

1979

Keith A. Moore v. Industrial Commission of Utah : Defendant's Brief

Utah Supreme Court

Follow this and additional works at: https://digitalcommons.law.byu.edu/uofu_sc2



Part of the [Law Commons](#)

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors.

Recommended Citation

Brief of Respondent, *Moore v. Industrial Commission of Utah*, No. 16645 (Utah Supreme Court, 1979).
https://digitalcommons.law.byu.edu/uofu_sc2/1927

This Brief of Respondent is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (1965 –) by an authorized administrator of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

IN THE
COURT OF

WILLIAM A. MOORE
Plaintiff
82 Brixen Ct.
Salt Lake City, Utah 84102

Pro se

TABLE OF CONTENTS

	PAGE
STATEMENT OF THE CASE	1
DISPOSITION BY THE BOARD OF REVIEW	2
RELIEF SOUGHT ON APPEAL	2
STATEMENT OF FACTS	2
ARGUMENT	3
CONCLUSION	7

CASES CITED

<i>Denby v. Board of Review of the Industrial Commisison</i> , (Utah, 1977) 567 P. 2d 626.....	4
<i>Gocke v. Wiesley</i> , 18 Ut. 2d 245, 420 P. 2d 44 (1966).....	4
<i>Kennecott Copper Corporation Employees v. Department of Employment Security</i> , 13 Ut. 2d 262, 372 P. 2d 987 (1962)	4
<i>Martinez v. Board of Review</i> , 25 Ut. 2d 131, 477 P. 2d 587 (1970).....	4
<i>Members of Iron Workers Union of Provo v. Industrial Commission</i> , 104 Ut. 242, 139 P. 2d 208	4
<i>Singer Sewing Machine v. Industrial Commission</i> , 104 Ut. 175, 134 P. 2d 479	3

STATUTES CITED

Utah Code Annotated 1953, 35-4-5(c).....	3
Utah Code Annotated 1953, 35-4-10(i)	1, 4

IN THE SUPREME COURT OF THE STATE OF UTAH

KEITH A. MOORE,

Plaintiff,

vs.

Case No. 16645

THE INDUSTRIAL COMMISSION OF UTAH,

Defendant.

DEFENDANT'S BRIEF

STATEMENT OF THE CASE

This is an action before the Supreme Court of the State of Utah pursuant to Section 35-4-10(i), Utah Code Annotated 1953, seeking judicial review of a decision of the Board of Review of the Industrial Commission of Utah, which denied benefits to the Plaintiff for a period of 6 weeks beginning April 8, 1979, and ending May 19, 1979, and establishing an overpayment of \$106.00

DISPOSITION BY THE BOARD OF REVIEW

Plaintiff was disqualified from receiving unemployment compensation for 6 weeks by a representative of the Department of Employment Security on April 30, 1979, on the grounds the plaintiff failed to properly apply for available suitable work. An Appeal Referee affirmed the disqualification, with modifications, on June 11, 1979. The Board of Review affirmed the denial of benefits by majority decision dated August 21, 1979, in Case No. 79-A-1221, 79-BR-123.

RELIEF SOUGHT ON APPEAL

Plaintiff seeks reversal of the decision of the Board of Review denying benefits for the period April 8, 1979 to May 19, 1979. Defendant seeks affirmance of the decision of the Board of Review.

STATEMENT OF FACTS

Plaintiff's statement of the facts is substantially correct, except in the following particulars:

Sometime prior to the events involved in this appeal Plaintiff worked for the University of Utah Library as a sound recording cataloger at \$3.88 per hour. (R.00015) This work was clerical and Plaintiff was terminated on November 17, 1978. (R.00015, 00036)

On April 3, 1979, Plaintiff contacted Carol Bryner of the University of Utah Personnel Administration, in response to a letter from Miss Bryner. (R.00016) During his meeting with Miss Bryner, Plaintiff stated that he would prefer part-time work. (R.00035) This preference was again stated to a Department Representative on April 19, 1979. (R.00033) While in Miss Bryner's office Plaintiff telephoned the university library and was given an appointment for 11:00 a.m. on April 9 to interview for a typist

opening in the Cataloging Department. (R.00017) Plaintiff did not keep the appointment on April 9 and did not call the library until April 10. (R.00017)

ARGUMENT

THE DECISION OF THE BOARD OF REVIEW IS SUPPORTED BY SUBSTANTIAL EVIDENCE AND THE BOARD DID NOT ERR IN DETERMINING THAT PLAINTIFF FAILED TO MAKE A PROPER APPLICATION FOR AVAILABLE SUITABLE WORK WITHIN THE MEANING OF SECTION 35-4-5-(c), UTAH CODE ANNOTATED.

Section 35-4-5(c), Utah Code Annotated 1953 provided, prior to the 1979 Employment Security Act Amendments, as follows:

(c) If the commission finds that the claimant has failed without good cause to properly apply for available suitable work, to accept a referral to suitable work offered by the employment office, or to accept suitable work offered by an employer or the employment office. Such ineligibility shall continue until the claimant has performed services in bona fide covered employment and earned wages for the services in an amount equal to at least six times the claimant's weekly benefit amount; provided no claimant shall be ineligible for benefits for failure to apply, accept referral, or accept available suitable work under circumstances of such a nature that it would be contrary to equity and good conscience to impose a disqualification.

The commission shall consider the purposes of this act, the reasonableness of the claimant's actions, and the extent to which the actions evidence a genuine continuing attachment to the labor market in reaching a determination of whether the ineligibility of a claimant is contrary to equity and good conscience.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his prior earnings and experience, his length of unemployment and prospects for securing local work in his customary occupation, the wages for similar work in the locality, and the distance of the available work from his residence.

It is a generally acknowledged rule that employment security statutes are construed liberally to accomplish their purposes and objectives. *Singer Sewing Machine Company v. Industrial Commission*, 104 Ut. 175, 134 P. 2d 479, rehearing denied 104 Ut. 196, 141 P. 2d 694 (1943). However, this Court has previously held that the purpose of the Employment Security Act is to assist the worker and his family in

times when he is out of work without fault on his part. *Kennecott Copper Corporation Employees v. Department of Employment Security*, 13 Ut. 2d 262, 372 P. 2d 987 (1962)

In order for a claimant to be eligible for unemployment benefits he must expose himself unequivocally to the labor market. *Denby v. Board of Review of the Industrial Commission*, (Utah, 1977) 567 P. 2d 626. Whether or not Plaintiff failed to properly apply for available work is a question of fact. The determination of suitability of work is a mixed question of fact and law.

In the instant case, Plaintiff contends there was no available work, and if there were, such work was not suitable. (See Plaintiff's Brief, pages 2 and 3.) Plaintiff specifically disputes the findings of fact of the Appeal Referee. The standard of review in unemployment insurance cases is well established. Section 35-4-10(i), Utah Code Annotated 1953; *Martinez v. Board of Review*, 25 Ut. 2d 131, 477 P. 2d 587 (1970). This Court has consistently held that where the findings of the commission are supported by evidence they will not be disturbed. *Members of Iron Workers Union of Provo v. Industrial Commission*, 104 Ut. 242, 139 P. 2d 208. A reversal of an order of the Department denying compensation can only be justified if there is no substantial evidence to sustain the determination and the facts giving rise to a right to compensation are so persuasive that the Department's denial was clearly capricious, arbitrary and unreasonable. *Kennecott Copper Corporation Employees v. Department of Employment Security*, *Supra*; *Gocke v. Wiesley*, 18 Ut. 2d 245, 420 P. 2d 44 (1966).

The findings of the commission are supported by substantial competent evidence. The Plaintiff was last employed in a clerical capacity at \$3.88 per hour. (R.00015) As of April, when Plaintiff failed to attend the job interview, he had been unemployed almost 5 months. (R.00036) He was requested to contact the University of Utah Personnel Administration on April 3, 1979. (R.00016, 00035) At the interview Plaintiff stated that he would prefer part-time work. (R.00035) He repeated his preference on April 19 to a

Department Representative (R.00033) and in his appeal to the Referee Plaintiff stated: "I didn't check on the jobs as they were full-time. I prefer part-time." (R.00028) He also applied only for part-time work at the university press on April 3. (R.00026) Although Plaintiff's availability for full-time work is not at issue in this appeal, his stated and demonstrated preference for part-time work provides some evidence as to his state of mind at the time of the subsequent interview appointment.

During the interview on April 3, Plaintiff called the university library and was advised of the availability of a clerical position in the Cataloging Department. (R.00017) He made an appointment for 11:00 a.m. on April 9 to discuss the position further. (R.00016, 00017, 00019, 00025) Plaintiff failed to keep the appointment on April 9 and did not even call until the next day, April 10. (R.00017)

The finding of the Appeal Referee that Plaintiff failed to keep the appointment is amply supported by the evidence, including the Plaintiff's own admission. (R.00017) The Appeal Referee could reasonably conclude that Plaintiff's contention the interview was non-job related was without merit in view of the fact that there was a specific job opening for which the Plaintiff was qualified.

Plaintiff's contention the job was unsuitable by reason that he was over-qualified and the pay was too low is equally without merit. Plaintiff last earned \$3.88 and at the time of the scheduled interview had been unemployed almost 5 months. Plaintiff testified he was not told the wage, but: "Uh, I would say [it was] less than \$3.00 per hour probably." (R.00017) It is logical to assume that if Plaintiff was genuinely interested in finding work, he would have inquired as to the wage. This is particularly so when the length of Plaintiff's unemployment is considered.

With respect to Plaintiff's qualifications it should be noted that Plaintiff's last employment was principally clerical (R.00015) and the job in question was as a typist. (R.00017) Plaintiff admits that he is a qualified typist. (Plaintiff's Brief, page 2) Under such circumstances the Appeal Referee properly concluded that the work was suitable.

Plaintiff's appeals throughout the administrative process have been marred by glaring inconsistencies and contradictions. For example, Plaintiff states in his appeal to the Board of Review:

To the best of my recollection I called her on April 3, April 10, May 1, and May 3, and each time I asked if she had a job opening, either full- or part-time, **and of whatever sort.** (R.00009, Plaintiff's Brief, Page 3. Emphasis added.) Despite this direct statement Plaintiff also wrote:

You should understand that this 'April 9 at 11:00 a.m.' thing was in no way a binding, official, businesslike or serious 'job-appointment interview' or anything of the sort, nor how could it be after Mrs. Margetts **had stressed that she had absolutely no suitable job opening for me then.** (R.00017, Plaintiff's Brief, page 3. Emphasis added.)

If the university library had "absolutely no suitable job" for Plaintiff, then why was the appointment made? If Plaintiff was in fact discouraged from pursuing the job, and no other positions were then available, again why was an appointment made? Since by the Plaintiff's own admission a specific job was discussed on April 3, (R.00017) the Appeal Referee reasonably found that the purpose of the April 11 appointment was to interview for the job.

Plaintiff also stated:

However, in the critical telephone call from Miss Bryner's office on April 3, Mrs. Margetts did not spell out such a thing, [the interview appointment] did not inform me **that I would see a library-department hiring person,** told me only that I would be seeing her---(R.00006, Plaintiff's Brief, page 5. Emphasis added.)

Plaintiff also acknowledged, however, that Mrs. Margetts was Personnel Director for the Marriott Library. (R.00008, Plaintiff's Brief, page 2.)

In view of such inconsistencies, the Board of Review was justified in considering Plaintiff's testimony as self-serving and of questionable credibility.

CONCLUSION

The decision of the Board of Review was correct in denying benefits and is supported by substantial evidence. It should, therefore, be affirmed.

ROBERT B. HANSEN,
Attorney General

FLOYD G. ASTIN
K. ALLAN ZABEL
Special Assistants
Attorney General

BY: _____
K. Allan Zabel

CERTIFICATE OF MAILING

I DO HEREBY CERTIFY that I mailed two copies of the foregoing Defendant's Brief to KEITH A. MOORE, Plaintiff, Pro se, 652 Brixen Ct. Salt Lake City, Utah, this _____ day of February, 1980.

BY: _____
K. Allan Zabel

Salt Lake City
June 14, 1979.

The Industrial Commission of Utah
Department of Employment Security

RE: S.S.A. No. 528 34 0188
Case No. 79-A-937



ATTENTION: Appeals Section

To Whom It May Concern:

This is request for second appeal hearing because I disagree with facts found in letter of June 11, 1979, from Stanley H. Griffin, Appeals Referee, as he assessed following appeal hearing of June 5, 1979, 8:30 a.m., 1234 South Main Street, Salt Lake City.

Referring to FINDINGS OF FACT in Mr. Griffin's June 11 letter, I wish to say that No. 1 is true, No. 2 is false, No. 3 is true, and No. 4 is true.

The reason that No. 2 is false is that I did not have an "appointment" with Winn Margetts, Personnel Manager, Harriott Library, University of Utah, Salt Lake City, on April 9, 1979. Therefore, as worded, the following sentence is false: (Paragraph 1, page 2, last sentence of above-mentioned letter)

"He admits, however, that he failed to keep an appointment at the Library on April 9, 1979, but states the job was not suitable due to the job duties required which did not utilize his highest skills."

This makes these sentences in the ensuing paragraph likewise false:

"It is held, however, that the claimant has not established good cause for failing to apply for work at the Library on April 9, 1979. He made a decision not to apply without knowing the details of the job other than that the job required typing and under the circumstances it may be held that benefits are denied for six weeks beginning April 8, 1979."

Likewise, this from the yet ensuing paragraph is false:

"... the claimant answered no to question no. 7, 'I failed to apply for work after being notified,' when in fact he failed to keep an appointment with a prospective employer on April 9, 1979."

I shall now tell you exactly what happened and why this question of an "appointment" with Mrs. Margetts on April 9 is a false allegation:

On April 3, 1979, at 1 p.m., I went to the office of Carol Bryner, keeping an appointment with her which she had ordered by mail. Ms. Bryner's office is in the Annex Building, University of Utah. She is in charge of University of Utah unemployment compensation. At my request, she telephoned two University offices to see if they had an executive-secretary job opening, and they replied on her telephone, as I was seated before Ms. Bryner myself, that they did not. Ms. Bryner then told me that early April is a poor time to apply for secretarial work at the University, probably the worst of the year. She said that June is good to apply.

After that, Ms. Bryner told me to check the job board downstairs at the Annex (Location of University of Utah Personnel Office), and she verbally told me to apply for work at the University. I verbally agreed to do it. I did. Ms. Bryner at no time told me to do anything in writing nor to fill out and sign application forms at the University. Her instructions were "Apply for work here." I repeat: She did not tell me on April 3 to fill out application forms or to take any action in writing or on paper.

Before I left Ms. Bryner's office I telephoned, from Ms. Bryner's desk telephone and in her presence, Miss Margetts, Personnel Director, Marriott Library, and asked about a job. The erroneous allegations in question stem from a misunderstanding of what Mrs. Margetts told me on April 3 over Ms. Bryner's office telephone, and they stem from certain distortions and misrepresentations which Mrs. Margetts has made in writing to you. I refer to her letter of May 3, 1979, addressed to the Adjudication Section, Utah Department of Employment Security, 1234 South Main Street, Salt Lake City, stamped "received May 7, 1979" by you, and entered as Exhibit 7.

Mrs. Margetts' final two sentences, paragraph 2, are false:

"He made an appointment for an interview for April 9 at 11 a.m.
He did not come for the interview."

Mrs. Margetts' last sentence is likewise false:

"We did not inquire about any current openings."

I might add rather parenthetically, though it sheds light on Mrs. Margetts' approach, that her sentence in paragraph 2 about my starting to teach piano is irrelevant. This is the second time Mrs. Margetts has written an irrelevant, unbusinesslike sentence in letters I have requested from her in connection with employment. (In another letter to your office, Mrs. Margetts congratulated me on publishing poetry, a matter totally irrelevant and potentially risky of bias and prejudice--suppose one of your referees dislikes poets?) Mrs. Margetts has been repeatedly generous in writing irrelevant, unbusinesslike content in letters concerning me.

Now, let's get to the facts. On April 3 as I heard Mrs. Margetts on Ms. Bryner's telephone, the former thoroughly discouraged me from applying at the library. Mrs. Margetts said that she had absolutely no job suitable for me then. She consistently discouraged me from applying. She mentioned a shelving job, adding that it would be more suitable for a student (meaning she'd prefer a student, of course), and further adding that it was too low-paying for my skills and experience.

As to the "Marking Table in the Cataloging Department" job spelled out in paragraph 1 of Exhibit 7, Mrs. Margetts discouraged me from applying. She said it required typing speed of, I believe, 30 or 40 words per minute, and since I type 100 we both agreed it is a poor job to apply for. She reiterated words of discouragement.

Ms. Bryner had told me it was a bad time for turnover at the University and she had got two negative responses on the spot concerning executive-secretary jobs. Immediately thereafter Mrs. Margetts was generally unpromising via telephone concerning library jobs.

The following fact is critical in this case:

Mrs. Margetts did not set up an official "appointment" for me to see about a job with the library on April 9 at 11 a.m.

In desperation, on the telephone on April 3, I said to Mrs. Margetts, "Well, it does look unpromising right now, but why don't I come in and see you about possible work anyway?" Mind you, my statement was casual, unofficial, tossed out almost in the form of a greeting or statement of intent to follow up on job openings "some time." I indeed requested to see her on April 10. She said she was busy that day but that she'd be in her office the morning of April 9. I replied, "Oh, okay, I'll try to see you then." She said something like, "Okay, uh, I think eleven is best," and I said "Okay."



You should understand that this "April 9 at 11 a.m." thing was in no way a binding, official, businesslike or serious "job-appointment interview" or "application interview" or anything of the sort, nor how could it be after Mrs. Margetts had stressed that she had absolutely no suitable job opening for me then. She merely agreed to "see" me, and I submitted to her request that this non-business and non-job-related "appointment" be at the date and time of her choice.

Now, Mrs. Margetts, in Exhibit 7, is distorting and convoluting the facts to make it appear as if I had been negligent in fulfilling an obligation in the official line of job-hunting, when in fact she herself adamantly told me that there was no job to hunt at her library!

I also submit in evidence the following fact concerning Mrs. Margetts' attitude:

On May 1 I telephoned Mrs. Margetts to request a written statement (for my file in your office at the desk of Roger Slagomash) attesting that I applied for a library job on April 3 by telephone. Mrs. Margetts said, "I'll mail it to you today, Mr. Moore." She did not mail it. When I traced with her on May 3 she said, "I've mailed it to the Department of Employment Security directly." First, she did not do what she told me she would do, and, second, she obviously wished to change her tactic in order to misrepresent me, distort the facts, say something negative perhaps--little realizing that I would request a copy from you for my files. I requested said copy on June 5 at 9 a.m. from Stanley Griffin and retain it in my files now. It is Exhibit 7, containing the two false statements referred to above.)

For clarity, let me restate them. (1) She called the casual telephone courtesy of mine concerning "April 9 at 11 a.m." an iron-clad job-related "appointment," which clearly it was not, as above described. (2) She said, "We did not inquire about any current openings." This statement, (2), is patently and utterly false. The very purpose of my telephone call on April 3 and again on May 1 was to inquire about job openings at the library, and I did indeed inquire about job openings at Marriott Library every time I telephoned Mrs. Margetts from April 3, regardless of whatever else I called about. To the best of my recollection I called her on April 3, April 10, May 1, and May 3, and each time I asked if she had a job opening, either full- or part-time, and of whatever sort.

Pursuant to FINDINGS OF FACT No. 2, I am misrepresented by Mrs. Margetts. The truth is this: The April 9 "appointment" is nothing more than an extension of our April 3 discussion from Ms. Bryner's office telephone, at which time Mrs. Margetts and I both had already established that there was no suitable opening for me then. On April 3 she described no job suitable for me or even that she wished or expected me to see about, and she discouraged me and made it clear that nearly any further applying to her would be futile; yet, now she turns around in Exhibit 7 and apparently tries to warp the picture to make it appear to you that I failed in a job-hunting duty or that I was wilfully negligent in seeking work. I can't imagine what she expects to gain by such action. I possess complete evidence that she has misrepresented my intentions and my actions and that she has consistently avoided honesty in her approach to this matter and in her dealings with me and my requests.

Of the three University of Utah agencies from whom I requested attestations Mrs. Margetts is the only one who rejected the simple request, first by putting me off with an untruth, and, second, by mailing my request, distorted and falsified, directly to you instead of me. You have the other two requests. I believe they are among the numbered Exhibits. They are from University of Utah Press and from Preceptorship Program of the College of Medicine, agencies with whom I applied for work on April 3 and on dates weekly thereafter, according to your records.

RECEIVED
JUN 20 1979
DES
APPEALS
JUL

Pursuant to your CONCLUSIONS OF LAW in Mr. Griffin's letter of June 11, No. 1 is true, No. 2 is false, and No. 3 is false.

Re No. 2: I applied for work the week ending April 12, 1979, meeting at least the minimum number of applications ordered at my immediately preceding Eligibility Review conference. (I met at least the minimum number of applications ordered at all my Eligibility Review conferences, incidentally.)

Re No. 3: I am not at fault in receiving \$106 in benefits. Having met all my obligations, and having been misrepresented by Mrs. Margetts, I am entitled to the said \$106 in question.

I don't wish to be unduly prolix, but a couple other matters must be shown in evidence in order to complete my appeal.

When, soon after April 9, about two days after Ms. Bryner had told me that it was poor applying time and that we all learned of no job openings for me at the University, I chose to stop applying at the University of Utah. I therefore, say, soon after April 5 or April 6, abandoned applying at the University and put my efforts into applying elsewhere, meeting, as already stated, all my obligations as a claimant. It was my intention then to try the University in June--just as Ms. Bryner told me would be a good time. That is, I would try the University had I not meanwhile found work.

It is wrong to say "He admits . . . he failed to keep an appointment at the Library on April 9." I "admitted" no such thing to her. I simply telephoned her on April 10 and said I couldn't make it to see her on the 9th and would she see me today--the 10th--and she said "Yes." It was verbal, casual, and smacked of nothing vaguely resembling a job "appointment," nor did she at any time hint of a mistake on my part or tell me I was doing anything wrong, and, of course, little did I know that she would be of the nature to try to turn evidence against me fallaciously and distortedly at a later date.

I did not go to Mrs. Margetts' alleged "appointment" on April 9 at 11 a.m. because I had quit applying at the University and had an appointment for job-hunting elsewhere at that time! I surely felt I kept my obligation by contacting her the morning of the 10th, the very next morning--and contacting her for what? A possible job! How could that be, after she had consistently warned me for weeks that her Library had no job of any kind for me! I shall not be intimidated nor misrepresented by this woman who apparently is attempting to be kind to me, then turning around and submitting distorted, negative views to you. In this letter I have itemized at least three misrepresentations or distortions of truth on the part of Mrs. Margetts. She had no job for me at any time in question! How dare she write to you that I failed to keep an "appointment" or was willfully negligent as a claimant!

The statement, "He made a decision not to apply without knowing the details of the job other than that the job required typing" is false (Griffin, page 2, paragraph 1). I at no time "made a decision" not to apply at the Library for any of the faintly hopeful or faintly possible openings Mrs. Margetts mentioned. I did "know the details" of the job. They were given over the telephone by Mrs. Margetts, who clearly told me the whole nature of the job, including typing, but he it remembered it was a job she discouraged me from. Why should I apply? I can take a hint. Mrs. Margetts clearly told me the nature of every exiguously potential job she mentioned. I knew exactly the nature of the Library situation as a former employee there, and I knew also to take Mrs. Margetts' hints to seek work elsewhere, that she had nothing.

Sincerely,

Keith Moore

Keith Moore

ADDENDUM of October 25, 1979

Since I wrote the above, the following sentence in Exhibit 6, herewith, has come to my attention:

"We question whether Mr. Moore is being selective in his job search."

On the contrary, employers have been consistently selective in not hiring me in their stereographic positions, including the University of Utah, and Utah State Library, Services and Technology Act, administered by the Utah State Library.

Machined by OCR, may contain errors.

4

Salt Lake City
June 20, 1979

The Industrial Commission of Utah
Department of Employment Security

RE: S.S.A. No. 528 34 0188
Case No. 79-A-937

ATTENTION: Appeals Section

To Whom It May Concern:

Since I wrote the accompanying letter of June 14 I have communicated with Mrs. Margetts and get these new facts:

The issue seems to be that Mrs. Margetts did not inform me of the nature of her job at Marriott Library. On June 18, 1979, she informed me that her job is to set up employment interviews, not to hire. She claims that she set up an "interview" for me for April 9 at 11 a.m.

However, in the critical telephone call from Ms. Brymer's office on April 3, Mrs. Margetts did not spell out such a thing, did not inform me that I would see a library-department hiring person, told me only that I would be seeing her--as fully explained in the accompanying letter.

The point is moot, anyway, because I repeat emphatically that Mrs. Margetts gave me the thorough impression April 3 that there was no work at the library then and wasn't likely to be any for me in the very near future.

The point is moot further in that I ceased, for very good cause, to apply for work at the University of Utah on about April 5 or April 6, after being discouraged as to the expectation of jobs on campus--discouraged by Ms. Brymer generally, and by Mrs. Margetts specifically as regards the Library.

I submit the June 14 letter of mine herewith as a complete history of the case.

Thank you.

Sincerely,

Keith Moore

Keith Moore

P.S. as of October 25, 1979

Since I wrote the above and the letter of June 14, 1979, the following sentence in Exhibit 6, herewith, has come to my attention:

"We question whether Mr. Moore is being selective in his job search."

On the contrary, employers have been consistently selective in not hiring me, especially now in my later years, including the University of Utah, whose personnel managers are not interested in hiring a single male of nearly age fifty in their stenographic positions.

Keith Moore

