

BUY™

SELL™

SHOP™



Downloaded From  
[www.TextBookDiscrimination.com](http://www.TextBookDiscrimination.com)



**SELL YOUR OWN SAMPLES**

(help others get the justice that they deserve)



**BUY™**

**SELL™**

**SHOP™**

[www.TextBookDiscrimination.com](http://www.TextBookDiscrimination.com)

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

IN RE:

SEPTEMBER 1, 2020 PETITION FOR  
DECLARATORY STATEMENT

ELIAS MAKERE,

FCHR Order No. 21-029

Petitioner

---

FINAL ORDER DENYING PETITION FOR DECLARATORY STATEMENT

Preliminary Matters

On September 1, 2020, Elias Makere, Petitioner, filed a Petition for Declaratory Statement with the Florida Commission on Human Relations ("Commission"). Notice of the Petition was published in the Florida Administrative Register, Volume 46, Number 175, September 8, 2020. The Commission has not received a petition to intervene in this action from any other person.

The Commission undertook action to resolve the Petition for Declaratory Statement at a duly noticed public hearing on March 31, 2021. Petitioner seeks, "a declaratory statement on the permissibility of bribes during the investigative phase of a case." The petition poses the following question to the Commission: "Is a respondent allowed to bribe you during the investigative phase of a discrimination case?" Petitioner cites to section 760.06(4), Florida Statutes (2020). Section 760.06(4), Florida Statutes (2020) states, in pertinent part, "Within the limitations provided by law, the commission shall have the following powers . . . [t]o accept gifts, bequests, grants, or other payments, public or private, to help finance its activities."

"The purpose of a declaratory statement is to resolve a controversy or answer questions concerning the applicability of statutes which an administrative agency enforces, adopts, or enters". Citizens of the State ex rel. Office of Public Counsel v. Florida Public Service Commission, 164 So.3d 58, 59 (Fla. 1st DCA 2015).

Comments

The Commission received two comments from Petitioner. The first comment, citing to two sources, states two separate definitions for the term "bribe" and concludes by requesting the Commission to apply the "textbook definitions of 'bribe/bribery'" in responding to the petition for declaratory statement. The second comment from Petitioner essentially states that Petitioner is not requesting the Commission to interpret the Florida Constitution.

### Conclusions of Law

The Florida Administrative Procedure Act states, "[a]ny substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances." Section 120.565(1), Florida Statutes (2020). It also states, "[t]he petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances." Section 120.565(2), Florida Statutes (2020). When acting on the petition, the agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. See Florida Administrative Code, R. 28-105.003.

A declaratory statement is a device for resolving controversies, questions, or doubts regarding the applicability of statutes, rules, and orders within the agency's authority to a petitioner's circumstances. See Florida Administrative Code, R. 28-105.001. Use of this device, however, is for a particular purpose and is to be used for that limited purpose.

The Administrative Procedure Act broadens public access to agency activities. Fla. Home Builders Assoc. v. Dept. of Labor & Employment Sec., 412 So. 2d 351, 352 (Fla. 1982). However, Petitioner must allege facts showing that there is a bona fide, actual, present and practical need for a declaration. See Okaloosa Island Leaseholders Association v. Okaloosa Island Authority, 308 So. 2d 120 (Fla. 1<sup>st</sup> Dist. 1975). Given the fact that the words "[w]ithin the limitations provided by law [emphasis added]" plainly appear within 760.06(4), Florida Statute, there is no doubt to resolve, and there is no controversy to address with regard to whether respondents are permitted to bribe the Commission. In short, there is no demonstrated need for a declaration.

### Denial of Petition

The Petition for Declaratory Statement is DENIED, because Petitioner does not meet the requirement of alleging facts that show a bona fide, actual, present and practical need for a declaration. Section 760.06(4), Florida Statute, (2020) does not indicate more than one interpretation of the provision in question. Accordingly, the Petition for Declaratory Statement is DENIED.

Petitioner has the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 31 day of March, 2021

for the FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Mario Garza, Panel Chairperson;  
Commissioner Libby Farmer; and  
Commissioner Larry Hart

Filed this 31 day of March, 2021 in Tallahassee, Florida.

*Tammy Barton*

Clerk

Florida Commission on Human Relations  
4075 Esplanade Way, Room 110  
Tallahassee, FL 32399  
(850) 488-7082

Copies furnished to:

Elias Makere  
3709 San Pablo Rd. S #701  
Jacksonville, Florida 32224

John Scotese, Legal Advisor for Commission Panel

I HEREBY CERTIFY that copy of the foregoing has been mailed.  
to the above listed addresses this 31 day of March, 2021

By: *Tammy Barton*  
Clerk of the Commission  
Florida Commission on Human Relations

BUY™

SELL™

SHOP™



Downloaded From  
[www.TextBookDiscrimination.com](http://www.TextBookDiscrimination.com)



**SELL YOUR OWN SAMPLES**

(help others get the justice that they deserve)



**BUY™**

**SELL™**

**SHOP™**

[www.TextBookDiscrimination.com](http://www.TextBookDiscrimination.com)

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.