Administration)
- Incident Command School (Emergency Management Institute)
- Coastal Carolina Community College (Criminal Justice)
- Baker College (Computer Science)

WORK HISTORY

September 1995 to Present - Michigan State Police

- Oversee the deployment of more than 160 enforcement personnel engaged in a wide range of commercial vehicle enforcement.
- Develop budget recommendations for personnel and equipment.
- Formulate current and long-term strategic plans and policies.
- Analyze data to determine efficient deployment of personnel.

- Conduct staff and training meetings to discuss operating problems, organization, budgetary matters, personnel matters, technical issues and status of programs and projects.
- Conduct employee evaluations and set performance objectives.
- Develop metrics to determine effectiveness of personnel and programs.
- Conduct work site inspections to ensure compliance with rules and regulations.

December 1990 to December 1994 – United States Marine Corps

- Responsible for the training and wellness of 24 Marines engaged in security operations.
- Served as Sergeant of the Guard, Range Control Supervisor, and Amphibious Assault Crew Chief
- Conducted performance evaluations.