



U.S. Department  
of Transportation  
Federal Highway  
Administration

# Memorandum

Subject: Complaint Regarding Violations by the  
NCDOT Division of Motor Vehicles Filed  
by John Johnson

Date: April 16, 2012

From: Warren S. Whitlock *W. Whitlock for WH*  
Associate Administrator for Civil Rights

In Reply Refer To: HCR-40

To: Mr. Kennie May  
Director, Office of Civil Rights (MC-CR)  
DOT-FMCSA

The attached complaint is being forwarded to your office for appropriate action. The issues raised in the complaints involve an allegation of discrimination by the NCDOT Division of Motor Vehicles. The FHWA Office of Civil Rights received the complaint on April 9, 2012. The complainant has been advised of this referral (copy attached). If you have any questions regarding this submission, please contact Ms. Thalia Williams of my staff at 202-366-1595.

Thank you.

2 Attachments

Mr. Joseph Austin, Associate Director, External Policy and Program Division, OST, S-33  
Mr. John F. Sullivan, III, Division Administrator, FHWA, HDA-NC  
Ms. Lynise S. DeVance, Civil Rights Program Manager, FHWA, HDA-NC  
Ms. Sharon Lipscomb, Title VI Manager, NCDOT



U.S. Department  
of Transportation  
Federal Highway  
Administration

1200 New Jersey Avenue, SE.  
Washington, DC 20590

April 16, 2012

In Reply Refer To: HCR-40  
DOT #2012-0159

(b) (6)

Dear (b) (6)

The Federal Highway Administration (FHWA) Office of Civil Rights is in receipt of your complaint of discrimination, dated March 16, 2012, which was submitted to the North Carolina Department of Transportation (NCDOT). The NCDOT forwarded your complaint to the FHWA North Carolina Division Office in accordance with the FHWA's complaint processing procedures. The FHWA North Carolina Division Office forwarded your complaint to the FHWA Office of Civil Rights for appropriate handling. Your complaint was received on April 9, 2012.

After a thorough review of the information provided, we have determined that the issues raised in your complaint are not within our jurisdiction. Based on our review, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) is the appropriate Federal Agency to process your complaint because you raised violations by the NCDOT Division of Motor Vehicles.

Please be advised that we are forwarding your complaint to the FMCSA for processing at the address listed below:

Mr. Kennie May  
Director  
Office of Civil Rights (MC-CR)  
1200 New Jersey Avenue, SE., Room W61-310  
Washington, DC 20590  
202-366-8810

This concludes the FHWA's processing of this matter and no further action will be taken.

Sincerely yours,

Warren S. Whitlock  
Associate Administrator for Civil Rights

DOT# 2012-0159

**Williams, Thalia (FHWA)**

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**From:** Williams, Thalia (FHWA)  
**Sent:** Monday, April 09, 2012 7:07 AM  
**To:** DeVance, Lynise (FHWA)  
**Subject:** RE: Title VI Complaint

Hi Lynise. I've been out sick the past few days and am on annual leave today.

I will process the complaint tomorrow.

Take care and I hope you've been well too (smile)!

Thalia

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**From:** DeVance, Lynise (FHWA)  
**Sent:** Thursday, April 05, 2012 1:09 PM  
**To:** Williams, Thalia (FHWA)  
**Subject:** Title VI Complaint

Hi Thalia,

It's been a while - I hope you've been well. Attached, please find a Title VI Complaint from a (b) (6) filed against the NC Department of Transportation, Division of Motor Vehicles.

Please let me know if you have any questions. Thanks.

Lynise

*Lynise S. DeVance*  
*Civil Rights Program Manager*  
*FHWA - North Carolina*  
*919-747-7010*

*Please consider the environment before printing this email.*



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

March 30, 2012

Ms. Lynise S. DeVance  
Civil Rights Program Manager  
Federal Highway Administration  
310 New Bern Avenue, Suite 410  
Raleigh, North Carolina 27601

Case No.: NCDOT-OCR#2012-14

Dear Ms. DeVance:

Our office is in receipt of a complaint of discrimination filed by (b) (6) against the North Carolina Department of Transportation (Division of Motor Vehicles). The complaint alleges discrimination based upon race in violation of Title VI of the Civil Rights Act of 1964.

In compliance with the Federal Highway Administration's External Complaint Processing Procedures, our office is forwarding the complaint to FHWA for processing. If you have any questions, please contact our office directly

Sincerely,

Sharon Lipscomb  
Title VI Manager

cc: Shelton Russell, OCR Director

Attachment

FHWA-NC DIVISION	
REC'D	APR - 3 /
EUGENE STAVI@CONTI, JR.	
SECRETARY	ENG COORD
QUAL COORD	
MAN PROD ENG	
STRUCTURAL ENG	
CONTRACTOR	
ENV SPEC	ENV ASST
PROG MGR	COMP SPEC
PL-1	PL-2
PL-3	HR CLY SPEC
CONTRACT	
PRECONTRACT ENV TEAM LEADER	
A-1	A-2
A-3	ROW OFFICER
ENV PROG SPEC	
ENV TEAM LEADER	
TE-1	TE-2
TE-3	P & M ENG
AMP ENG MGR	
TRASH	

MAILING ADDRESS:  
NC DEPARTMENT OF TRANSPORTATION  
OFFICE OF CIVIL RIGHTS  
1511 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1511

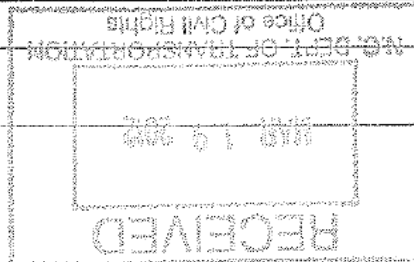
TELEPHONE: 919-508-1808  
TOLL FREE: 1-800-522-0453  
FAX: 919-508-1814

LOCATION:  
TRANSPORTATION TECHNOLOGY CENTER  
104 FAYETTEVILLE STREET  
2<sup>ND</sup> FLOOR  
RALEIGH, NC 27601



North Carolina Department of Transportation  
**DISCRIMINATION COMPLAINT FORM**

Last Name: <b>(b) (6)</b>		First Name: <b>(b) (6)</b>		<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	
Mailing Address: <b>(b) (6)</b>		City: <b>(b) (6)</b>	State: <b>(b) (6)</b>	Zip: <b>(b) (6)</b>	
Home Telephone: <b>(b) (6)</b>	Work Telephone: <b>(b) (6)</b>	E-mail Address: <b>(b) (6)</b>			
Identify the Category of Discrimination:					
<input checked="" type="checkbox"/> RACE	<input type="checkbox"/> COLOR	<input type="checkbox"/> NATIONAL ORIGIN	<input type="checkbox"/> AGE		
<input type="checkbox"/> RELIGION	<input type="checkbox"/> DISABILITY	<input type="checkbox"/> SEX/GENDER			
Identify the Race of the Complainant					
<input checked="" type="checkbox"/> Black	<input type="checkbox"/> White	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Asian American		
<input type="checkbox"/> American Indian	<input type="checkbox"/> Alaskan Native	<input type="checkbox"/> Pacific Islander	<input type="checkbox"/> Other _____		
Date and place of alleged discriminatory action(s). Please include earliest date of discrimination and most recent date of discrimination.					
1190 N. Main Street, Lillington, NC NC license Plate agency # 174 Date range of discrimination June 1, 2010 - March 2012					
How were you discriminated against? Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently from you. (Attached additional page(s), if necessary).					
Separate and discriminatory treatment of contractor and the associated LPA because of race, design and/or effect See Attachments A + B of which was to make it difficult to implement to operate					
The law prohibits intimidation or retaliation against anyone because he/she has either taken action, or participated in action, to secure rights protected by these laws. If you feel that you have been retaliated against, separate from the discrimination alleged above, please explain the circumstances below. Explain what action you took which you believe was the cause for the alleged retaliation.					
Names of individuals responsible for the discriminatory action(s):					
Marvin Shepton DONNA BOONE					
Names of persons (witnesses, fellow employees, supervisors, or others) whom we may contact for additional information to support or clarify your complaint: (Attached additional page(s), if necessary).					
Name	Address		Telephone		
1.	<b>(b) (6)</b>		<b>(b) (6)</b>		
2.	<b>(b) (6)</b>		<b>(b) (6)</b>		
3.					
4.					



DISCRIMINATION COMPLAINT FORM  
Page 2

Have you filed, or intend to file, a complaint regarding the matter raised with any of the following? If yes, please provide the filing dates. Check all that apply.

US Equal Employment Opportunity Commission \_\_\_\_\_  
 Federal Highway Administration \_\_\_\_\_  
 US Department of Transportation \_\_\_\_\_  
 Federal or State Court \_\_\_\_\_  
 Other CAIT \_\_\_\_\_

Have you discussed the complaint with any NCDOT representative? If yes, provide the name, position, and date of discussion.  
*See Attachment B. Sent a letter to Donna Boone. Have not received an acknowledgment nor reply.*

Please provide any additional information that you believe would assist with an investigation.

Briefly explain what remedy, or action, are you seeking for the alleged discrimination.  
*• Apples y  
• To be made whole*

**(b) (6)**

PLEASE SIGN AND DATE THE COMPLAINT FORM BELOW.

\_\_\_\_\_  
DATE 3/16/2012

MAIL COMPLAINT FORM TO:

NCDOT, OFFICE OF CIVIL RIGHTS AND BUSINESS DEVELOPMENT

Mailing: 1511 MAIL SERVICE CENTER RALEIGH, NC 27699-1511  
Location: 104 FAYETTEVILLE STREET MALL RALEIGH NC 27699

FOR MORE INFORMATION CALL:  
919-508-1808 or 800-522-0453

FOR OFFICE USE ONLY

Date Complaint Received: 3/19/12  
Processed by: S. Lipson  
Case #: 2012-14  
Referred to:  FHWA  USDOT  DOJ Date Referred: \_\_\_\_\_

Statement: It was clear that DM (District Manager-Marvin Shelton) and his boss (Donna Boone) did not like Contractor (b) (6) and went out of their way to individually and collectively avoid Contractor and to impede startup and operation of the Lillington office. Because Contractor sought explanations for many of their actions and perhaps for other reasons including race, Contractor believes the goal was to find a way to close the Lillington office. They could not close the office by citing regular operating violations because none were ever documented. Did they decide instead to support a prolong, clandestine, surreptitious investigation of the office without the knowledge of the Contractor with the intent on closing the office instead of bringing any problems found to the Contractor's attention for possible corrective action?

EVIDENCE OF UNDERMINING AND CONTROLLING, DISCRIMINATORY ACTIONS OF DM, DM BOSS, AND OTHER DMV OFFICIALS AGAINST CONTRACTOR AND/OR LILLINGTON OFFICE (note- Lillington contractor Black, DM is white, and while DM immediate boss is Black she was a rubber stamp for his actions):

#### BEFORE OFFICE OPENED

- Nitpicked. Ex. DM said walls had to be repainted again before could move in. Contractor objected and appealed. Contractor won the appeal. DM displeased and acted tersely and disrespectfully toward contractor thereafter.

#### WHILE OFFICE OPENED

- DM would not deal directly with Contractor even on store policy matters or internal policies of the office. Avoided Contractor at all cost save for an email here and there. DM dealt instead with Office Manager despite knowing had limited policy making abilities. DM even listed Office Manager first on most communication even when it involved store policies or procedures issued by Contractor. Talked with DM boss about the matter but to no avail. She defended him unequivocally.
- Different set of rules and requirements mandated by DM and his boss for Contractor. For example mandated that the office be staffed with 2 full time employees at all times based upon transactions. The Lillington office was doing about the same amount of transactions as the old Lillington office when it was run by 1 person most of the time and 1 ½ persons some of the time. The DM and DMV constantly interjected themselves into operations and decisions of the Contractor far beyond required by the operating contract, i.e, staffing, store appearance etc., or far beyond what was necessary.

- During conversations with DM boss about how things were being handled by the DM and the new 2 full time employee requirement, she got belligerent and forbid Contractor to talk or meet one on one with DM unless she was present. This was a deliberate attempt to control and direct the actions of the Contractor and DM and ultimately control operations in the Lillington Office. This is also further evidence of discrimination against Contractor because It is doubtful that other contractors were under the same restrictions in regards to communicating with their district manager. Note: Contractor once questioned a DMV official whether the Lillington Office was being run by the division or the contractor reflecting the division's propensity to get involved with issues far beyond required by the operating agreement.
- If the investigation undertaken by the DMV and/or the License and Theft Bureau was on going and had been going on for a while and Contractor not implicated, why was Contractor not contacted and made aware of what was going on.
- If Contractor not implicated, why was he not contacted before the office was shut down and asked if he had staff to keep the office open even if other 2 employees were going to be implicated. Is this evidence that the powers that be wanted the office closed all along and Contractor gone? Was the same procedure followed in all similar situations?
- Even if going to close office, why was Contractor not given ample notice of closing. Contractor received on February 2, 2012 a letter signed by the Commissioner and dated February 2, 2012. The letter was hand delivered to the Lillington Office and left at the office for Contractor to pick up.
- Was an investigation, similar to the one done at the Lillington office, done at any other office frequented..past or present..by the insurance office linked to the alleged fraud charges involving the Lillington office?

#### AFTER OFFICE CLOSED

- No one from DMV would talk to me or return my calls. Even when Contractor called the office when DM, DMV representatives and others were in there to close it, no one including the DM would talk to me and let me know what was going on. They used Janet McLean as a relay to tell me the office was closing and that I should get up there ASAP.
- The question arises that in other situations where the LPA employees were accused of similar misconduct was the Contractor treated the same way and was the office closed without fore notice or consultation with the Contractor.
- In their rush to close the office and in an apparent attempt to spite Contractor, did the DMV deny Contractor due process and violate the contract clause which states "The Division may immediately terminate this contract upon written notice for "cause". While "cause" is yet to be litigated and determined, was Contractor given proper

written notice when the office was closed on February 2, 2012 and the only notice given to Contractor was a letter left at the office (not delivered to Contractor) dated the same day, February 2, 2012, stating that the representatives of the Division would be at the office the morning of February 2, 2012 to close the office. If the letter was written on the morning of February 2, and DMV starting closing the office on the morning of February 2, and did not even see that Contractor saw the letter or even communicate what was in it even though they had a chance to do so when the Contractor called the office, then clearly there was little intent on the DMV part of notifying Contractor of closure of the office as required by the contract.

- No response to calls to Michael Bryant in Commissioners Office (person to call if have questions per letter left at office February 2) and no response to letter sent to Donna Boone dated February 16, 2012.
- *Note: Some of the fallout to Contractor as a result of closing the office and the resultant publicity include damage to reputation (local newspaper even dropped Contractor as business columnist as a citing what had happened at my office) and financial stress and strain.*

February 16, 2012

Donna Boone  
NC Division of Motor Vehicles  
Vehicle Services Section  
3145 Mail Service Center  
Raleigh, NC 27699-3145

Donna:

I am writing to you for several reasons. First, I am in search of some answers and specifics as to why my Lillington LPA (Office) was closed on February 2, 2012. Second, I would like to address the unfair and discriminatory way the Office was treated when it was opened. I am not sure that the first and second items are mutually exclusive, i.e., that discriminatory actions did not play a role in closing the office. And third, I would like a meeting to address and/ or clarify these issues before I pursue other avenues to address them.

In regards to why the office was closed, the letter left at the Office (not given to me personally or even mailed to me but just left on a counter at the Office; I didn't even receive a phone call from DMV) signed by the Commissioner and dated February 2, 2012 (the same day the office was closed) cites Section 5 of the LPA contract, specifically "the Division may immediately terminate this contract upon written notice for cause". The validity of the "cause" for canceling the contract of course is being litigated in court thru charges filed against employees. But aside from the fact that closing the Office on the morning of February 2, 2012 and leaving a letter on the counter dated the same day does not constitute written notice to me, as Contractor I have a right to be informed by the Division of the specific reasons why the office was closed. There has been no such communication to me. In fact the aforementioned letter stated that if I had any questions to call Michael Bryant, Director of Vehicle Services. I called him on February 2, 2012 and left a message in his absence and I have yet to hear back from him.

On the matter of discriminatory and unfair actions...and again I am not sure that you can separate them from the closing of the Office and the way things were handled in doing so...for whatever reason (race not excluded), the Lillington LPA was always unfairly scrutinized, subjected to different standards and mandates that impeded operation of the Office. Several cases in point:

- The Office was nit-picked constantly by the district manager (Marvin Shelton) starting before the office even opened from painting of the walls to dust on the floor to signs in the showroom. Few would argue that Marvin had a dislike for me and went out of his way to avoid communicating with me.
- The district manager in conjunction with his boss (Donna Boone) mandated in an email to me that the Lillington LPA be staffed with 2 full time employees at all times. The old Lillington Office run by the Chamber of Commerce did about the same number of transactions as the new

Office yet it was staffed most of the time with 1 person and some of the time with just 1 ½ persons. Thus, a different and somewhat arbitrary requirement for me as the new Contractor some 18 months into the contract.

- During conversations with Donna Boone about problems I was having with the district manager, she forbid me to talk or meet one on one with him unless she was present. In my estimation this was designed to not only validate and support the actions of the district manager, but a move to indirectly control operations of the Lillington Office by severely limiting the critical communication line between Contractor and district manager. Did critical information not get passed on to me because of this restriction?
- Why wasn't I contacted about or given the option of continuing the operation of the Lillington Office. Because of lack of communication with the Contractor, the district manager nor DMV did not know nor did they try to ascertain whether or not Contractor had qualified people in queue to continue operation of the office. The newspaper quotes news releases as stating the Contractor is not eligible to handle the property and money. Presumably this is the reason for closing the Office given the charges levied against its 2 employees. But such an argument holds little water when Contractor's status as an operator has never changed. Just like before, Contractor is just as capable today of operating an LPA with the right personnel as he was when the Lillington LPA first opened nearly a year and a half ago. In cases where similar charges were filed against employees of an LPA was the agency always closed down?

These are my concerns and I would welcome a meeting to discuss things.

Sincerely,

(b) (6)