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STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

W. Richard Hall
Petitioner,

EEOC Case No.: 15D960149
FCHR Case No.: 95-2145
DOAH Case No.: 00-0991
FCHR Order No.: 01-040

LA Amistrad R.T.C.

Respondent.

FILED
01 JUN 20 PM 12:32
RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
01 JUN 15 PM 3:02
CLOSED

ORDER REMANDING CHARGE OF DISCRIMINATION BASED ON A CLAIM OF AN
UNLAWFUL EMPLOYMENT PRACTICE

I. Panel of Commissioners

The following 3 Commissioners participated in the disposition of this matter:

Commissioner Rita Craig, Panel Chairperson
Commissioner Clarethea Brooks
Commissioner Gale Cannon

II. Appearances

For Petitioner: None

For Respondent: Daniel Alter, Esq.

III. Preliminary Matters

Petitioner filed a complaint of discrimination with this Commission, pursuant to F.S. Ch. 760, alleging Respondent knowingly committed an unlawful employment practice on the basis of age.

Public deliberations were held by the Commission on May 29, 2001.

IV. Findings of Fact

The Judge decided this case on an application by Respondent for an Order to Show Cause, and recommended dismissing the Charge because it was untimely under the applicable law. The findings of fact consist of two paragraphs, which are moot because the Judge decided the case on the issue of whether the request for a hearing was untimely as a matter of law.

V. Conclusions of Law

The Judge's conclusions of law are rejected on the basis of Joshua v. City of Gainesville, 768 So.2d 432 (Fla. Supreme Ct. 2000) (relating to litigation) and Wilson v. Scotty's Inc., FCHR Order No. 98-032 (1998) (relating to administrative proceedings) which contradict the conclusion of law by the Judge that the 180 period for making a cause determination by the Commission is mandatory and that the 35 day provision for requesting the relief begins to run from the end of the 180 day period. Since all the rest of the Judge's Conclusions rest on this error of law, all of the Conclusion's of law must be rejected. This determination by the Commission is more reasonable than that of the Judge.

VI. Exceptions

Petitioner's exception to the Judge's Conclusion of Law on the issue of timeliness, is accepted to the extent that the Judge held that the Commission had to make a cause finding within 180 days pursuant Fl. Stat. Chapt. 760, and that the 35 day limitation for requesting relief administratively, ran from the end of the 180 period.

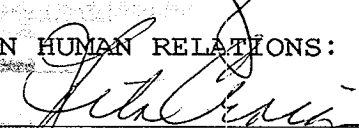
VII. Remand

The Judges Recommended Order is hereby REMANDED to the Division of Administrative Hearings for proceedings, for further consideration on any matter not inconsistent with this Commission's Order.

Each party is advised of their right to petition the Florida District Court of Appeal for judicial review of this Final Agency Order. Such Notice of Appeal must be filed within 30 days of the date that this order is filed with the Clerk of the Commission. See Section 120.68, Florida Statutes, and the Florida Rules of Appellate Procedure, Rule 9.110, for the complete requirements and rules on the right to appeal, and the applicable procedure.

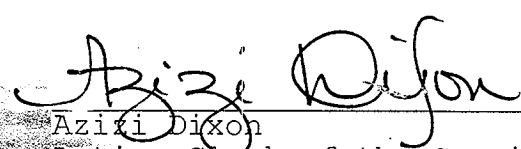
DONE AND ORDERED THIS 29 DAY OF May, 2001

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:



Commissioner Rita Craig
Panel Chairperson:
Commissioner Clarethea Brooks
Commissioner Gayle Cannon

Filed this 18 day of June, 2001,
in Tallahassee, Florida.



Azizi Dixon
Acting Clerk of the Commission

NOTICE TO COMPLAINANT/PETITIONER

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to the Miami District Office (EEOC), one Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

W. Richard Hall
109-A Springwood Circle
Longwood, Florida 32750

Daniel Alter, Esq.
Bunnell, Woulfe, Kirschbaum, Keller, Cohen and McIntyre, P.A.
Fourth Floor
888 East Las Olas Boulevard
Ft. Lauderdale, Florida 33301

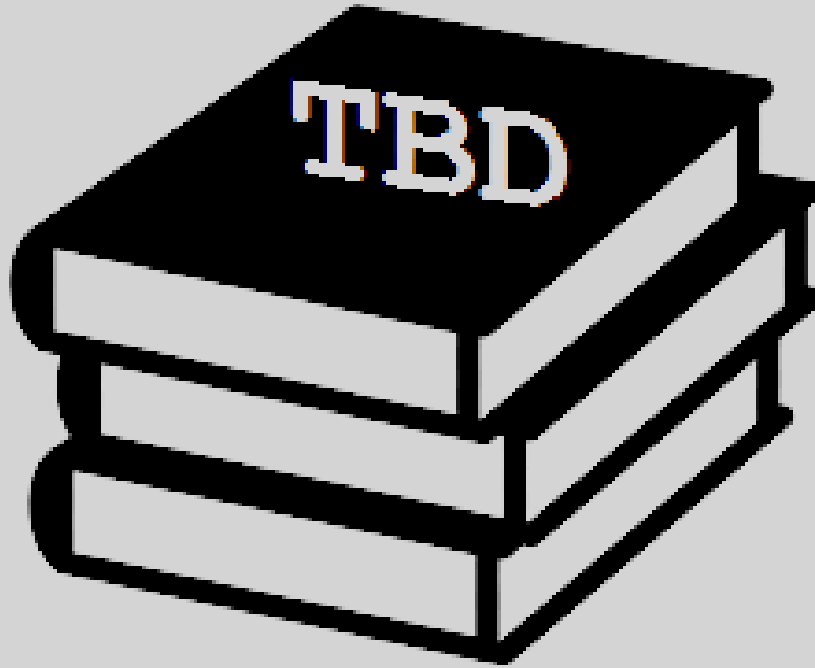
Miles A. Lance, Legal Advisor for the Commission Panel

Daniel Manry, Administrative Law Judge

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