

AP

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
01 MAR 22 PM 1:04  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

ANTHONY AKINS,

EEOC Case No. 15D970430

Petitioner,

FCHR Case No. 97-1080

v.

DOAH Case No. 00-2658

SFH

DEPARTMENT OF LAW ENFORCEMENT,

FCHR Order No. 01-012

Respondent.

FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Anthony Akins filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1995), alleging that Respondent Department of Law Enforcement committed unlawful employment practices on the basis of Petitioner's race and on the basis of retaliation.

The allegations set forth in the complaint were investigated, and, on May 16, 2000, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

In considering Respondent's Motion for Summary Final Order, Administrative Law Judge Suzanne F. Hood issued a Recommended Order of Dismissal, dated October 12, 2000.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order of Dismissal.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We note a statement of the Administrative Law Judge that we believe requires correction/clarification. Specifically, the Administrative Law Judge stated, "The Division of Administrative Hearings has no jurisdiction to hear allegations of discriminatory conduct which FCHR has not investigated or made a determination as to reasonable cause." Recommended Order of Dismissal, ¶ 19.

The Florida Civil Rights Act of 1992 does allow Petitioners to file a request for administrative hearing in situations where 180 days have passed since the filing of the complaint and the Commission has not yet reached a determination as to reasonable cause, and, therefore, in those instances, the Division of Administrative Hearings would have jurisdiction to hear allegations of discriminatory conduct "which FCHR has not investigated or made a determination as to reasonable cause." See, Sections 760.11(8) and 760.11(4), Florida Statutes (1999).

We, therefore, correct/clarify this conclusion of law.

In so doing we find: (1) that the Administrative Law Judge's conclusion of law we are correcting is within the substantive jurisdiction of the Florida Commission on Human Relations, namely the interpretation of in what instances a Petitioner is entitled to an administrative hearing under the Florida Civil Rights Act of 1992; (2) the reason the correction is being made is that the conclusion of law as stated by the Administrative Law Judge is not supported in law; and (3) that in making this correction the rejection of the conclusion of law in question is as or more reasonable than allowing the incorrect conclusion of law to remain. See, Section 120.57(1)(1), Florida Statutes (1999).

With the above-stated correction/clarification, we adopt the Administrative Law Judge's conclusions of law.

#### Exceptions

Neither party filed exceptions to the Administrative Law Judge's recommended order.

#### Dismissal

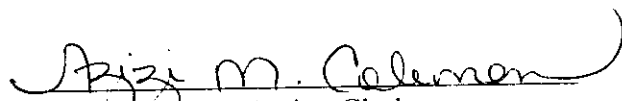
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

The parties have 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 21 day of March, 2001.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Sharon Ofuani, Panel Chairperson;  
Commissioner Juan Montes; and  
Commissioner Aristides Sosa

Filed this 21 day of March, 2001,  
in Tallahassee, Florida.

  
Azizi Coleman, Acting Clerk  
Commission on Human Relations  
325 John Knox Rd., Bldg. F, Suite 240  
Tallahassee, FL 32303-4149  
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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 Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

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Suzanne F. Hood, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel