



Smithsonian Institution

Smithsonian Institution Archives

Proceedings of the Board of Regents Meeting held on May 9, 1983

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LITIGATION REPORT

NEW CASES:

1. Headley v. Smithsonian Institution

This appeal to the U. S. Court of Appeals for the Federal Circuit from a decision of the Merit Systems Protection Board (MSPB) was filed on December 23, 1982. In December 1980, Mr. Headley, a former National Zoological Park police officer, was tried for and acquitted of charges of burglary and theft which took place in New Jersey in August 1980. After a subsequent administrative investigation by Smithsonian officials of the facts of the burglary, it was determined that Mr. Headley was involved in the crime, and he was terminated from his position in October 1981. Mr. Headley appealed that termination to the MSPB and also alleged discrimination on the basis of race and national origin. After a hearing before an MSPB hearing examiner, the actions of the Smithsonian were upheld by a decision dated March 17, 1982. On April 21, 1982, Mr. Headley petitioned the full Merit Systems Protection Board for review of the hearing examiner's decision. That petition was denied on November 22, 1982. This appeal is from that decision. It is anticipated that the parties will be filing briefs with the court within the next few months. The Justice Department is representing the Smithsonian in this matter.

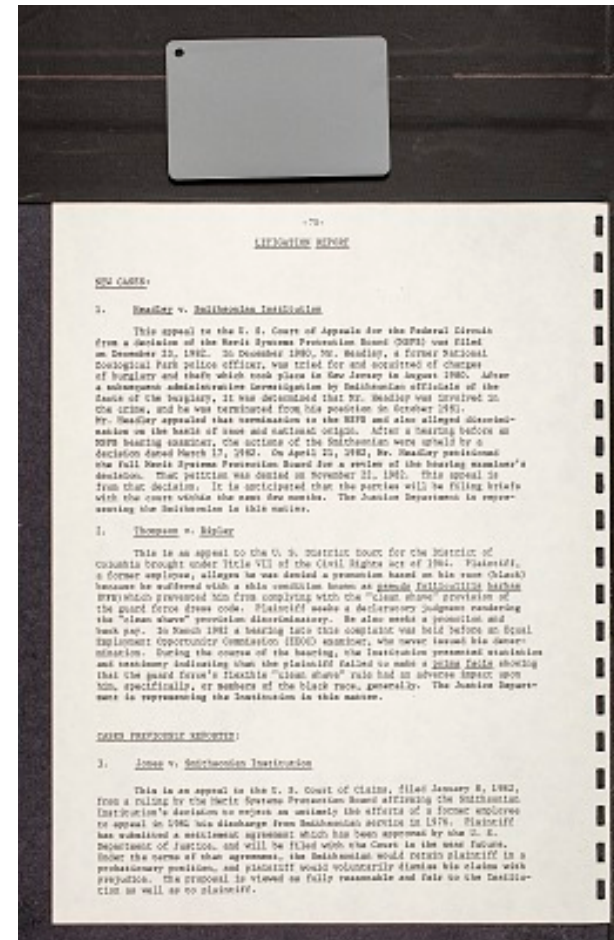
2. Thompson v. Ripley

This is an appeal to the U. S. District Court for the District of Columbia brought under Title VII of the Civil Rights Act of 1964. Plaintiff, a former employee, alleges he was denied a promotion based on his race (black) because he suffered with a skin condition known as pseudo folliculitis barbae (PFB) which prevented him from complying with the "clean shave" provision of the guard force dress code. Plaintiff seeks a declaratory judgment rendering the "clean shave" provision discriminatory. He also seeks a promotion and back pay. In March 1982 a hearing into this complaint was held before an Equal Employment Opportunity Commission (EEOC) examiner, who never issued his determination. During the course of the hearing, the Institution presented statistics and testimony indicating that the plaintiff failed to make a prima facie showing that the guard force's flexible "clean shave" rule had an adverse impact upon him, specifically, or members of the black race, generally. The Justice Department is representing the Institution in this matter.

CASES PREVIOUSLY REPORTED:

3. Jones v. Smithsonian Institution

This is an appeal to the U. S. Court of Claims, filed January 8, 1982, from a ruling by the Merit Systems Protection Board affirming the Smithsonian Institution's decision to reject as untimely the efforts of a former employee to appeal in 1981 his discharge from Smithsonian service in 1976. Plaintiff has submitted a settlement agreement which



has been approved by the U. S. Department of Justice, and will be filed with the Court in the near future. Under the terms of that agreement, the Smithsonian would retain plaintiff in a probationary position, and plaintiff would voluntarily dismiss his claims with prejudice. This proposal is viewed as fully reasonable and fair to the Institution as well as to plaintiff.

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The mission of the Smithsonian is the increase and diffusion of knowledge - shaping the future by preserving our heritage, discovering new knowledge, and sharing our resources with the world. Founded in 1846, the Smithsonian is the world's largest museum and research complex, consisting of 19 museums and galleries, the National Zoological Park, and nine research facilities. Become an active part of our mission through the Transcription Center. Together, we are discovering secrets hidden deep inside our collections that illuminate our history and our world.

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