

# Felony Justice

## The EEOC & Biden's batty Sheetz shakedown

**T**HE Biden administration believes it should be a federal crime to refuse to hire ex-convicts. There is no such federal statute, but that hasn't stopped President Biden's Equal Employment Opportunity Commission from seizing dictatorial power to impose its own decrees.

The EEOC sued Sheetz Inc. Thursday for using criminal background checks to staff its 600+ convenience stores in six states. The agency does not allege Sheetz is biased against minorities per se — only against minorities who failed the background check.

It justifies its crackdowns on criminal background checks because black men's imprisonment rate "was nearly 7 times higher than White men and almost 3 times higher than Hispanic men," according to EEOC Enforcement Guidance. John McWhorter, a black Columbia University professor, observed, "Young black men murder 14 times more than young white men."

But according to Team Biden, there are no ex-convicts or felons — there are only "justice-involved individuals." The problem isn't that some groups have much higher crime rates than others. The problem is most businesses look at criminal records before hiring.

The EEOC used statistical disparities to justify effectively designating criminal offenders as a "protected class" under federal civil-rights law. "Disparate impact" is the EEOC's "Aladdin's lamp," allowing it to gin up case after case of discrimination on standards that sometimes fail the laugh test.

For 50 years, the EEOC has invoked almost any pretext to stretch its arbitrary power over private hiring. In 1989, it sued a Florida trucking company for refusing to hire a Hispanic applicant with multiple arrests and a prison term for larceny. Federal Judge Jose Gonzalez Jr. scoffed, "EEOC's position that minorities should be held to lower standards is an insult to millions of honest Hispanics. Obviously a rule refusing honest employment to convicted applicants is going to have a disparate impact upon thieves."

But that and other judicial rebufs haven't stopped the EEOC. It insists businesses are presump-



The irony: The prez grabs a snack Wednesday at a Pittsburgh Sheetz.

tively guilty for refusing to hire ex-convicts unless they can provide extensive evidence that those applicants received special consideration. The EEOC claims there is no evidence that ex-convicts pose any additional threat at workplaces — even though federal statistics reveal that they are more than 10 times as likely to be arrested than average citizens.

In the Sheetz case, the agency's court filing notes black applicants fail the criminal background checks "at a rate exceeding approximately 14.5%" while white applicants fail "at a rate of under approximately 8%." The racial differential in background-check failure rates was much smaller than the differential in the crime rates the EEOC used to justify its policy.

Is the agency relying on a "close enough for government work" standard for its Sheetz accusations — "exceeding approximately 14.5%" and "under approximately 8%"? The agency struggles with statistics. Federal Judge Roger Titus slammed the EEOC's claims in an earlier case involving alleged bias in criminal background checks as "laughable," "rife with analytical error," "completely unreliable," "worthless" and "an egregious example of scientific dishonesty."

What type of crimes were committed by people the EEOC claimed Sheetz should have hired? I sought smoking guns from the agency, but it provided no information.

**JAMES BOVARD**



AFP via Getty Images

In previous cases, the EEOC sought to compel companies to give "back pay" to people who were never hired because they lied about their criminal records. It's demanded corporations compensate rejected job applicants with violent records, including a "Hispanic female who was convicted of attempted murder for shooting at her husband in a college football stadium where he was working as a camera man." Maybe the EEOC believed that lady would be perfect to handle any customer complaints?

The Sheetz case exemplifies Team Biden's definition of social justice. The agency asked a federal judge to compel Sheetz to provide "appropriate back pay with prejudgment interest, retroactive seniority and benefits or front pay in lieu thereof and an additional amount to offset adverse tax consequences of payment of a lump-sum monetary award in a single tax year."

A pretty good deal for people who never worked a day as a Sheetz cashier, eh? Why not also require Sheetz to give a pony to every ex-convict?

Congress never intended to give equal opportunity to felons and ex-convicts when it enacted the 1964 Civil Rights Act. Permitting federal agencies to become regulatory dictators is a travesty of the Constitution and common sense. Crime could be one of the defining issues in this year's presidential election. If Republicans highlight the EEOC Sheetz lawsuit, Biden could sweat far more the next time he wanders in to do a campaign photo op at one of its stores.