

The Burden of Bias | For 1 black, highest hurdle was red tape

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Author: Nancy Cleeland

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Ten years ago, Rodney Belle had a dream. He wanted to be a San Diego fireman.

Belle had a good shot at the job. He was young, athletic and black -- just what the racially imbalanced department needed to satisfy affirmative action guidelines. He signed on as a probationary firefighter and trained for four months. He came within two days of graduating.

Then he failed an exam by two points and was immediately discharged.

The action stunned Belle. Calling the test unfairly subjective, he said it left him the victim of racial discrimination. He decided to fight back. With a plethora of civil-rights laws and government agencies on his side, he thought it would be easy.

What he found instead was a confusing bureaucracy that seemed mired in its own inertia. Agencies set up to pursue discrimination cases waited months before investigating, then told him he lacked hard evidence. Attorneys refused to help without up-front cash. Even after he won his case in Superior Court, appeals tied up the judgment for three years.

Finally last June, Belle settled his case with the city for \$47,000. It took 10 years, more than \$30,000 in attorneys' fees, countless court appearances and thousands of research hours to get there. In the end, he barely covered his expenses.

Yet he said he would do it again. "If it (the settlement) wasn't but a dollar I think it would still be worth it," said Belle, now an electronics technician at North Island Naval Air Station. "Somebody had to make that decision to go ahead with it."

Few people who consider themselves victims of racism are as willing or financially able to fight the system. And so anti-discrimination laws that look good on paper often don't work in practice.

"We have a misconception that everyone is going to cry discrimination when it occurs and that's just not the case," said Linda Nolan, San Diego director of the state Fair Employment and Housing Department, which investigates complaints of discrimination. "There are a lot more people who don't file than do."

Fear of being labeled a troublemaker keeps many from filing; others avoid government agencies out of pride, a feeling that "I can take care of my own problems," Nolan said.

But most are simply overwhelmed by an intimidating process that requires large investments of time and money. "It's hard enough if you're an attorney to wiggle your way through the system," said Michael Crowley, one of three lawyers who represented Belle at various times.

"There are layers of agencies, all of which have different deadlines. If you feel you've been wronged, you have to do

something immediately. Often you're dealing with relatively unsophisticated people and these things just slip past them."

For example, a city employee has 30 days after an offense to file a complaint with San Diego's "equal employment investigative officer," who tries to work out an in-house settlement.

If the issue isn't resolved at that level, the victim must complain to the federal Equal Employment Opportunity Commission (EEOC) or its state equivalent -- the Fair Employment and Housing Department (FEHD) -- within six months of the offense.

Local directors of both agencies said understaffing has caused such a backlog of complaints, it may take months for an investigator to respond.

If a complaint is found to have merit, agency representatives apply subtle pressure to employers to take appropriate action. If that doesn't work, either agency can turn a case over to its own lawyers to pursue in court.

But that rarely happens. Last year, the EEOC handled 62,000 complaints nationwide. About 7,000 were settled to the employee's satisfaction. About 500 cases made it to court. "And that's a record for us," said information officer Reginald Welch.

Frustrated with the limping process, many victims pull their cases, ask for a "right to sue letter" and turn to private lawyers. Because discrimination cases are notoriously hard to prove, lawyers generally avoid them. Those who do take them insist on thousands of dollars in advance.

Victims who don't have that kind of money may simply give up altogether.

"It's a really slow and difficult process," said Mike Powell of the State Fireman's Association, who will lead a seminar on equal opportunity laws at the San Diego Hilton today.

"Basically, it takes 18 months to get anywhere. The agencies are not at all adequate, and I think even the directors will tell you that. We helped one employee through a case recently, and it took many, many phone calls just to get (the FEHD's) attention."

Recognizing the need for a victims' advocate, the association last year began helping firemen who feel they've been hurt by discrimination. "Our intent is to solve problems at the lowest level, without having to access the state," he said. "But if it's necessary, we'll roll up our sleeves and follow a case through the whole process."

Belle, a former telephone lineman who was recruited to join the fire department, didn't have anyone like Powell to help him when he failed the academy exam. Confused and weary, he almost gave up before he started.

"At first I was devastated," said the 40-year-old father of two. "Getting my mind back on the right track was hard. It took a lot of praying. I was wondering, 'Why me?' And it came back to me that I was one of the stronger ones. It was up to me to do something about it."

Fit, energetic and youthful, Belle seemed upbeat during a recent interview in his National City home -- even when talking about the disappointment that dogged him for a decade.

After watching his case limp through government agencies for two years, Belle hired a lawyer and sued San Diego. Six years passed. Finally, a day before the trial date, the city offered him \$1,000 to drop the case.

Despite his lawyer's advice to take the money, he refused. After a three-day trial in Superior Court, he won a \$58,000 judgment.

The city appealed immediately. Three years later, Belle settled out of court for \$47,000.

"It's not over yet as far as I'm concerned," he said. "My biggest thing now is to help other people through the process. There's so many of these cases that never get to court. And nothing's going to change until they do."

Jerry Valladolid, San Diego Fire Department's equal employment opportunity liaison, declined to discuss Belle's case. But he said some policies already have changed as the result of complaints.

For example, after seven minority candidates for battalion chief complained to state officials that their exams were subjective and discriminatory, the city changed its exam format and brought in outside consultants to administer it.

Responding to the same complaints, the city hired a consultant to give "cultural sensitivity seminars."

Lodging a complaint, said Powell of the State Fireman's Association, "certainly can have an impact. We have had cases that have resulted in contracts not being renewed with chief officers, some have not been allowed to participate in the interview process, there have been promotions given and promotions taken away."

Belle said he's already been contacted by two former firefighter candidates who, like him, failed the final academy test and are interested in taking action. "People are starting to reach out and contact me now," he said. "We have a little grapevine going. And now it's vital that we keep talking to each other."

Credit: Staff Writer

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Abstract (Document Summary)

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