

Ricci v. DeStefano: Facts of the Case

May 31—The subject case of Lyndon LaRouche’s May 31 comment “On Ricci vs. DeStefano,” involves a promotion test administered to firefighters by the city of New Haven, Conn. After reviewing the results, the city decided to throw out the test, on the ground that no African-Americans, and only two Hispanic-Americans advanced, but cited no particular flaws in the test itself. The white firefighters who passed the test sued, essentially arguing that they were denied the promotion they had earned, because of the color of their skin.

The Federal district judge dismissed the suit without even taking it to trial, ruling that the city was justified, under the law, in junking the test even if it could not explain what was wrong with it. The white firefighters appealed to a three-judge panel of the 2nd Circuit Court of Appeals, a panel that included Supreme Court nominee Judge Sonia Sotomayor. That panel affirmed the lower court ruling in a 134-word summary order that explained that although Frank Ricci (the plaintiff) appeared to have scored highly on the test, despite having dyslexia, the results were invalidated for reasons having nothing to do with his qualification for the position he was applying for.

The Court’s ruling stated, “it simply does not follow that he has a viable claim” under Title VII of the 1964 Civil Rights Act. The panel ruled that, by refusing to validate the test, since the city “was simply trying to fulfill its obligations under Title VII when confronted with the test results that had a dispropor-



New Haven, Conn. firefighter Frank Ricci was denied a promotion based on a faulty application of Title VII of the 1964 Civil Rights Act.

tionate racial impact, its actions were protected.”

The appellate court ruling was roundly criticized for its lack of reasoning, by none other than Sotomayor’s mentor on the court, Judge José A. Cabranes. Cabranes wrote, on behalf of the Republican-appointed judges on the court, that, “The opinion contains no reference whatsoever to the constitutional claims at the core of this case. This perfunctory disposition rests uneasily with the weighty issues presented by this appeal.”

The case is now before the U.S. Supreme Court, which could rule on it as early as the end of June.

—Carl Osgood