

**BEFORE  
THE PRINCE GEORGE'S  
COUNTY HUMAN RIGHTS  
COMMISSION**

**IN RE: HENRY LEWIS**

**Complainant**

**By**

**EXECUTIVE DIRECTOR**

**vs.**

**BOARD OF  
EDUCATION OF  
PRINCE GEORGE'S  
COUNTY**

**Respondent**

Office of Human Rights  
Clerk Received 6-29-2021

**HRC Case No.: HRC17-0809  
EEOC Case No.: 531-2017-00390**

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**THE OPINION AND ORDER  
OF  
THE PRINCE GEORGE'S COUNTY HUMAN  
RIGHTS COMMISSION**

Under the authority of Article 12 of the Code of Public Local Laws of Maryland, Prince George's County §2-185 et seq. (2011 Edition, as amended), the Prince George's County Human Rights Commission ("Commission") adjudicates the Charge of Discrimination brought by Complainant Henry Lewis against Respondent Board of Education of Prince George's County for alleged age discrimination in violation of the Age Discrimination in Employment Act of 1967, amended.

This matter was called for Public Hearing before a three-member Panel ("Panel") of the Commission on January 28, 2020, December 15, 2020, December 16, 2020, January 27, 2021 and February 3, 2021. After hearing all witnesses, the Panel recommended to the full

Commission that: the Respondent, Board of Education of Prince George’s County, provided a legitimate non-discriminatory reason for not selecting Complainant Lewis for a Project Manager Supervisor position advertised under vacancy announcement IRC85652 and, therefore, no age discrimination occurred. As outlined in detail below, the Commission unanimously accepts the recommendation of the Panel.

## **I. FINDINGS OF FACT**

The following Findings of Fact are derived from the Public Hearing convened on January 28, 2020, December 15, 2020, December 16, 2020, January 27, 2021 and February 3, 2021, including witness testimony and admitted exhibits.

### **A. BACKGROUND**

Complainant Henry Lewis (“Mr. Lewis”) is a 66-year-old individual residing in Springfield, Virginia, who was hired as Project Manager II in June 2012, for Prince George’s County Public Schools (“PGCPS”). *See* Lewis Transcript (hereafter, cited as “Lewis Tr.”), 122-123; *See* Executive Director (“ED”), Exhibit (“Ex.”) 7.<sup>1</sup> Mr. Lewis has a Bachelor of Architecture degree, an Architecture License from the states of Maryland and Virginia, and a LEED Accredited Professional certification in Building Design Construction. *See* Lewis Tr. at 124-125. The Respondent is the Board of Education of Prince George’s County (“Respondent”) located in Upper Marlboro, Maryland and provides public education services to the residents of Prince George’s County.

In November 2016, Mr. Lewis initiated this action by filing a Charge of Discrimination against the Respondent. Ex.7. Mr. Lewis alleged that the Respondent discriminated against him based on his age. *Id.* Mr. Lewis alleged that he did not receive a

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<sup>1</sup> References to “Exhibit” or “Ex.” in this Order refer to the Executive Director’s exhibits.

promotion to the position of Project Management Supervisor despite the fact that he maintained superior credentials and had extensive experience for the position. *See* Ex. 8. He asserts that, instead, Mr. William Smith (“Mr. Smith”), a younger applicant with lesser credentials, was selected for the position. *Id.* Respondent denies the allegation that Mr. Lewis was not selected for the position because of his age. *See* Ex. 12.

On or about April 5, 2016, the Project Management Supervisor position advertised under vacancy announcement IRC85652 was posted via PGCPS iRecruitment and the position posting closed on April 29, 2016. *Id.* The posting required that eligible candidates maintain a “professional degree from an accredited college or university in architecture or engineering” and preferably possess a “PE or architectural license” and “USGBC LEED AP” certification. *Id.* In May 2016, Mr. Lewis applied for the Project Manager Supervisor position with PGCPS. *See* Lewis Tr., 131:4-11). At the time that Mr. Lewis applied for the position, the position had been vacant for six or seven months. *Id.* at 132:13-20.

In July 2016, Mr. Lewis was interviewed for the Project Manager Supervisor position by three panelists. *Id.* at 153. Five other candidates also interviewed for the position, including Mr. Smith, who was 36 years of age. *See* Ex. 12; *See* Ex. 20. The remaining candidates were ages: 42, 48, 61 and unknown. Ex. 20. Mr. Lewis ranked fifth out of the six candidates who interviewed for the Project Management Supervisor position. *Id.* Out of the six candidates, Mr. Smith earned the highest interview score and was selected for the position. *Id.* Mr. Lewis then filed a grievance with the Prince George’s County Board of Education alleging age discrimination and stated the following as examples of the alleged disparate treatment:

- Mr. Smith’s opportunity to attend senior planning meetings. Members of that team include Rupert McCave, Ron Skyles, Shayla Taylor, Andrew Onukwubiri, and Sarah Woodhead (starting two months before Smith’s

selection).

- Mr. Smith's opportunity to act in the position of Acting Project Management Supervisor by providing written direction via email to Project Management staff (starting approx. two months before his selection . . .).
- Mr. Smith's opportunity to chair meetings with the Chief Operating Officer, Ms. Goldson (starting approx. one year ago).
- Mr. Smith's assignment to high level projects (i.e. Tulip Grove ES, approx. one year ago). In contrast Grievant had a high profile project named Glendarden Woods, removed from him . . .).
- Mr. Smith was assigned signature and management authority when the previous Project Management Supervisor was away on leave. Grievant was never assigned this responsibility.
- Mr. Smith's supervision of contracted personnel.

*See Ex. 6.*

Mr. Lewis further alleged additional evidence of age discrimination:

- Mr. Lewis is over 61 years old. Mr. Smith is younger (estimated 36 years old).
- Mr. Smith holds no licenses or certifications and lacks the proper experience to oversee a project management division.
- Mr. Lewis had no job evaluations for the past two years. Without a job evaluation, it was impossible for him to officially express his interest in gaining training for the supervisory position.
- In addition to Mr. Lewis, at least two of the other job applicants were over the age of 40 and held professional licenses and superior qualifications over Mr. Smith, the candidate selected for the position.

*See Id.*

After an investigation, the Respondent determined that Mr. Lewis had not been subjected to discrimination because there was no evidence to substantiate Mr. Lewis' claim that he was not offered the position as a result of his age. *Id.* All but one of the candidates who interviewed for the position scored higher than Mr. Lewis. *Id.* Five of the six candidates met the minimum educational requirements. *See Lewis Tr., 48: 7-24.* Mr. Smith

was the candidate who did not meet the minimum education requirements. *Id.*

Accordingly, a recommendation was made that the Project Management Supervisor position be reposted adhering to all screening, interviewing and other staffing protocols. *See Ex. 6.* On July 24, 2017, the position was reposted under job vacancy number IRC99472, and the education requirements were changed to only require a professional degree from an accredited college or university with some coursework in Architecture, Engineering, or Construction Management. *See Lewis Tr.*, 37: 18-25, 38; *See Ex. 18.*

On March 7, 2017, Mr. Lewis appealed the administrative decision denying his claim of age discrimination. *See Ex. 9.* Mr. Lewis alleged that he proved a prima facie case of age discrimination. *Id.* In a decision dated April 4, 2017, the Prince George's County Public Schools Office of Appeals denied Mr. Lewis' appeal. *See Ex. 10.*

## **II. ANALYSIS**

### **A. Applicable Law**

Under Prince George's County Code, Subtitle 2, Division 12, Sections 2-185 and 2-222, no employer shall discharge or "act against that person with respect to compensation or other terms and conditions of employment" because of discrimination, including discrimination based on age. Under Federal law, in accordance with the Age Discrimination in Employment Act of 1967, it is unlawful for an employer to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age. (29 U. S.C. 623(a)(1)).

## B. Disparate Treatment

When an employee brings a claim of age discrimination, there are two different methods of proof. First, a complainant may rely on direct evidence that discrimination motivated the adverse employment decision. *Williams v. Maryland Dep't of Human Res.*, 136 Md. App. 153, 163 (2000). "Evidence is 'direct' . . . when it consists of statements by a decisionmaker that directly reflect the alleged animus and bear squarely on the contested employment decision." *Williams*, 136 Md. App. at 163 (citation and quotations omitted).

Second, a complainant may establish discrimination by proof of circumstantial evidence under the judicially created scheme established by *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); *Williams*, 136 Md. App. at 163. Under the *McDonnell Douglas* framework, the complainant must first establish a prima facie case of discrimination, which gives rise to a rebuttable presumption of discrimination. *State Comm'n on Human Relations v. Kaydon Ring & Seal, Inc.*, 149 Md. App. 666, 676-77 (2003). If the complainant establishes a prima facie case of discrimination, the burden of production shifts to the employer to state a legitimate, non-discriminatory reason for the action complained about. *Id.* at 676. "If the employer meets this burden, the burden shifts back to the employee to 'prove, by a preponderance of the evidence, that the employer's stated reason for the termination was a pretext.'" *Id.* at 676-77. To establish a prima facie case of disparate treatment based on age, a Complainant must show: (1) membership in a protected class, meaning individuals over the age of 40; (2) application and qualification for the position he sought; (3) a non-selection, despite his qualifications; and (4) that the employer selected an individual outside of Complainant's protected class for the position. *See Collins v. Catholic Charities* (Md. App. 2016).

In this matter, there is no direct evidence, by witness testimony or admitted exhibits, that the selecting official made statements to indicate that Mr. Lewis was unqualified for the Project Management Supervisor position because of his age. Therefore, Mr. Lewis has failed to prove his case of age discrimination using direct evidence.

With regard to a prima facie case of age discrimination, there is no dispute that Mr. Lewis is a member of a protected class. At the time he applied for the Project Management Supervisor position, Mr. Lewis was over the age of 40 years old. He was 61-years-old. The Project Management Supervisor position required that eligible candidates maintain a “professional degree from an accredited college or university in architecture or engineering” and also indicated that a “PE or architectural license” and USGBC LEED AP” certification was preferred. Mr. Lewis has a Bachelor of Architecture degree, an Architecture License from the states of Maryland and Virginia, and holds a LEED Accredited Professional certification in Building Design Construction. As such, Mr. Lewis was qualified for the Project Management Supervisor position. Mr. Lewis was not selected for the position despite his qualifications. Instead, the position was offered to Mr. Smith, who also held the position of Project Manager II. Mr. Smith was under the age of 40 years old. He was 36-years-old. Therefore, from these facts it can be inferred that Mr. Lewis was not selected for the position due to his age.

The burden now shifts to the Respondent to state a legitimate, non-discriminatory reason for Mr. Lewis not being selected for the Project Management Supervisor position. The Respondent presented evidence through witness testimony and admitted exhibits that Mr. Lewis’ non-selection for the position was for legitimate and non-discriminatory reasons.

Sarah Woodhead (“Ms. Woodhead”) held the position of Director of Capital

Programs at the Board of Education of Prince George's County at the time Mr. Lewis applied for the Project Management Supervisor position. *See* Lewis Tr., 200:12-20. Ms. Woodhead was also the lead interview panelist, who interviewed the candidates for the Project Management Supervisor position. *See Id.* at 43:7-16. Ms. Woodhead testified that the interview panel had a set list of questions that the panel asked every candidate who interviewed for the position. *See Id.* 213:7-10. The interview questions were placed in front of the seat each candidate sat in for the interview so that the candidate could see the questions. *Id.* at 215: 5-19. The interviewers also took turns reading the interview questions to the candidates. *Id.* Each interviewer had a score sheet to score the candidates' answers to each question. *Id.* Each panelist scored the candidates independently of one another. *See Id.* at 216: 11-24. Ms. Woodhead testified that the interview process was fair and that the Project Management Supervisor position is not an easy position to fill. *Id.* at 249: 20-25; 250: 1-18.

20 **MS. SETTLES:** Okay. Can you just describe what leads you to  
21 state that the interview process was fair?

22 **MS. WOODHEAD:** Well, we pulled together a pool of applicants  
23 who met the qualifications for the position. Our goal in  
24 the process was to find the best person for this position.  
25 It's a challenging position and not an easy one to fill.

1 And so the school system really needed to have a strong  
2 candidate in that position, and that could be an internal  
3 candidate or it could be an external candidate. It could  
4 be someone we've never seen before, never heard of until  
5 they sat down to do their interview. And so it was very  
6 important that it be open and impartial, and that's what  
7 we conducted.

8 **MS. SETTLES:** Okay. Now, you indicated or you testified that  
9 this was not an easy position to fill. What do you mean  
10 by that?

11 **MS. WOODHEAD:** I mean, it's a hard job overseeing multiple



12 projects and many project managers within a program that  
13 has budget constraints and schedule constraints, local  
14 regulations, state regulations. It's a tough environment  
15 to produce projects in. And so finding the right person  
16 is a challenge. It's not something that, you know, an  
17 average person could do. It takes somebody, I think, with  
18 some extraordinary skills.

*Id.*

Ms. Woodhead further testified that Mr. Lewis' answer to the program management question was weak. *See Id.* at 220: 5-9. She stated that Mr. Lewis was poised, articulate, and had good credentials, but his challenge was creative problem-solving and understanding managing a program of projects. *Id.* at 220: 13-25; 221:1-5. According to Ms. Woodhead, creative problem-solving and understanding a program of projects as opposed to individual projects is the difference between a Project Manager and a Project Management Supervisor. *Id.*

Ms. Woodhead stated that a successful Project Management Supervisor applicant would possess the ability to manage multiple people and projects. *Id.* at 225. She stated that a successful candidate would also be able to develop and continue on a budget, maintain cost control, and maintain quality control. *Id.* at 227. Ms. Woodhead stated that she had concerns about Mr. Lewis' projects in his role as a Project Management II. *Id.* at 44:6-25. According to Ms. Woodhead, Mr. Lewis' projects were often late, over budget, and did not perform well. *Id.*; *See Id.* at 246-247. Ms. Woodhead stated that she also lacked confidence in Mr. Lewis' leadership abilities. *Id.*; *See Id.* at 245. Ms. Woodhead further testified that Mr. Smith was recommended as being the most highly qualified person for the position based on his interview, writing sample, resume, and work experience. *See Id.* at 259.

### **III. CONCLUSION**

Based on the witness testimony and admitted exhibits presented, there is no direct or circumstantial evidence to show that Complainant was not selected for the Project Manager Supervisor position because of his age. The Respondent proffered a legitimate and non-discriminatory reason for Complainant's non-selection when explaining why the interview panel gave him a low interview score and overall low ranking of only fifth out of the six candidates interviewed for the position. Complainant failed to rebut this explanation with any evidence of age animus on the part of the interview panel. Furthermore, with the exception of Mr. Smith, all of the candidates interviewed for the position were also over the age of 40 and in the same protected class as the Complainant. This further suggests that age was not a factor in the Complainant's ranking and nonselection for the position. Accordingly, we find that no discrimination occurred in this case.

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**ORDER**

Pursuant to the authority conferred on this Commission by Section 2-195, Division 12, Prince George's County Code, 1991, as amended, for the reasons stated above, the Commission issues this Opinion and Order and finds that the Respondent, Board of Education of Prince George's County, did not discriminate against the Complainant on the basis of age in violation of the Age Discrimination and Employment Act of 1967, as amended, or the Prince George's County Code Section 2-222.

The Complaint initiating this action, HRC17-0809, is dismissed with prejudice.

On the 28th day of June, 2021, **IT IS SO ORDERED.**

Under Section 2-197-C of the Prince George's County Code, any party aggrieved by a final decision of the Commission in a contested case is entitled to file an appeal pursuant to Subtitle B of the Maryland Rules of Procedure, Annotated Code of Maryland,

within 30 days from the date last entered above.



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Prince George's County  
Human Rights Commission

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Adonna Green, Commissioner  
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